NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 19, 2001

11:13 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.

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

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

ACTING PRESIDENT MEIER: In the absence of clergy, may we please 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, Monday, June 18, the Senate met pursuant to adjournment. The Journal of Sunday, June 17, 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.

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nominations:

As a judge of the Court of Claims, Caesar D. Cirigliano, of Waccabuc.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of Caesar D. Cirigliano, of Waccabuc, to remain on the Court of Claims to succeed himself.

We received his nomination from the Governor. Since he is a sitting judge, as are all of the nominees today, with one exception, we and the staff of the committee reviewed his experience as a judge. The judge met with the full committee earlier this morning, was unanimously moved by the committee to the floor, and I would move his confirmation at this time.

Well, Senator Leibell is here. I

will yield to Senator Leibell.

ACTING PRESIDENT MEIER: Senator Leibell.

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

And I know we have some time constraints today, but I am very pleased to stand here to move this nomination. Once again, we're very pleased the Governor has sent us the name of someone who is so well qualified. This is a person who has had tremendous experience, both in the practice of law and then service as a judge. I know he brings all the credentials that we would wish to see in a member of the judiciary.

So without further comment, I would like to urge the chamber to support this nomination. We have an excellent name here.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The question is on the confirmation of Caesar Cirigliano as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed,

nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Cirigliano is with us today in the gallery. And on behalf of the Senate, we wish you good luck in continuing your important duties, Judge.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Joseph Fisch, of Larchmont.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise once again to move the nomination of Joseph Fisch, of Larchmont, to succeed himself as a member of the Court of Claims.

Again, we've reviewed the credentials of Judge Fisch, the work he's done as a judge of the Court of Claims, found them eminently satisfactory. He appeared before

the full committee this morning and was unanimously moved by the committee to the floor for consideration of his nomination at this time.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, it's a pleasure to stand on behalf of Judge Fisch and his reappointment.

I worked for him in the Queens DA's office for three years in the mid-eighties. Later on, we worked together to bring the Office of Professional Discipline into Harlem as a satellite office. And I've obviously worked with him and been a friend of his for a long time.

If he hadn't been so hard on me and run me out of the DA's office, I probably wouldn't have gone into this career and been such a nuisance around this chamber. But I hope no one will hold that against him.

He's a dear friend of mine, and I'm very happy to see him being reconfirmed.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm glad I just walked in.

Joe Fisch is a very old, dear friend. But I'm standing to recommend him not because of that fact but because he has really a remarkable resume. He has been in the job, he has done the job, he is respected, he is cared about. He is tough, but he's so fair.

And so I think this is a wonderful decision by the Governor.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, despite the fact that Judge Fisch drove Senator Paterson to this chamber, I've overlooked that.

And let me just say that I've known Joe for many years, particularly in his activities with the SIC. He's always been a wonderful public servant, and I know that he'll continue to be the great judge that he's been.

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

The question is on the confirmation of Joseph Fisch as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Fisch is with us in the gallery today. And, Judge, on behalf of the Senate, we wish you well with your important duties as they continue.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Richard M. Klein, of Northport.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise once again to move the

nomination of Richard Martin Klein, of Northport, Asharoken, as a judge of the Court of Claims. Judge Klein is currently sitting on the Court of Claims.

And again, his credentials have been examined by the committee -- with great scrutiny, I might add -- and found to be eminently satisfactory. He also appeared before the full committee earlier this morning and was unanimously moved to the floor.

Although Judge Klein is technically Senator Marcellino's constituent, I should say that he and I are not only good friends but really the best of friends. We first worked together longer ago than either of us would want to admit, 30 years ago as assistant district attorneys in Suffolk County for the Frauds Bureau. And then when I was Commissioner of Consumer Affairs, Dick Klein headed my Consumer Crime Task Force, he was the attorney in charge of that.

He's been an assistant attorney in the Town of Huntington, a district court judge in the County of Suffolk, a Court of Claims judge for the last several years, in which he

handled major felony cases in our county court in Riverhead.

He was later transferred to the Civil Division, the Supreme Court in Suffolk County, as an acting Supreme Court justice, and now hears civil matters in a courtroom that's right next door to my own Senate district office, and so we quite frankly see each other on a daily basis.

I'm ecstatic that the Governor has renominated Judge Klein for another term on the Court of Claims. He is an excellent judge. He's exactly what we want to see in a member of the judiciary in this state. He has been committed, he works hard. His rate of closing cases in the County of Suffolk Supreme Court either is the first or second highest, depending on whatever quarter it is, and has been for the last several years. And he does a magnificent job as a judge of the Court of Claims.

And I wish him only godspeed and good luck for the rest of his time on the bench.

Senator Marcellino is here, and

I'll be happy to yield to him for purposes of a second.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Senator Lack.

I also would like to rise and second this nomination of a very worthy person to sit on the bench. He's a good person who has served the Town of Huntington well and with distinction and has been on the court and served with distinction on the court, as Senator Lack has said.

No one has a better record, and no one exemplifies the kind of judge that we all want on the bench more than Richard Klein does. So I am more than pleased to second this nomination, and wish him well in the years ahead.

ACTING PRESIDENT MEIER: The question is on the confirmation of Richard Klein as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed,

nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Klein is with us today in the gallery. And, Judge, we congratulate you and wish you well as you continue with your duties.

(Applause.)

SENATOR LACK: Mr. President, the nominee is also joined by his wife, Ceil, who has joined me on the floor and is right behind me.

ACTING PRESIDENT MEIER: We welcome you to the chamber and congratulate you as well.

The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Richard C. Kloch, Sr., of North Tonawanda.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Again, Mr. President, I rise to move the nomination of

Richard C. Kloch, Sr., of North Tonawanda, as a judge of the Court of Claims.

This is a new nominee to the Court of Claims. His credentials have also been examined and found to be completely satisfactory, particularly his service as a city court judge in the City of North Tonawanda prior to the Governor's appointment to the Court of Claims.

He appeared, as did the other candidates, before the full Judiciary Committee earlier this morning, was unanimously moved to the floor for confirmation at this time.

And without further ado, I'd be most happy to yield for the person who every day for the last several months has been waiting for today so he could second the nomination of his own close friend, Senator Maziarz.

ACTING PRESIDENT MEIER: Senator Maziarz.

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

Mr. President, I rise to second this nomination of Richard Kloch of North Tonawanda, city court judge, to the Court of Claims. Unlike the other judges that are here today, Judge Kloch is a new nominee to the Court of Claims.

I've known Richard for 25 years. It seems like a short time ago when we both started in North Tonawanda City Hall together back in the late 1970s.

I can think of no person who is better qualified, Mr. President, for the high judicial office of a judge of the Court of Claims than Richard Kloch. He certainly has passed the scrutiny of the screening committees, of Senator Lack's committee.

And I know personally from attorneys that I have spoken to that have practiced with him, in front of him, he is considered to be a fair person. And what better qualification could a judge of any court at any level in the state of New York have other than to have his colleagues say that he is a very fair person.

On a personal note, I know that,

Richard, your mom and dad are not here in person, but they are certainly here in spirit, as are all of your children and all of our other friends in North Tonawanda.

I certainly urge my colleagues to join me in confirming Judge Kloch. He'll do a great job for all the people of the State of New York.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Thank you, Mr. President.

I rise also to second the nomination of Judge Kloch. We are so happy from Western New York to have him moving to the Court of Claims. His service through the North Tonawanda City Court has been exemplary. He's a man of the community, understands not only Tonawanda and North Tonawanda -- and I represent Tonawanda, so we are only divided by the canal as far as space goes.

But Western New York is a very regional kind of place. And Dick Kloch knows the whole region, will be a great addition to

the bench.

We're very happy for you, Judge.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, although I don't know Dick Kloch as well as - certainly as well as George Maziarz does, I do know Dick as a fine lawyer and a fine gentleman. And I might point out that he probably held more offices in North Tonawanda than anybody I know.

In addition to that, at one time many years ago he was counsel to -- I believe it was then called NACC, I can never remember -- there's NACC, DACC, and all the rest of the things, which is the Drug Addiction Guild, Drug Addiction Control Commission, here in Albany. And I believe in fact that I met Dick way back then when he was with the commission.

But at any rate, he's been a fine lawyer and he has a great reputation as a judge in North Tonawanda. And I have no doubt that he will make an excellent judge in the Court of Claims.

ACTING PRESIDENT MEIER: The question is on the confirmation of Richard Kloch, Sr., as a judge of the New York State Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Kloch is with us today in the gallery. Judge, please rise and accept our congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Martin Marcus, of Larchmont.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise once more to move the nomination of Martin Marcus, of Larchmont,

again, a sitting judge of the Court of Claims. His record has been examined by the staff of the committee. He appeared before the committee earlier today and was unanimously moved to the floor because of his excellent record.

And I most respectfully yield to Senator Oppenheimer for purposes of a second.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Senator Lack.

Again, this is another gentleman who is a friend of mine, lives in my district. But I have to say, the people that are appearing before us now for confirmation are really quite an amazing bunch.

Martin Marcus is a person that we should just be very thankful that he has been on the job for us in the state for so many years. The fact is he is a man of extraordinary intellect and compassion, and you can't think of a better combination as a juror in our state.

As far as his background, he's done

so many publications and is involved in so many projects that are important for us, for the State of New York. And as far as his background, getting his law degree at Yale University, I can't think of a better place. My father and husband both graduated, got their law degrees from there.

So, I mean, not only bright and competent, but really caring. And so I'm very much supporting this nomination and delighted to second it.

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

The question is on the confirmation of Martin Marcus as a judge of the New York State Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Marcus is with us in the

gallery today. Judge, congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Charles J. Tejada, of Brooklyn.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of Charles J. Tejada, of Brooklyn, to succeed himself as a judge of the Court of Claims. We've examined his record as a judge. He appeared before the committee earlier this morning, was unanimously moved to the floor for purposes of confirmation today.

And I most respectfully yield to Senator Markowitz for purposes of a second.

ACTING PRESIDENT MEIER: Senator Markowitz.

SENATOR MARKOWITZ: Thank you very, very much.

I want to commend the committee,

Senator Lack, and the Governor. Judge Tejada represents the best of Brooklyn.

And I'm delighted that all of us can share in this moment, because not only has he excelled in his career, but he has found the time, which is so important to me, to give something back to the borough that he loves. His activity in the Park Slope neighborhood service center; Project Reach Youth, which is second to none, certainly one of the major organizations in the country working with youth; the fact that he was active at George Wingate High School, which is the school I graduated from myself back in 19 -- I forget the year right now.

But I want to say that this is a great day for the judge and his family and for all of us that love Brooklyn as much he does.

Congratulations.

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

The question is on the confirmation of Charles Tejada as a judge of the New York State Court of Claims. All those in favor

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Tejada is with us in the gallery today. And, Judge, we congratulate you and we wish you well.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Lawrence J. Tonetti, of Rye Brook.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise for the last time to move the nomination of Lawrence J. Tonetti, of Rye Brook, to succeed himself as a member of the Court of Claims of this state.

He appeared before the committee

earlier this morning, impressed everybody with a very short, concise, but very good statement, was unanimously moved to the floor for confirmation at this time.

And I would be most happy to yield for purposes of a second to Senator Oppenheimer.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, this is a red-letter day for me, three judges. And all have performed so well in the court. And of course, you know, competence should be rewarded.

And in this case, I'm delighted to be able to second the nomination of Lawrence Tonetti, who is also living within my Senate district, also a man of terrific competence. And I note that he graduated summa from Iona College many years ago, and that of course is a wonderful university that's within my Senate district.

Lawrence Tonetti has been doing the job, he's been doing the job with excellence. And in keeping with his performance earlier

today, I will be brief and short, to the point, and just say I'm delighted to be able to second his nomination.

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

The question is on the confirmation of Lawrence Tonetti as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Tonetti is with us today in the gallery. And, Judge, we wish you well and we congratulate you on your reconfirmation.

(Applause.)

ACTING PRESIDENT MEIER: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator McGee.

SENATOR McGEE: Mr. President, on behalf of Senator Kuhl, I wish to call up Print Number 3230, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 631, by Senator Kuhl, Senate Print 3230, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR McGEE: Mr. President, on behalf of Senator Larkin, I wish to call up Print Number 4251, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 733, by Senator Larkin, Senate Print 4251, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR McGEE: 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 do have 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 6, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 2037 and substitute it for the identical Senate Bill Number 1370, Third Reading Calendar 120.

On page 24, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 534 and substitute it for the identical Senate Bill Number 2822, Third Reading Calendar 630.

On page 25, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 235B and substitute it for the identical Senate Bill Number 3571B, Third Reading Calendar 647.

On page 27, Senator Marchi moves to discharge, from the Committee on Rules,

Assembly Bill Number 8482 and substitute it for the identical Senate Bill Number 5097, Third Reading Calendar 686.

On page 30, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 7366A and substitute it for the identical Senate Bill Number 2505A, Third Reading Calendar 746.

On page 31, Senator Goodman moves to discharge, from the Committee on Rules, Assembly Bill Number 7323A and substitute it for the identical Senate Bill Number 3815A, Third Reading Calendar 753.

On page 31, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 1530 and substitute it for the identical Senate Bill Number 3157, Third Reading Calendar 764.

On page 36, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8485B and substitute it for the identical Senate Bill Number 5100B, Third Reading Calendar 886.

On page 43, Senator DeFrancisco moves to discharge, from the Committee on

Finance, Assembly Bill Number 1794A and substitute it for the identical Senate Bill Number 755, Third Reading Calendar 1145.

On page 44, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 4726 and substitute it for the identical Senate Bill Number 4939, Third Reading Calendar 1154.

On page 45, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 2208A and substitute it for the identical Senate Bill Number 5436, Third Reading Calendar 1161.

On page 46, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 2834 and substitute it for the identical Senate Bill Number 1756, Third Reading Calendar 1172.

On page 47, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 3379 and substitute it for the identical Senate Bill Number 2004, Third Reading Calendar 1173.

On page 47, Senator Seward moves to discharge, from the Committee on Rules,

Assembly Bill Number 3473 and substitute it for the identical Senate Bill Number 2091, Third Reading Calendar 1174.

On page 47, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 5586 and substitute it for the identical Senate Bill Number 2960, Third Reading Calendar 1175.

On page 47, Senator Marchi moves to discharge, from the Committee on Rules, Assembly Bill Number 5995 and substitute it for the identical Senate Bill Number 3137, Third Reading Calendar 1178.

On page 47, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 8723A and substitute it for the identical Senate Bill Number 3484A, Third Reading Calendar 1180.

On page 47, Senator Hoffmann moves to discharge, from the Committee on Rules, Assembly Bill Number 229B and substitute it for the identical Senate Bill Number 3556B, Third Reading Calendar 1181.

On page 47, Senator Rath moves to discharge, from the Committee on Rules,

Assembly Bill Number 8408A and substitute it for the identical Senate Bill Number 3677A, Third Reading Calendar 1182.

On page 48, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 7414 and substitute it for the identical Senate Bill Number 3876, Third Reading Calendar 1185.

On page 49, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 8939 and substitute it for the identical Senate Bill Number 5525, Third Reading Calendar 1193.

And on page 49, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 8930 and substitute it for the identical Senate Bill Number 5529, Third Reading Calendar 1194.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar at this time.

ACTING PRESIDENT MEIER: All

those in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

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

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

Senator Skelos.

SENATOR SKELOS: If we could take up the noncontroversial calendar.

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

THE SECRETARY: Calendar Number 310, by Senator Seward, Senate Print 1810A, an act to amend the Insurance Law, in relation to insurance.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 460, by Senator Volker, Senate Print 2832, an act to amend the Criminal Procedure Law, in relation to rendition.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

527, by Senator Marchi, Senate Print 2767, an act to amend the General Municipal Law and the Retirement and Social Security Law.

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

Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 529, by Senator Larkin, Senate Print 3402, an act to amend the Retirement and Social Security Law, in relation to retirement.

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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

542, by Senator Meier, Senate Print 1313, an act to amend the Public Officers Law, in relation to certain public employees.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 588, by Senator Larkin, Senate Print 1966, an act to amend the General Municipal Law, in relation to reconstituting.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 590, by Senator Larkin, Senate Print 2123, an act to amend the General Municipal Law, in

relation to establishing.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 608, by Member of the Assembly Diaz, Assembly Print Number 7299, an act to amend the Soil and Water Conservation Districts 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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 682, by the Assembly Committee on Rules, Assembly Print Number 8347, an act to amend the Retirement and Social Security Law, in

relation to granting.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 686, substituted earlier today been the Assembly Committee on Rules -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 688, by Senator Meier, Senate Print 1444, an act to amend the Social Services Law, in relation to reimbursement.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1, 2002.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

715, by Member of the Assembly Gottfried, Assembly Print Number 7805A, an act to amend the Education Law, in relation to requiring.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 723, by Senator Seward, Senate Print 3795B, an act to amend the Insurance Law, in relation to group health insurance.

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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 730, by Member of the Assembly Magee, Assembly Print Number 3515A, an act to amend the Agriculture and Markets Law, in relation to definition.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 788, by Senator Larkin, Senate Print 2653A, an act to amend the Public Health Law, in relation to establishing.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 888, by Senator Larkin, Senate Print 2506, an act to allow the Triborough Bridge and Tunnel 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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 891, by Senator Maltese, Senate Print 3349A, an act to amend the Retirement and Social Security Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 964, by Senator Saland, Senate Print 3299A, an act to establish two public library districts.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 967, by Senator Kuhl, Senate Print 4268, an act authorizing the City of Canandaigua.

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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1091, by Senator Leibell, Senate Print 4943, an act to authorize the Town of Putnam Valley.

ACTING PRESIDENT MEIER: Read the last section.

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

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1128, by Senator Velella, Senate Print 3316, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the

last section.

SENATOR ALESI: Mr. President, would you lay that bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

Temporarily?

SENATOR ALESI: Temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1137, by Senator Stachowski, Senate Print 5329A, an act to amend Chapter 276 of the Laws of 1993.

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, 53.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1145, substituted earlier today by Member of the Assembly Magnarelli, Assembly Print Number 1794A, an act to amend the Executive Law and the Education 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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1146, by Senator Stachowski, Senate Print 1248, an act directing the commissioner of the Division of Criminal Justice Services.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1148, by Senator Spano, Senate Print 2135, an act to authorize Harry Flores and Carol Merrell to make an application.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1150, by Senator -

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 1151, by Senator Meier, Senate Print 4175, an act to amend the General Municipal Law, in relation to authorizing.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1152, by Senator Libous, Senate Print 4484A, an act to authorize the Village of Endicott, Broome County.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1153, by Senator Morahan, Senate Print 4744, an act to amend the General Municipal Law, in relation to municipal regulation.

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, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1154, substituted earlier today by Member of the Assembly Matusow, Assembly Print Number 4726, an act to permit the reopening.

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, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1155, by Senator Volker, Senate Print 4953, an act to amend the Criminal Procedure Law, in relation to designating.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: Mr. President, would you lay this bill aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1156, by Senator Trunzo, Senate Print 5025, an act to amend the Public Authorities Law, in relation to claims.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1157, by Senator McGee, Senate Print 5241, an act in relation to authorizing the City of Jamestown.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1158, by Senator LaValle, Senate Print 5246, an act to establish the Ridge Volunteer Exempt Firefighters Benevolent Association.

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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1159, by Senator Seward, Senate Print 5365, an act to authorize the City of Ithaca, County of Tompkins.

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

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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1160, by Senator Maziarz, Senate Print 5382A,

an act to amend the Public Health Law and the Executive Law, in relation to assisted living residences.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 180 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR MAZIARZ: Mr. President.

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

SENATOR MAZIARZ: To explain my vote. Thank you very much, Mr. President.

This bill establishes a clear definition of what assisted living residences are in the State of New York. I want to thank the AARP Statewide Senior Action Council, the New York City Association of Homes and Services for the Aging, the Empire State Association of Adult Homes, and several other senior advocacy groups throughout New York who have helped us in crafting this particular piece of legislation.

With the abundance of assisted living centers sprouting up all over the state of New York in rural and suburban areas and of course in the major metropolitan areas, those residences are almost totally unregulated as they currently are constituted in New York State.

This legislation, of which we are very close to having three-way agreement on, Mr. President, not only will clearly define but it will also contain some very clear consumer protection pieces for elderly New Yorkers who move into assisted living centers.

I strongly urge my colleagues to support this piece of legislation. Thank you.

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1161, substituted earlier today by Member of the Assembly Hoyt, Assembly Print Number 2208A, an act to amend the Public Health Law,

in relation to providing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I've joined with Senator McGee in sponsoring this legislation. And tragically, it has rang home -- the need for this legislation has rang home in my own backyard, in Dutchess County, where we have seen tragic results of shaken baby syndrome.

And most recently, and with a considerable degree of attention or fanfare, we had the tragic death of a young infant, the child of George Lithgow and Peggy Whalen, who at the hands of his daycare provider was the victim of shaken baby syndrome, shaken to the extent that it caused fatal brain damage to

him.

Tragically, what we would think of as being common sense doesn't necessarily hold. People who might never consider striking or abusing a child somehow or other think that it's okay to shake a child, being unaware of the fact that not only can there be neurological damage, severe neurological damage, but also, far too frequently, that can result in death.

Senator McGee's bill provides for the distribution of information, through hospitals and birthing centers, to prospective maternity patients. It goes a long way to really providing information and education to those who most appropriately should be the beneficiaries of that information, and hopefully to protect the young people, the children and the infants who each and every one of us would like to provide safe harbor to.

I'm certainly supporting this legislation and was pleased to have worked with Senator McGee in bringing it to the floor.

Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1162, by Senator Johnson, Senate Print 5441, an act to authorize the First Methodist Church.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1163, by Senator Rath, Senate Print 5444, an act to amend the County Law, in relation to wireless telephone service.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1165, by -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1168, by Senator Spano, Senate Print 911A, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. 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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1169, by Senator Paterson, Senate Print 1478 -

SENATOR ALESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1170, by Senator Maltese, Senate Print 1538, an act to amend the Retirement and Social Security Law, in relation to service credit.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1171, by Senator Maltese, Senate Print 1541, an act to amend Chapter 609 of the Laws of 1996.

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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1172, substituted earlier today by Member of the Assembly Vitaliano, Assembly Print Number 2834, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1173, substituted earlier today by Member of the Assembly Canestrari, Assembly Print Number 3379, an act to authorize the Village of Green Island, County of Albany.

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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1175, substituted earlier today by Member of the Assembly Vitaliano, Assembly Print Number 5586, an act to amend the Civil Service Law.

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, 57.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1176, by Senator Alesi, Senate Print 3000A, an act to amend the General Business Law and the Civil Practice Law and Rules.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1177, by Senator McGee, Senate Print 3077A, an act to amend the State Finance 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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1178, substituted earlier today by Member of

the Assembly Vitaliano, Assembly Print Number 5995, an act to amend the Retirement and Social Security Law.

SENATOR MARCELLINO: 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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1179, by Senator Stafford, Senate Print 3479, an act to amend the State Finance Law, in relation to payment.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1180, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8723A, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1181, substituted earlier today by Member of the Assembly Grannis, Assembly Print Number 229B, an act to amend the Agriculture and Markets Law, in relation to spaying and neutering.

ACTING PRESIDENT MEIER: Read the

last section.

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

SENATOR MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1182, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8408A, an act to amend the Real Property Tax Law and Chapter 405 of the Laws of 1999.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1183, by Senator Seward, Senate Print 3770, an act to amend the Insurance Law, in relation to investment.

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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1184, by Senator Marchi, Senate Print 3798, an act to amend the Business Corporation Law and others, in relation to mergers and consolidations.

SENATOR MARCELLINO: Read the last section.

THE SECRETARY: Section 58. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1186, by Senator Goodman, Senate Print 3914A, an act to amend Chapter 674 of the Laws of 1993.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1187, by Senator Libous, Senate Print 4105A, an act to amend the Education Law, in relation to assistance.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2 -

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1188, by Senator Farley, Senate Print 4746A, an act to authorize the Greater Amsterdam School District.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1191, by Senator Seward, Senate Print 5433A, 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 immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1193, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8939, an act to amend the Vehicle and Traffic 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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1194, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8930, an act to amend Chapter 533 of the Laws of 1993.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1195, by Senator Nozzolio, Senate Print 5544A, an act to amend Chapter 887 of the Laws of 1983.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 21. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

SENATOR ALESI: Thank you, Mr. President. Can we return to reports of standing committees.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

SENATOR ALESI: I believe there is a report of the Rules Committee at the desk, correct.

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

Senate Print 884, by Senator Stachowski, an act to amend the Public Authorities Law.

1741, by Senator Hoffmann, an act to amend the Public Health Law.

2683A, by Senator Skelos, an act to

amend the Family Court Act.

3485B, by Senator Volker, an act to amend the Civil Practice Law and Rules.

3541, by Senator Goodman, an act to amend the Tax Law.

3959B, by Senator Lack, an act to amend the Judiciary Law and others.

4592A, by Senator LaValle, an act to amend the Education Law.

4606A, by Senator Kuhl, an act to amend the Alcoholic Beverage Control Law.

4671, by Senator Trunzo, an act to amend the Transportation Law.

4695, by Senator Rath, an act to amend the Agriculture and Markets Law.

4899A, by Senator Saland, an act to amend the Social Services Law.

4918, by Senator Bonacic, an act to amend Chapter 613 of the Laws of 1996.

4974A, by Senator Nozzolio, an act to amend the Banking Law.

5042A, by Senator Saland, an act to amend the Real Property Tax Law.

5200A, by Senator Stafford, an act to amend the Executive Law.

5248, by Senator Johnson, an act to amend the Education Law.

5406, by Senator Larkin, an act to authorize.

5411, by Senator Goodman, an act to amend the Real Property Tax Law.

5421A, by Senator Maziarz, an act to amend the Alcoholic Beverage Control Law.

5435, by Senator McGee, an act to amend the Education Law.

5466, by Senator Nozzolio, an act to authorize.

5485, by Senator Kuhl, an act in relation to authorizing.

5488A, by Senator Johnson, an act to amend the Environmental Conservation Law.

5492, by Senator Libous, an act authorizing the commissioner of transportation.

5523, by Senator Skelos, an act authorizing the assessor of the County of Nassau.

5531A, by Senator Lack, an act to amend the Estates, Powers and Trusts Law.

5551, by Senator Marcellino, an act

to amend the Environmental Conservation Law.

5552, by Senator Trunzo, an act to amend the Public Authorities Law.

5558, by Senator Bonacic, an act to amend the Public Officers Law.

5561, by Senator Stafford, an act to amend the Vehicle and Traffic Law.

5574, by Senator Stafford, an act to amend the Environmental Conservation Law and others.

5579, by the Senate Committee on Rules, an act to amend the Chapter 166 of the Laws of 1991.

And 5586, by Senator Seward, an act to amend the Insurance Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: Thank you, 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 Alesi.

SENATOR ALESI: Thank you, Mr. President. Would you at this time call Calendar 1155.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1155.

THE SECRETARY: Calendar Number 1155, by Senator Volker, Senate Print 4953, an act to amend the Criminal Procedure Law, in relation to designating.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Alesi.

SENATOR ALESI: Mr. President, may we have 1188 at this time.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1188.

THE SECRETARY: Calendar Number 1188, by Senator Farley, Senate Print 4746A, an act to authorize the Greater Amsterdam School District.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Mr.

President. May we now have the controversial reading of the calendar.

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

THE SECRETARY: Calendar Number 527, by Senator Marchi, Senate Print 2767, an act to amend the General Municipal Law and the Retirement and Social Security Law, in relation to benefits.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Mr. President.

ACTING PRESIDENT MEIER: I'm sorry, hold on. Senator Duane.

SENATOR DUANE: Thank you, Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: Thank you, Mr. President.

I'd like to call to everyone's attention the regulations of the New York State Department of Health regarding the three factors necessary to create a significant risk

of contracting or transmitting HIV infection.

They are the presence of a significant-risk body substance; two, a circumstance which constitutes a significant risk or transmitting or contracting HIV infection; and, three, the presence of an infectious source and a noninfected person.

Significant-risk body substances are blood, semen, vaginal secretions, breast milk, tissue, and a few body fluids.

Circumstances which constitute significant risk of transmitting or contracting HIV infection are sexual intercourse -- that is, vaginal, anal, oral - which exposes a noninfected individual to blood, semen, or vaginal secretions of an infected individual. Which I don't think taxi inspectors are having sexual intercourse on the job.

Sharing of needles and other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals. I don't think that taxi inspectors are sharing needles with their passengers or with cab drivers.

The gestation, birth, or breastfeeding of an infant when the mother is infected with HIV. I don't think that most taxi inspectors believe that breast-feeding is part of their job description.

Transfusion or transplantation of blood, organs, or other tissues from an infected individual to an uninfected individual, provided such blood, organs, or other tissue have not tested conclusively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment. I don't think that taxi inspectors are giving blood transfusions.

Other circumstances are during which a significant-risk body substance, other than breast milk, of an infected individual contacts mucous membranes -- that is, the nose, eyes, mouth -- nonintact skin, like an open wound, skin with dermatitis condition, abraded areas, or the vascular system of a noninfected person.

Such circumstances include but are not limited to needle-stick or puncture-wound injuries and direct saturation or permeation

of these body surfaces by the infectious body substances.

I don't think that in the normal course of a taxi inspector's job that they are in that sort of significant risk. I don't think that they take blood samples or -- what else might they not be doing? -- rubbing up against someone who has an open wound.

Now, circumstances that involve significant risk shall not include, shall not include exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears, or vomitus that does not contain blood that is visible to the naked eye. So if someone sneezes on a taxi inspector, they're not going to get HIV.

Human bites where there is no direct blood-to-blood or blood-to mucous-membrane contact. I can't remember the last time I read a story about a taxi inspector being bitten by a cab or by a cab driver where blood was drawn.

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

SENATOR DUANE: I can't hear, Mr. President, I'm sorry.

The third significant risk which is not considered significant risk is exposure of intact skin to blood or any other body substance.

And, four, occupational settings where individuals use scientifically accepted barrier techniques and preventive practices and circumstances which would otherwise pose a significant risk and such barriers are not breached and remain intact.

I don't think that taxi inspectors are performing operations. I don't think that taxi inspectors are performing operations. But if they do, I suggest they wear a mask and gloves. But really, if they are performing operations, that is an issue they should raise with their union.

Based on the regulations of the New York State Department of Health, I find it hard to see how a taxi inspector or, for that matter, a parking control officer would contract the HIV virus during the normal course of employment. If that's the case,

then I'm sorry to say you're all in danger, because you're all coming into contact with me. And really, the amount of contact that I have with you is the same amount of contact that in the normal course of their job a taxi inspector or a parking specialist would have.

So maybe the Senate themselves should pass some kind of law which allows you all to have disability should you come down with HIV, because you could therefore assume you got it from me.

And so, sadly, if you believe that a taxi and limousine inspector or a parking control officer can get HIV on the job, then I guess it's safe to assume that you think you could get HIV on the job from me as well, because that's exactly what this bill is saying.

This bill says that it could be expected that in the course of a normal job that you could be infected with the HIV virus. This bill says that casual contact is presumed to be the cause of transmission of HIV. This bill sends a signal that people should be afraid of someone with HIV because they might

casually get infected with the HIV virus just by being around someone with HIV.

I think it's probably about as likely that any of you would have sexual intercourse with me than a taxi inspector should be having sexual intercourse with a taxi cab driver. That it's as likely that you would all be having sexual intercourse with me as you would be having sexual intercourse with someone who's double-parked. It doesn't make a lot of sense, does it?

Now, you might wonder why the New York State Department of Health even bothers to put out their regulations since allegedly sophisticated people like us choose to disregard them.

Sadly, it seems as if the union was too embarrassed to even bring this up in collective bargaining. So they thought they would come to the people here in this body, because we're more easily fooled. Because, you know, a responsible person would never think that you could casually get HIV just in the normal course of a regular job like being a taxi inspector or a parking specialist.

Now, I don't want anyone to think that I don't care about making sure that people with AIDS have enough services to live on.

Yesterday I discussed how my proudest moment in the New York City Council was when I passed legislation which enshrined in law the city's Division of AIDS Services, which makes sure that no matter what, people with AIDS would have access to health care, decent housing, enough food to eat, particularly for those people who get wasting syndrome from HIV, enough subway fare so that they can get to doctors' appointments. It makes it possible so that moms who have HIV would have enough services to take care of their children, to keep their families together.

I know that in some parts of this state people with AIDS are put up in disgusting motels where no one else would live, sometimes sent to live in trailers that are not up to code. That because people with AIDS in this state outside New York City often have no place to turn to, including their own

social services agencies.

So as I've said, I intend to introduce legislation which replicates what was done in the City of New York so that people with AIDS throughout the state would be guaranteed to have a safety net of enough food and the ability to get to a doctor, a decent place to live, and the ability to see health-care professionals who could prolong their lives, perhaps long enough until a cure is found for AIDS.

So my disagreement with this legislation has nothing to do with my desire to see anything but the best possible services to be provided for people with AIDS or, for that matter, for anyone with a catastrophic illness.

But to perpetuate the ignorance that HIV could be casually transmitted in the normal course of a job will probably lead to a much, much, much more dangerous situation in terms of instilling fear in people that just by coming into casual connect with someone else they're putting themselves at risk of contracting HIV.

So I ask all of you, please, consider what I hope you know about the transmission of HIV. Think about how you really believe HIV is transmitted, and then make a decision about whether or not you can vote for this bill that assumes that you can casually contract HIV in the normal -- in the course of a normal day's work.

Thank you.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. On the bill.

Yesterday I also spoke on a very similar bill that was offered by Senator Rath. And I had more of an opportunity in committee to have had the opportunity to discuss with the author of this bill, Senator Marchi, and some others the concerns that have been raised, mostly by Senator Duane but also by myself.

Part of what I try to articulate when I stand is that when I speak on a bill, particularly of the magnitude of this one, that I try to do so from a basis of

experience. And some of the experience that I have been fortunate to have had has been to do a wide range of education around issues of health, particularly those related to HIV and AIDS.

And one of my greatest concerns that I have expressed has been that we attempt in our legislation to provide opportunities certainly for any benefits for people in the workplace to ensure that they are protected, but that we do so in a very responsible way.

As I have explored this bill, I recognize very clearly that the persons that are being added to this legislation certainly could be seriously exposed to such diseases as tuberculosis and hepatitis, which haven't been spoken to in this bill. And that, by the very nature of those two diseases, the probability of contact or contracting those diseases are great.

But to have included HIV in this bill speaks to a kind of ignorance that I would hope that this body would not participate in. I had hoped when this bill came to the floor that we would have seen some

changes in the language that would have put HIV certainly in a very different category than those of tuberculosis and hepatitis. But unfortunately, that is not the case.

I don't want anyone to think that I would not want to see persons to be protected in the workplace. And if in fact the chances of their contracting any kind of disease were great, I certainly would be the first to stand in support of it.

HIV is not in that category. And so that while I commend the unions on their efforts, I don't commend thinking people for what I think we're doing here. We are perpetrating a fraud.

And we have spent -- the State Department of Health has spent an inordinate amount of money attempting to educate people as to how this can be contracted. And we do a disservice to all of that work and to all of that money that we have spent to presume - and we are, the language talks about a presumption of contracting this disease in the workplace.

So I can't vote for or support this

bill, even though such diseases as tuberculosis and hepatitis are inclusive, to include -- for me, someone who has not only the knowledge but who has tried to impart the knowledge to other people, could not in good conscience support this legislation as it is currently written.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

I'd like to read one sentence that I believe perfectly summarizes both Senator Duane's arguments and Senator Hassell-Thompson's arguments, and then I'll let everybody know where I'm getting this from. "The bill" -- the one we're speaking of -- "inappropriately creates a presumption which is not based on science or fact that an employee who contracts TB, HIV, or hepatitis did so in the performance of his or her duty."

That line comes from the City of New York's memorandum in opposition to this bill. That's the administration of Rudy

Giuliani, which is dead against this legislation.

To suggest that somebody who is a taxi inspector and winds up getting AIDS, automatically we're to presume that that person got it because of their job as being a taxi inspector, is really silly. I don't know how else to approach this except with some measure of ridicule and scorn.

Currently, in law, paramedics, EMS employees, firefighters, correction officers, and police officers have that presumption. And though I'm sure Senator Duane would disagree with their right to have that assumption made, I believe they -- at least in that case there is somewhat of a more compelling argument that you could make.

Although even for those employees you could easily suggest that those individuals could easily document when they have had the type of interaction that could conceivably lead to the transmission of one of these diseases -- which are very limited. As Senator Duane points out, these circumstances are very limited.

So you can make an argument for corrections officers, for example, that you have a greater frequency of chance that they will have an interaction with an HIV-positive inmate at the same time that they have an open wound or that some kind of bodily fluid from that inmate has been transmitted to an orifice on that correction officer.

You can make the argument that there's a greater likelihood of that happening, even though you could still wind up saying, okay, but in those circumstances don't have it as the presumption, have that as we'll document when that incident occurred and then, if it's found that that incident led to the transmission of the disease, then absolutely, without a doubt the employee should be entitled to additional benefits, disability benefits.

But in the case of parking control specialists and school safety agents, campus peace officers, taxi and limousine inspectors, you've got to be kidding. Any one of these employees winds up with HIV because of a high-risk behavior or not a high-risk

behavior -- a blood transfusion that went wrong in a hospital or something, and we're going to assume that they got it because they were inspecting to make sure that taxi cabs were following their regulations? That's moronic.

And forget the insult for a second that it does to individuals who have been trying for years and years to decrease the stigma attached to HIV and the false perceptions that have been created about how this disease is transmitted. Put that on hold for a second. Look at the financial hit we're opening up the City of New York to. And I believe under this legislation the injury claims can be retroactive to 1996. So we're opening up a huge liability on the part of the city.

Now, I don't think anybody here would suggest that if individuals truly contracted one of these diseases through the transmission of some kind of bodily fluid in the performance of their duty that they shouldn't be entitled to additional benefits. Nobody disputes that. But the presumption of

that is just silly, flat-out silly.

And New York City is now going to have to wind up, if this becomes law -- and I hope it doesn't, and I'm going to vote against this -- is going to wind up having to pay out claim after claim after claim, when I believe if there are these claims that the overwhelming majority of these claims will not be as the result of somebody having contracted one of these diseases in the course of their duty, because to assume so is illogical. It's flat-out illogical. That's not how these diseases are transmitted.

And so I'm going to vote against this legislation. This is wrong on several different levels. I have great respect for both sponsors of the bill. I just don't know why we're doing this. I don't understand.

Senator Duane points out that this could have been done through collective bargaining, which wouldn't have made it a better idea. It might have made it a more appropriate venue with which to have this discussion. But to come here and pass a bill like this is just -- it's just insulting. It

perpetrates the myth of the spread of certain diseases. And it exposes the City of New York to tremendous liability.

This is just a plain bad idea. Sometimes in this body we have bills before us that are real gray, they're fifty-fifty. Yesterday for me was one of them, whether or not to vote for a month-long budget extender. Some things are close.

Nothing could be more clear than this being a really bad idea. Mr. President, I will be voting no.

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

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.)

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

SENATOR MARCHI: I am troubled by some of the arguments I think that were raised. And certainly it's legitimate to make

the observations that you have.

We have the heightened apprehension -- and perhaps the Health Department may have additional views. I don't think in the exercise yesterday there was any mention of the Health Department.

On the other hand, there are regulations that are being developed. And this acts prospectively. This does not require -- it becomes effective when it is effective by virtue of its adoption as a law of the State of New York.

The Assembly passed it I believe unanimously last year -- with one dissenting vote in the Assembly. In the City Council, you had the same experience in supplying - and that explains a little bit the dichotomy between the Mayor's office and the City Council. There was one dissenting vote in the City Council.

So there is a home rule message at the desk on this bill. It isn't the most exuberant. But given the circumstance, the whole thing certainly raises some questions.

But you've had -- I understand the

Assembly bill is on the threshold of passage. This would, with the approval of this chamber, would go over there and they would substitute and take it from there.

So I think in view of the home rule message that we have -- the Mayor's statement was good as far as it went. They came in with a non sequitur towards the end of it which simply doesn't explain anything.

So I feel in view of the nature, I would hope it will be reflected, as I'm informed, that the constituent portions of this thing will require more precise information and the nature and quality of the circumstances that took place. And for that reason, I've stayed with the bill.

But it is a problem that's ravaging the whole world now, and you can't stop pointing fingers or blaming accusations. This is not an accusation. I think it's just an expression of extreme concern. And anyone, however you characterize the experience they had in arriving at a rather tragic confluence, I think you have to give the benefit of doubt to.

It explains -- I have no disrespect for the arguments that were raised, none. But I think against the genesis of the bill in reaching us, in actions that have already been taken, is strongly indicative of the cautionary nature of the whole problem.

So I hope in the formulation of rules and regulations within, as I know -- I believe the fire department is already engaged in, that most if not all of your concerns will be met. I certainly hope so.

I vote aye.

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

The chair neglected to note that there is a home rule message at the desk.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 527 are Senators Duane, Hassell-Thompson, Hevesi, Montgomery, Santiago, and Schneiderman. Ayes, 52. Nays, 6.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. There will be an immediate meeting of the Majority Conference in the Majority Conference Room, and I ask that we stand at ease for approximately one hour.

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

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 12:35 p.m.)

(Whereupon, the Senate reconvened at 1:54 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. I ask the members to find their chairs, staff to find their places.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. May we return to motions and substitutions at this time.

ACTING PRESIDENT KUHL: Return to the order of motions and resolutions.

Ask the Secretary to read the substitutions.

THE SECRETARY: In relation to Supplemental Calendar 55A, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7344A and substitute it for the identical Senate Bill Number 3485B, Third Reading Calendar 1199.

Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 8374 and substitute it for the identical Senate Bill Number 4695, Third Reading Calendar 1205.

Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 3996 and substitute it for the identical Senate Bill Number 4918, Third Reading Calendar 1207.

Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 1872A and substitute it for identical Senate Bill Number 4974A, Third Reading Calendar 1208.

Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 8868 and substitute it for the identical Senate Bill Number 5421A, Third

Reading Calendar 1214.

And Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 9050B and substitute it for the identical Senate Bill Number 5531A, Third Reading Calendar 1221.

ACTING PRESIDENT KUHL: the substitutions are ordered.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. May we proceed with Calendar 1187, by Senator Libous.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1187.

THE SECRETARY: Calendar Number 1187, by Senator Libous, Senate Print 4105A, an act to amend the Education Law, in relation to assistants in podiatrists' offices.

SENATOR DOLLINGER: May we have an explanation, please.

ACTING PRESIDENT KUHL: Senator Libous, an explanation of Calendar Number 1187 has been requested by the Acting Minority Leader, Senator Dollinger.

SENATOR LIBOUS: Thank you, Mr.

President.

Basically what this bill does is it gives podiatrists some flexibility for having assistants do supportive services. It by no means changes licensing procedures or anything like that. It certainly does not allow unlicensed personnel to serve individuals.

But what it does allow is an assistant to provide supportive services when they see a podiatrist. Those supportive services would be very similar to the kind of work a dental hygienist, a dental assistant does.

In this area it would be taking preliminary information from the patient, helping the patient become situated in the examining room, removing the shoe, maybe cleansing the foot. But actually there would be no type of personal examination by that assistant; that would be done by the doctor.

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

ACTING PRESIDENT KUHL: Senator Libous, do you yield to a question from

Senator Dollinger?

SENATOR LIBOUS: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Why do we need this bill now?

I presume that in a podiatrist's office there are unlicensed personnel who provide some of the kinds of services that you've made reference to -- they take reports, they get names and identifications, they show them to the room. What is it about the particular need for this bill?

SENATOR LIBOUS: Mr. President, that's an excellent question.

I think -- through you, Mr. President -- Senator Dollinger, what this bill does for the industry is just kind of defines it so that there is no uncertainty as far as if that does take place now, that it is allowable that a person can take the shoe off, can cleanse the foot, can hand the doctor the instruments.

I think it just makes it very clear that the person is certainly not taking the

place of the licensed physician but at the same time, because of law, will have an opportunity to assist the physician. I think they just want to make it part of statute to clean that up so that there are no doubts.

SENATOR DOLLINGER: Through you, Mr. President, just one other question.

ACTING PRESIDENT KUHL: Senator Libous, do you continue to yield?

SENATOR LIBOUS: Sure.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Senator Libous, are there any other professions that currently provide this service, nurses or physician's assistants, that this bill would displace as a consequence of allowing an unlicensed person -

SENATOR LIBOUS: No. No, Mr. President.

SENATOR DOLLINGER: So this has no impact on the scope of practice in other professions?

SENATOR LIBOUS: No, that's correct.

SENATOR DOLLINGER: Thank you, Mr. President. No further questions.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. May we return to the controversial calendar and start with Calendar Number 588.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 588, by Senator Larkin.

THE SECRETARY: Calendar Number 588, by Senator Larkin, Senate Print 1966, an act to amend the General Municipal Law, in relation to reconstituting.

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

The Secretary will read the last section.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 588 has been requested by Senator Dollinger.

SENATOR LARKIN: Yes, Mr. President.

Senator Dollinger, this bill repeals Section 911 of the General Municipal Law, and adds a new section, 911(f), to recreate the Town of New Windsor Industrial Development Agency. This bill provides for this new IDA's functions, powers, and duties.

This IDA needs to be recreated because, under law, IDAs cease to exist if, at the expiration of ten years, there were no outstanding bonds or other obligations. Since the New Windsor town board has decided that, no outstanding bonds, that they would like to recreate this as a partnership with the development going on in their area at the

Stewart International Airport.

This is essential, they believe, to help them promote economic development and attract new business which are now looking at the sites within the industrial complex and the airport. There are no -- other noncounty IDAs in addition to the Orange County one are the City of Newburgh, the Town of Walden, the Village of Walden, the Town of Wallkill.

There has been no opposition at home to this.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Larkin will yield to a question.

ACTING PRESIDENT KUHL: Senator Larkin, do you yield to a question from Senator Dollinger?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: This is in Orange County? New Windsor is in Orange

County?

SENATOR LARKIN: Yes.

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

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Does the Orange County Industrial Development Agency have jurisdiction over the airport as well?

SENATOR LARKIN: No, it does not. The airport's solely within this part of what -- what New Windsor wants to do is solely within the town of New Windsor.

Richard, about two years ago when the Army was going to relinquish its property at Stewart, they went through all the process of letting this land go to anybody. And the town went to Congressman Sue Kelly and Senator D'Amato, and they crafted legislation that was approved that turned all the land over to the

town.

The town believes that this is their only avenue to have economic development in the town. There's no place else to do it.

SENATOR DOLLINGER: Thank you, Mr. President. No further questions for Senator Larkin. Just briefly on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: The reason I asked the question, Senator, is because one of our concerns -- and I think it's been Senator Stachowski and others -- has been about competition between the IDAs in instances -

SENATOR LARKIN: There's no competition in this area.

SENATOR DOLLINGER: Right.

-- in instances in which we have a town industrial development agency and we have a county development agency with jurisdiction over the same site, and the question of how that competition works out vis-a-vis who takes credit for it and how the benefits are given.

If this is one in which there is a sole industrial development agency for this

specific project, I'm going to vote in favor of it. Keeping an eye on the fact that if there are conflicts in the future, those would raise greater concern.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Ayes, 57. Nays, 2. Senators Duane and Stachowski recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 590, by Senator Larkin, Senate Print 2123, an act to amend the General Municipal Law, in relation to establishing.

ACTING PRESIDENT KUHL: There is

a home rule message at the desk.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation has been requested of Calendar Number 590 by Senator Dollinger.

SENATOR LARKIN: Yes, Mr. President.

This adds a new Section, 890-K, to the General Municipal Law to create the Village of Kiryas Joel Industrial Development Agency, to have the powers and functions.

The IDA was created, as you know, to try to help the economic area. This is a solid Hassidic community that has over the past three years asked for this. This community has grown now to over 15,000 people. They don't go outside of their community, Richard, if you know something about them. Everything is within the community. And the only way to promote it so that young people are graduating and getting somewhere has to be for some economic development within the village.

I've talked to the village, I've

talked to the county. The county does not want to get involved in it. And that's the reason why they're coming to us, because they have recently made some forward movement with companies in New York City and outside of New York, one in Rotterdam, that would like to come.

As you know, they do all the diamond work in the city, and a lot of them come from K.J. They want to be able to start something up there and to enhance the economic opportunity for their constituents.

SENATOR DOLLINGER: Explanation satisfactory.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Stachowski, to explain your vote.

SENATOR STACHOWSKI: Briefly to explain my vote, just so I can put on the record why I vote against these bills.

Currently in Erie County we have a move by the county executive to try to make one IDA. We have numerous IDAs. Companies move from one to another, office space moves from the city to an IDA, all kinds of movement that doesn't produce anything, really, for the taxpayers. All it does is when one tax abatement is over, they move the company to another town saying they're going to leave the state, and they get another tax abatement.

And so I've made it my business to vote against all of them, regardless of what the situation is, because it's a message.

And now, currently, we just had another new interesting twist. In the county executive's push to get IDAs all under one roof, he's now hired the head of the one IDA that refuses to come in as the guy to give out the loans, which I find very interesting.

But that's not anything to do with this bill, it's just my way of explaining why I can't support it. I vote no.

ACTING PRESIDENT KUHL: Senator Stachowski will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 2. Senators Duane and Stachowski recorded in the negative.

SENATOR MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 682, by the Assembly Committee on Rules, Assembly Print Number 8347, an act to amend the Retirement and Social Security Law.

SENATOR DOLLINGER: Explanation.

SENATOR ALESI: Lay it aside temporarily, please.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 686, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8482, an act to amend the Retirement and Social Security Law, in relation to establishing.

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

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, will the sponsor yield just to one question? We'll waive the explanation if the sponsor would yield to a question.

ACTING PRESIDENT KUHL: Senator Marchi. Senator Marchi, a question on Calendar Number 686 has been requested by Senator Dollinger.

SENATOR MARCHI: Well, we're in between some further aspects of negotiation. This is a bill that would provide for a halfway pension at age 50 and with 20 years.

But it has passed the Assembly. And there was some -- the problem, the Governor vetoed it last year.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Marchi will yield, that's exactly the reason for my question.

SENATOR MARCHI: Sure.

ACTING PRESIDENT KUHL: Senator Marchi, do you yield to a question?

SENATOR MARCHI: Well, it's a legitimate question, and that's what I'm trying to get -

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MARCHI: And I'm trying to get at the bottom of it. Because I've heard that the -- he said that you needed more specifics, really, to lift it -- as to the nature of the disability and whatnot. And he was not happy with it.

ACTING PRESIDENT KUHL: Senator Dollinger, still waiting for the answer?

SENATOR DOLLINGER: Well -

SENATOR MARCHI: Some changes were made pursuant to the veto last year. And the change is -- there's no sign-off by the Governor, but he expressed a willingness to consider it in view. So -

SENATOR DOLLINGER: Through you, Mr. President, if Senator Marchi would yield just to one question.

SENATOR MARCHI: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: What specifically were those changes, Senator Marchi? Are they across the board, or are

there a series of them?

SENATOR MARCHI: I stand corrected, it has not been changed. And he suggested that they get back together again. And he's indicated that he may take a look at it.

I would request that we lay it aside temporarily until I'm in a position to give you a better answer.

SENATOR DOLLINGER: Well, Senator Marchi, I'm not sure you need to do that for me. My understanding is the bill is the same bill we approved last year.

SENATOR MARCHI: Yes, it is.

SENATOR DOLLINGER: And my understanding is the Governor has asked to, in essence, get the bill back to take another look at it.

SENATOR MARCHI: Yeah.

SENATOR DOLLINGER: I'm prepared to vote for it.

I would like Senator Marchi just to yield to one more question, if he would.

SENATOR MARCHI: Yes.

ACTING PRESIDENT KUHL: The

Senator yields.

SENATOR DOLLINGER: Senator, why wouldn't this be the perfect bill to override the Governor's veto? Isn't this in fact the perfect bill to override a gubernatorial veto?

SENATOR MARCHI: I guess he was -- the Governor may be reflecting also some turbulence, because the Mayor opposed this bill.

But I feel on the merits, if we're to believe the authorities, the assertions that have been made, that this is a heavy type of duty which effectively is injurious and toxic people who work in it. It's heavy - it's heavy work.

SENATOR DOLLINGER: I couldn't agree with you more, Senator Marchi.

Just briefly on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Senator Marchi, I voted for this bill last year. I'm going to vote for it again.

My point is simply to make this, is

I don't know why we don't override the Governor's veto on this bill. This bill passed 59 to nothing. It's got bipartisan support. It's obviously a good thing to do. There are obviously people lobbying for it who work for this organization who think this is a good idea. The Mayor of the City of New York -- or the Mayor's office, I gather, doesn't like the bill.

But I think it's pretty fair to say, Senator Marchi, that all these other pension bills that we've done where the City of New York, as with many of our municipalities, come forward and say, We don't like these bills, we don't want you to tell us that you may have to pay greater contributions to the pension plans -- but it seems to me, Senator Marchi, that's in essence our call.

And from my point of view, Senator Marchi, what I don't understand -- and somebody someday will explain it, but probably long after I've left this chamber -- but why this bill wasn't brought back to this house to overturn the Governor's veto. We are now sending him back the exact same bill a year

later saying take it again, here's another chance at it.

I don't understand why we don't exercise our constitutional power to just override his veto and turn this into law. Fifty-nine of us agree it's the right thing to do. And if 101 members of the Assembly think it's the right thing to do, it should become the law regardless of what the man on the second floor thinks, regardless of who he is, regardless of who she is.

And I just don't understand why we don't use our constitutional power -- we had a great discussion yesterday about constitutional powers of the Governor and the Legislature. I don't understand why we don't use our constitutional power here to make this law when 59 members of this chamber say this is a good idea no matter what the Governor thinks about it.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Very persuasive, Mr. President. I would suggest that we pass the bill and then say that we are considering

a Damoclean sword.

But you're right. I mean, here we have two houses of the Legislature coming out with almost a total consensus, a positive consensus. So perhaps we ought to dangle that Damoclean sword and let him reflect on it a little bit. I don't think it will do us any harm.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Just to explain my vote.

I couldn't agree with Senator Marchi more.

The interesting thing about the sword of Damocles, Senator Marchi, is that

it's not really effective unless it falls every now and then. And I would suggest that this Legislature, which holds the sword in its hand with 42 votes in this house, just has never wielded that sword often enough.

And as a consequence, in the comparative balance of power between our executive branch and our legislative branch, we have ceded way, way, way too much power to whoever occupies the second floor. And too often, party affiliation shields them from the falling of the sword of Damocles.

That shouldn't happen. The sword will be most effective as a threat when occasionally it draws some blood.

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

Announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. May we proceed with Calendar 682,

after which we will proceed, with your permission, with the regular order.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 682, by Senator Leibell.

THE SECRETARY: Calendar Number 682, by the Assembly Committee on Rules, Assembly Print Number 8347, an act to amend the Retirement and Social Security Law, in relation to granting members.

ACTING PRESIDENT KUHL: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, here again an explanation is not as necessary as some kind of update that Senator Leibell might want to give us on the Governor's previous veto of this bill, if the Senator is willing to yield.

ACTING PRESIDENT KUHL: Senator Leibell, do you yield a question from Senator Paterson?

SENATOR PATERSON: Mr. President, we're just interested in -

ACTING PRESIDENT KUHL: Senator Leibell, was that a yes?

SENATOR LEIBELL: Yes, I'm sorry.

ACTING PRESIDENT KUHL: Senator Paterson, the Senator yields.

SENATOR PATERSON: Thank you.

Mr. President, we're just interested if Senator Leibell would familiarize us with what were the reasons that the Governor vetoed this bill in the past, and perhaps what actions might be taken to either persuade the Governor that this bill should become a law or what adjustments have been made that satisfies the executive branch.

SENATOR LEIBELL: Senator, I do not have with me a copy of the Governor's veto. In fact, I'm not even aware of what the essence of it was.

Suffice it to say that we have comfort with this legislation that it will address what we feel is an egregious situation and will address that problem and take care of our state police officers and make them consistent with the way other police officers are treated.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

With the clarification, this bill passed the house 58 to zero last year, 59 to zero the year before. I still believe that it's something that should be done. And hopefully the Governor won't veto it again this time. Or, as Senator Dollinger suggested to Senator Marchi, maybe this is a bill that an override would be necessary, because it's not clear to me what the Governor's objections are.

Thank you.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the controversial calendar in regular order.

THE SECRETARY: Calendar Number 788, by Senator Larkin, Senate Print 2653A, an act to amend the Public Health Law, in relation to establishing.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation has been requested by Senator Duane on Calendar Number 788.

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

Senator Duane, over the last few years in America we have found people from all walks of life, every ethnic background there is, that these individuals have been coming up with an illness that nobody knew anything about.

For example, I have a young assistant principal at a high school who was playing basketball with some of the students. Towards the end of the game, he banged up against the wall and fell. Two days later, in the hospital, his ankles and his knees swelled. The doctors did x-rays, everything else; they could never tell what it was.

There has been research on it at the Center for Disease Control. They've been doing work on it at Philadelphia Medical Center. And what it's called is reflex sympathetic dystrophy syndrome. That is the name given to it by the Center for Disease Control. We have no known cure.

When it first started about four or five years ago, people thought it was an isolated thing. I'll bet if every member of this body would go back to their district and find out, you will find that there is someone in their district.

The main purpose of this bill is to have the Health Department produce some program information packets to tell them what they can do. There is no known cure for it. All you can do is hope that you can get to somebody who can help you. In some cases, it may be physical therapy; in some places, it's been an operation.

We have a young lady who's in Senator Leibell's district who two years ago, at the Bank of New York, was walking down a hallway in the bank, somehow slipped. They

operated on her back. They thought that's what it was. But nothing has ever been able to heal her. She's a woman with three children from age 10 down, and she's permanently committed to a wheelchair.

I don't know if anybody here knows the movie actor by the name of John Seda. He's been on "Law and Order" and "Third Watch." I've never seen him on TV, but I've met him. John Seda is a gentleman born in Puerto Rico, came to the Bronx, now lives between Hollywood and New Jersey.

John Seda and his sister were doing what we used to call in my age group the three-legged races. You know, you have a burlap bag and you each put a foot in there. He was running with his sister, he fell on her. She was 7 years old.

She's 17 years old now. She must wear totally dark glasses, like the ballplayers do. She has to be fed, not just spoon-fed, but has to be fed that way. She is confined to a wheelchair. Ten years ago when it happened, she blossomed to 250 pounds. Today she's 95 pounds soaking wet.

There is no cure. They don't know what it is. All we're asking the Health Department is to be a partner with the people in the State of New York, as some other states are trying to do, is to find out how do we alert them. If this happens, here's what you have to do: A, B, and C.

I have another person in my district who I talked to on Saturday because of knowing this bill was coming up. She's transported twice a month to Philadelphia, where she's immersed in water and all of that stuff.

All we're trying to do is get out that this is an illness, a disease. What is it, nobody knows. But we need to get something out there so that we can protect some of these people.

ACTING PRESIDENT KUHL: Senator Duane, why do you rise?

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

ACTING PRESIDENT KUHL: Senator Larkin, do you yield to a question from Senator Duane?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Is there any responsibility in this bill for the Department of Health to report back to the Legislature?

SENATOR LARKIN: Not at all.

Our main effort, Senator, is that we have been working directly here ourself - with the help of Senator Hannon and a few others who have constituents with this, we've been trying to put the pressure on our congressional delegation to do some more dedicated work with the National Institute of Health, the Center for Disease Control, and the center in Philadelphia.

SENATOR DUANE: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Duane, on the bill.

SENATOR DUANE: I'm going to vote in favor of this, and I think it's a very laudable cause. But I am concerned that the Department of Health will not do what they're

supposed to, what the law will mandate them to do.

Earlier this session, there were numerous instances of laws that we had previously passed which directed the Health Department to do various things, none of which they did. And even when the law called for there to be a timetable and report back to the Legislature, they failed every time at doing that.

So, you know, hope springs eternal. Maybe they will do this one. But if they follow in the footprints they've been putting out there now, I have no illusion that this awareness campaign is ever going to get off the ground.

So I vote yes, because it does make me feel better. But I don't really think it's going to help the people of the state of New York.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Meier, why do you rise?

SENATOR MEIER: Mr. President, just very briefly on the bill.

I want to commend Senator Larkin -

ACTING PRESIDENT KUHL: Senator Meier, on the bill.

SENATOR MEIER: -- Senator Larkin for this piece of legislation.

Since over the last couple of days some members have shared some personal experiences, my wife has RSD, Bill. It is a debilitating disease. And it is a disease that many times is met, by the nice people who run insurance companies in this state, with disbelief and ridicule and attempts to try to prove that people are crazy.

And what Senator Larkin has done here today I think gives some real hope and some real support to people who suffer from something that is very real, very diagnosable by a competent physician, and extremely debilitating and discouraging.

Thank you.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1150, by Senator LaValle, Senate Print 3945, an act to amend the Mental Hygiene Law, in relation to requiring.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT KUHL: Senator LaValle, an explanation of the bill has been requested, I believe by Senator Hassell-Thompson.

SENATOR LAVALLE: Thank you, Mr. President.

This bill would amend Section 3205 of the Mental Hygiene Law by adding a fourth section that would allow us to have OASAS certify substance abuse homes that are for

patients or clients that are in some sort of treatment program or who have been released from treatment and are living in a community.

In my Senate district, and I'm sure in other districts, there has been a proliferation of homes that have many unrelated people living in a community home and are not living in a home that may meet code or be in necessarily a good condition.

There are providers that are providing services for individuals that are doing a terrific job that have supervised homes.

The most important thing for a person who has been involved in a substance abuse program is to ensure that that individual be in a home that is like a real home, that has clean suitable conditions, that we do not have a home that would, for argument's sake, have two bedrooms and have six or seven people, with people living in basements and other conditions.

This bill is before us because the Suffolk County legislature passed a local act and our Department of Substance Abuse

indicated that this was not an appropriate action by a county legislature. And yet we do not have local governments with the ability to go in and regulate in some way those homes and those situations that have individuals in the home in sub-par condition.

ACTING PRESIDENT KUHL: Senator Hassell-Thompson, explanation satisfactory?

SENATOR HASSELL-THOMPSON: Not satisfactory enough not to ask questions, no, Mr. President.

ACTING PRESIDENT KUHL: Senator LaValle, do you yield to a question from Senator -

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you. Thank you, Mr. President. Through you.

Senator LaValle, will the resident facilities that are described in this bill have treatment on-site?

SENATOR LAVALLE: No. These homes specifically, Senator -- if you look at Section 3205, it talks about residential

programs that are certified by the commissioner of the Office of Alcoholism and Substance Abuse Services. These homes exist because people are outside of treatment, have no place else to go to live, and are placed within a home.

Now, some of those individuals are in extended treatment programs. Some may be and should be going to an AA treatment program, to meetings. Or they may once a week need to go back to the residential facility for some sort of counseling. But by and large, this is a home.

The good homes have supervision, they have a person there that is doing some counseling, giving some direction. What we are finding, however, as is always the case, there are people that do not want to play by the rules, to have supervision in the house, to have a suitable number of persons living in a house.

And so what we are doing is giving the commissioner certain powers. And by the way, it is possible that the commissioner could promulgate rules and regulations to

cover these homes, but the commissioner has chosen, as of this date, not to go that route. That's why I'm here before this body, to ask for statutory authority that would trigger regulations under Section 3205 of the Mental Hygiene Law.

SENATOR HASSELL-THOMPSON: Through you, Mr. President, that answers my second question, but it doesn't answer some of my others, if the Senator will yield.

ACTING PRESIDENT KUHL: Senator LaValle, do you continue to yield?

SENATOR LAVALLE: Yes, I will yield.

ACTING PRESIDENT KUHL: The Senator yields to another question.

SENATOR HASSELL-THOMPSON: Thank you.

You've explained to me, Senator, why OASAS was selected to the monitoring and certifying agency. But are there any appropriations available to offset the costs that will be associated with this bill?

SENATOR LAVALLE: Not in this bill, Senator. That would come as a request

from the agency if there needs to be at some further time. But the answer is no.

SENATOR HASSELL-THOMPSON: If the Senator will continue to yield.

ACTING PRESIDENT KUHL: Senator LaValle, do you yield to another question?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

Senator, you have stated that you are mandating statutory authority to the commissioner -

SENATOR LAVALLE: That is correct.

SENATOR HASSELL-THOMPSON: - that would allow the commissioner then to establish those regulations in the application process for certification for one of these houses; is that correct?

SENATOR LAVALLE: The answer is if you look at that section, Senator, it begins with a provision that allows the commissioner authority to promulgate certain

regulations.

However, this legislation would, by putting in this section, in 3205, would very specifically, as the commissioner issues an operating certificate, the commissioner would do so in the same manner that the commissioner does so for those facilities under Sections 1, 2 and 3.

And some of those things, Senator, that the commissioner already, under -- when we look at Sections 1, 2 and 3, the commissioner, in issuing an operating certificate, would look at the public need for chemical dependence services to be established, taking into consideration local, regional and statewide need, the character, competence and standing in the community of the person or entity responsible for operating the facility, the overall financial condition of the applicants, the adequacy of the premises and the equipment, the personnel, the records, and the program to provide services.

And it goes on and on as to those things that the commissioner would look at in giving a certificate to an applicant or a

provider.

SENATOR HASSELL-THOMPSON: Mr. President, if the Senator would continue to yield.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR HASSELL-THOMPSON: Then you've just raised another question that wasn't on my list.

SENATOR LAVALLE: That's all right.

SENATOR HASSELL-THOMPSON: Those facilities that currently exist, would they be grandfathered?

SENATOR LAVALLE: Those facilities, Senator, under their own section, already have been given certificates. But those homes.

SENATOR HASSELL-THOMPSON: In Suffolk County? In Suffolk County?

SENATOR LAVALLE: Throughout the state. Throughout the state.

SENATOR HASSELL-THOMPSON: I'm sorry, would you repeat that?

SENATOR LAVALLE: Those homes in sections -- those facilities under 3205, subsection 1, 2, and 3, already have met certified -- certification requirements. What we are adding to this section is those facilities that we call sober homes to the authority and -- the definition and the authority in which the commissioner would regulate. And that will -

SENATOR HASSELL-THOMPSON: I understand that. I understand that. But those that currently do not -

ACTING PRESIDENT KUHL: Senator Hassell-Thompson, if I might -

SENATOR HASSELL-THOMPSON: I'm sorry, Mr. President, through you.

ACTING PRESIDENT KUHL: I'd just like to remind the members from time to time that there is an order of rules and we do try to comply with that.

SENATOR HASSELL-THOMPSON: I apologize, Mr. President.

ACTING PRESIDENT KUHL: So if you have another question that you'd like to ask Senator LaValle, that's fine. This is not the

normal debate process where you can interrupt the other person and that sort of thing.

So would you like to ask Senator LaValle another question?

SENATOR HASSELL-THOMPSON: Yes, I would, Mr. President, if he would yield.

ACTING PRESIDENT KUHL: Senator LaValle, do you yield to another question?

SENATOR LAVALLE: Yes. And let me -

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LAVALLE: Let me just finish my answer to the previous question.

The short answer is that everyone in this circumstance would have to apply for a certificate from the commissioner. So the answer is yes, everyone would have to -- no one is grandfathered in, everyone would have to apply.

SENATOR HASSELL-THOMPSON: Okay. Then if the Senator would yield for another question.

ACTING PRESIDENT KUHL: Senator LaValle, do you yield to a question?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HASSELL-THOMPSON: Through you, Mr. President. Senator LaValle, you have said that there is an increase and a proliferation of these kinds of facilities in Suffolk County. Why aren't you asking for this to be directed specifically to Suffolk County and not statewide?

SENATOR LAVALLE: I suppose we could always do those things, Senator. And we do from time to time take an issue and deal with it very specifically in our own jurisdiction.

Here we have providers that deal not only in Suffolk County but across the state. And so it is my feeling that we should have, in this issue, one uniform standard for the whole state.

Because if it's good for Suffolk County, I believe that it would be helpful indeed to other communities and to the municipalities, at both the county level and the state level, in enforcing the things that

are important in terms of health code violations. It would help the Department of Social Services to better monitor what is going on for the clients that they or we, the taxpayers, are paying for, and, indeed, for the town officials to deal with the many violations that go on but they can't get inside the home to know whether there are violations.

So I think that this is -- when we've dealt with facilities such as this, whether it be for the handicapped or others, we've done it as a statewide bill. And that's why this fits into this section, 3205, quite honestly very neatly in making it a statewide bill rather than a local bill.

SENATOR HASSELL-THOMPSON: If the Senator will just yield for a couple more questions.

ACTING PRESIDENT KUHL: Senator LaValle, do you yield for another question?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank

you, Mr. President. Through you.

Senator LaValle, have you been in touch with any other counties to discuss whether or not this would be injurious to some of their facilities? Particularly because you're talking about facilities that already exist, may have existed, but would not in fact be grandfathered in but would have to start the application process along with everybody else.

SENATOR LAVALLE: Senator, I have not personally. But people who are involved in these issues have certainly indicated that the problem is not indigenous to just Suffolk County.

And while I say this, I want to repeat once again my remarks, because I don't think we can say it enough times, that the majority of programs could meet this certification requirement because the providers have good reputations, want to do the right thing, want to make sure that there is a seamless process from treatment to a person going out into the community.

But so many times we in this body

are constantly protecting the 90 percent from the 10 percent. And so while most of the providers are doing a good job, there are far too many that are shortchanging the clients that are being dealt with and are not dealing fairly with the communities that they are placing these homes into those communities.

SENATOR HASSELL-THOMPSON: Final question, through you, Mr. President.

ACTING PRESIDENT KUHL: Senator LaValle, do you yield to another question?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HASSELL-THOMPSON: What problems, if any, have you encountered or have you been told by the New York State Mental Health Department or from the commissioner that might be a barrier to executing this project?

SENATOR LAVALLE: Senator, I can say this, that from my vantage point -- and I'm here on the floor of this body offering this bill because this agency and the commissioner of the Office of Substance Abuse

Services really has not responded in a way that would deal with the issues that are facing constituents that I represent -- when a community can go and say there are more than 30 of these facilities in a community of, let's say, 10,000 people, 15,000 people, and the agency does nothing about it, the comments fall on dead ears that there are clients in substandard living conditions, then I think one of the reasons for government to exist is to protect the health, safety, and welfare of people.

This legislation goes to that, both to the clients who are placed in these programs and also to the communities that must deal with an inordinate amount of placements.

So I have a situation very specifically where I am told by the civic associations, we have held a press conference, it's come under some public scrutiny, and the number of 30 homes in one community has not been challenged as being wrong.

So the commissioner has had a chance to address these problems, the agency as a whole has had an opportunity to address

these problems and has not. I think this is the appropriate place for us, for the citizens we represent to bring their grievances and have them dealt with in a fair way. And, I believe, not blocking in any way the ability of good providers from continuing to do what they are doing in providing services and doing it in a user-friendly way in the communities that we represent.

ACTING PRESIDENT KUHL: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: I have one final question.

ACTING PRESIDENT KUHL: Senator LaValle, do you yield to one final question?

SENATOR LAVALLE: Yeah. I'm not going anyplace.

ACTING PRESIDENT KUHL: I think that was a yes, Senator.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: Okay. The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you, Senator. Through you, Mr. President. Am I clear, then, that this legislation will give

site-selection control to local communities in terms of the number and the placement of those facilities within the community?

SENATOR LAVALLE: Senator, I will read to you very specifically, so that you are clear -

SENATOR HASSELL-THOMPSON: I read this.

SENATOR LAVALLE: Okay. And the answer is there will be criteria or standards that the commissioner will evaluate the public need for chemical dependence services to be established, taking into consideration local, regional and statewide need, the character, competence and standing in the community of the person or entity responsible for operating the facility, the adequacy of the premises, equipment, personnel records, and so forth going on, that such services will be provided in compliance with applicable law and regulations. And I'm just picking here, some of the provider services will provide residents with continuity of care consistent with treatment and discharge plans.

So, yeah, there has to be criteria.

Will that criteria be exclusive? Not necessarily if you meet the conditions. And I don't think that any of our communities -- as long as there are standards, that everyone is playing by the same rules, that I think there is a tolerance and has been a tolerance for various residential facilities.

But it has to be done in such a way that it does not exclude the current laws that are provided for by our counties and our towns and our villages. I think they need to be recognized and enforced and enforceable.

SENATOR HASSELL-THOMPSON: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: I certainly appreciate, Senator LaValle, your accommodating me with a full-blown explanation.

As you may or may not be aware, for close to 25 years of my adult and professional life I have worked with the substance-abusing population in the County of Westchester. And certainly most and much of what is in this

legislation I would have to be supportive of, both from the professional side and also as someone who has been in local government.

I guess the only -- before I get to the concern, let me say too that certainly on the face of this I am very supportive of the attempts of this legislation.

The concern that I feel and sense is that even though there is the belief that there will be no fiscal impact on the state to implement this certification, it is going to be impossible for those good facilities, as you describe, to be up and running and to be able to qualify for this criteria should, in fact, that criteria include physical improvements to the facility.

And nowhere in the existing budgets is there space and room for the kind of possible renovation, construction, redevelopment in order to meet this criteria.

Is that a bad thing? No. Obviously it's not a bad thing to ask them to bring them up to speed. But again, without an appropriation, I don't see that this will respond as well as we would need to without an

appropriation.

The other thing that becomes really of concern to me is the increasing number of young people, particularly, who, once they become addicted to substances and who are no longer in a treatment facility, but also who are homeless and who find themselves in a lot of these facilities around in the County of Westchester.

And I'm not sure that you have the homeless population in Suffolk that we do in Westchester and in the Bronx and Lower Manhattan. But certainly I would say to you that the numbers of people who are addicted and who continue to be in a perpetual state of recovery find themselves in a homeless situation. And for them, the kind of residential facilities there aren't nearly enough.

And the difficulty is that there are some communities that are more forthcoming in terms of providing facilities than others. There are communities that -- you know, we talk about affordable housing. This is something that's really very -- not on the

cutting edge for a lot of communities to provide for a population that people would just like not to believe exists.

But these are people who belong to our families and our communities, and certainly there needs not only to be the corrective measures that you are describing in this legislation to ensure that the ability of people to be in a residential facility that speaks better to their total recovery or better opportunity for recovery than where they physically are, but we need an increased number.

And so it would be my concern if the hidden attempt within this legislation would be to control the numbers of facilities that could come to a community.

Having said all that, I am appreciative of your efforts and those of Department of the Community Mental Health in terms of attempting to regulate, to upgrade the facilities that do exist in our communities. Because certainly I know that our local building departments are always stymied in terms of how do they address some

of the problems that are brought to them by community persons. And there needs to be an agency that is responsible for the monitoring and certifying.

But I would just encourage us as we do this to recognize that there is going to be a need for an appropriations attached to this to ensure the success of what your goals and your objectives are in this bill.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Hearing none, the debate is closed.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Mr.

President. Would you please call up Calendar 1165.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1165, by Senator Saland, Senate Print 5550, an act to amend the Education Law, in relation to conditional hiring.

SENATOR HEVESI: Explanation.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: An explanation of Calendar Number 1165 has been requested, Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, as you may recall, last year this house and the Assembly passed legislation which was signed by the Governor which provided for the fingerprinting of all school employees. Among the various provisions of the bill, one was the effective date, the effective date of July 1 of this year.

What has occurred is that I and perhaps many of you have been contacted by our

respective school districts telling us that there are some logistical problems in terms of getting the new hires through this process with the July 1 effective date. And they are concerned that come the 1st of September or soon thereafter when school will start that this process will not have effectively run its course.

In order to respond to the needs that have been expressed by the School Boards Association and various school districts, and to deal with the issue of temporary hires as well, we are endeavoring to accommodate those schools in the following fashion.

What we are going to attempt to do here is to say that for those school districts who wish to exercise this option -- because it will not be required of the school district - to hire conditional employees pending their certification or criminal background check which is accomplished through fingerprinting, they must establish first a safety policy.

Secondly, every conditional employee must sign an affidavit with respect to his or her criminal record or lack thereof

and must have their fingerprints taken. Those fingerprints will then be forwarded, in the ordinary course of business, on to DCJS, the Division of Criminal Justice Services, through the Ed Department, and at that point the process of the fingerprint screen will begin.

It's anticipated that that process will probably take no more than two weeks. And those are not necessarily school days or business days, but 10 days to two weeks.

Assuming a clearance -- and DCJS is responsible for maintaining criminal records of those crimes which have occurred in the State of New York -- that person, with the approval of the school board, would then have the ability to be hired as a conditional employee, subject to the FBI screen.

Now, the FBI screen takes anywhere from 30 to 45 days. What we've done here is to craft a mechanism to deal with the hiring of conditional employees that has not only an optional component but a public safety policy requirement of the school district with respect to the oversight of children by employees who are conditional employees, an

affidavit the violation of which would be, in the first instance, the commission of a crime for filing a false instrument, and, in the second instance, grounds for immediate termination, and also a screen by the Division of Criminal Justice Services.

In some instances there may be emergency situations, situations in which it becomes imperative to provide somebody in either a classroom or a school setting. And if you look at page 2 of the bill, in lines 11 through 14 we define what constitutes an emergency vacancy. And we say that an emergency vacancy shall mean an unforeseen vacancy which must be immediately filled to maintain services which the districts are legally required to provide or services necessary to protect the health or safety of students or staff.

In those emergency situations, all of the conditions which I listed or mentioned previously -- again, optional by the school district -- the public safety or school safety policy that they be required to adopt the affidavit, the taking of the fingerprints. In

that particular situation, the school, should it choose to do so by a vote of its board, could hire a conditional or temporary employee.

Again, this is an effort to deal with initially the significant numbers of people who have to be placed in this process this year due to the July 1 effective date. Thereafter, it's not anticipated, because of the numbers of people who will have gone through the process and the fact that the law will be effective on the books from July 1 henceforth, that the problem in terms of numbers would not be anywhere near as demanding.

Questions with regard to temporary or conditional employees certainly would still be there, and we believe that this bill effectively addresses those issues.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson, why do you rise?

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

ACTING PRESIDENT KUHL: Senator

Saland, do you yield to a question from Senator Paterson?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, why is what we're proposing in this legislation only available in districts outside of New York City? Is New York City any better prepared than the outlying areas and districts?

SENATOR SALAND: This legislation in effect piggybacks on the legislation that we enacted last year, the more comprehensive or omnibus legislation.

Our bill last year did not deal with the school system in the City of New York. It dealt with those schools outside of the City of New York. It was felt at the time that the City of New York had a system, that the City of New York system is one with which they apparently had a degree of comfort, and they at the time certainly indicated no interest in being part of this particular

proposal.

SENATOR PATERSON: Mr. President, if Senator Larkin would yield to one last - I'm sorry, if Senator Saland would yield to one last question.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to one last question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: I may want Senator Larkin while I'm here.

I notice that there's no Assembly cosponsor in this legislation. Now, the issues of the schools feeling that they need more time to be in compliance is certainly widespread. Many of us have heard from the schools. There's an article in the newspaper today, I believe it was in the New York Times, about that same issue. But I just wanted to know, so that we can meet the obligations or the needs of the schools, where does this bill stand in the Assembly?

SENATOR SALAND: We are

negotiating with the Assembly. My prior version of this bill was in fact sponsored by Assemblywoman Matusow, who also was involved in negotiations in the original legislation.

And I would certainly hope and would like to reasonably expect that we will come to a conclusion in a satisfactory fashion in time to beat the July 1 deadline.

SENATOR PATERSON: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson, explanation satisfactory?

SENATOR PATERSON: Yes, Mr. President, it is.

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

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Hevesi?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you, Mr. President.

My first question is, I remember in the Education Committee voting on a bill very similar to this. Is this a different print? And if so, can you differentiate between the version that came through Education and this one?

SENATOR SALAND: Thank you, Senator. This is an amended version. And I believe in my response to Senator Paterson I may have alluded to that.

What this bill does is it sets up primarily one, I think, major distinction here between this and the original bill. We provide for the involvement of DCJS in all of those -- I'm sorry, the DCJS clearance in all of those situations other than emergency situations.

So there's at least one filter or screen. So that when somebody who is proposed to be a conditional employee in a situation which is not an emergency situation is being processed, they would at the very least have to clear the DCJS criminal investigation or

criminal clearance.

SENATOR HEVESI: Thank you.

Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question from Senator Hevesi?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you.

This is obviously a much better version than the version that came through the Education Committee, which would have allowed school districts who have a pressing need to hire teachers, albeit conditionally, without the background check. And so I believe the major difference in this is it simply restricts that to emergency situations as you defined in the bill.

I have a couple of questions. The first is, since the checks have to go through DCJS, and it's the time constraints in order to do that that have proven problematic, is

there any requirement in state law or have you considered putting in a requirement that DCJS must accept and process these applications before other applications so that we don't actually have a need to exempt anybody from the requirement that the teachers be fully checked before they get in a classroom?

SENATOR SALAND: I believe in the first paragraph of the bill there's a provision for prompt notification -- there's an effort to provide for prompt notification of a school district by DCJS upon a review of a prospective conditional employee.

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you.

I understand that. But it does not say that DCJS must process applications that are -- that come from school districts who

have said this is an emergency situation, please process this first. And it seems to me that if we did that, we might solve this problem entirely without putting anybody at risk, as I think ultimately this bill could wind up doing.

SENATOR SALAND: The system we feel confident will not present any problems on the DCJS portion of the equation. The clearance has to come through SED. SED becomes the conduit, the State Education Department.

We have no reason to assume that DCJS will not be able to take care of these clearances in any time period that's greater than what's been represented to us, which is, as I said, about 10 days to two weeks.

SED becomes -- again, I use the term "filter." They're the ones that notifies the school district, they're the ones who notifies the school district as to whether somebody is cleared or not. And when I made reference to the commissioner, my reference really should have been made to the Education Department's commissioner.

And that is the clearance or the notice that ultimately comes to the district. It doesn't come directly from DCJS. DCJS does all the processing, but the Ed Department is the repository for all this information and it is really the authority that says either you're clear or you're not clear, depending upon what they get from the DCJS and the FBI ultimately.

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you.

I'm a little bit confused. Is the reason that we need this legislation the fact that the fingerprinting process is too lengthy and we have to get teachers into a classroom before they're cleared, and it's the fingerprinting aspect? Or is it the State Education Department, which has as a component

getting the fingerprints from DCJS, is it SED that is the problem?

I thought it was the fingerprinting that was the real problem.

SENATOR SALAND: The reason we need the bill -- and I'll make reference to I believe the article that Senator Paterson referred to earlier. I think they said that they anticipated processing some 60,000 school employees. And I'm referring to a Times Union article. I don't recall who the spokesperson was.

Inasmuch as there have been no regulations to date, and the effective date is the 1st of July, they have a significant number of people that they have probably two months or so to process. In addition, there will be, as cases arise, provisional or emergency situations, whether it be due to some injury befalling a staff member or a teacher, and somebody will have to be hired.

The problem now is an administrative one, in the first instance, this abundance of applications that's going to come through the system. In the second

instance, there is a natural delay that's built into the process, which perhaps if there were only a handful might not be as difficult. But when you're processing as many as 60,000 applications, by the time it gets to DCJS and by the time they do their criminal screen - and again, the FBI is out of this mix for our purposes, or immediate purposes -- you're talking a turnaround time, DCJS only, of 10 days to two weeks, as I said earlier.

And there will be some time that will be added on by the Ed Department on either end of that process. How much time? I would imagine a matter of several days, perhaps two or three days going each way as they process these things. Whether that time will be reduced as there are fewer numbers to deal with remains to be seen. I would reasonably expect that it would be.

So it's a combination of the numbers, the fact that it's a new, in effect, program being initiated, and the need to have the fingerprints. So it's not solely one factor. But if you're looking for a factor, I would say that the principal concern -- if you

only want one, if you want my biggest concern, my biggest concern would be the fingerprints. But again, it's not exclusive.

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question from Senator Hevesi?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Let me lay it out this way, because I really -- I'm going to make every suggestion I possibly can to avoid what this bill would allow, which is teachers to be in classrooms without having been fingerprinted and cleared. They will have been fingerprinted, they won't have been cleared. I think that is an awful thing to do in terms of public policy.

I understand that there is a need there, but I'm going to make a suggestion here that I think would obviate that need. This bill would say that if you have an emergency

situation in your school district that you would not have to wait until a teacher is cleared through their fingerprints to put that teacher in a classroom.

My suggestion is, since there are 60,000-some-odd applicants goes through SED and, by extension, going through DCJS, that we mandate in law that any school district that proves that they are in an emergency situation, that by law those applications both, through SED and through DCJS, are processed first and immediately. And as a result, we wouldn't have a delay and we wouldn't be able to then have a situation where we're saying, okay, go into a classroom before we've cleared you.

Why don't we do that, Senator?

SENATOR SALAND: Well, let me give you a couple of responses. First, we actually thought that this problem was taken care of when we passed the legislation. The Ed Department felt that the bill did not give them specific enough direction to deal with the issues of temporaries or conditionals.

But let me give you an example of

perhaps one of the major problems. As you know, there are children with special needs in school districts. The federal government requires that they have teachers' aides. If you do not have a teacher's aide with that child pursuant to his or her IEP, individual education plan, if you do not have one within 10 days, then you have to home-school the child.

I would say that you're probably talking hundreds, perhaps, maybe even thousands of instances in which you would have a person who, simply because of the federal requirement, would be incapable of being screened regardless of what priority you gave, because you couldn't get it done in 10 days.

So you would then be in violation of the federal law to provide these IEPs, and you would have to accommodate by home-schooling each and every one of these children who would otherwise have a teacher's aide.

So it doesn't lend itself to an easy answer. If it was there, we would have found it already. I appreciate your

suggestion, but it's just not a one-size-fits-all universe.

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question from Senator Hevesi?

SENATOR SALAND: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you.

I guess it's possible that there's a situation where the school district doesn't have anybody to come in and take over the role of an unforeseen vacancy. Unlikely, but possible.

And I'll address why I still don't think it's a good idea when I speak on the bill. But even if I accept what you've said, I don't believe that that's an argument against requiring in law that any emergency situation that arises should be met by SED and DCJS with a response that those are the applications that are immediately processed.

And it seems to me that if they did

that, we might be able to hire these teachers much more expeditiously than even the process that exists today.

Why don't we do that also is my question, Senator. Is there a good reason not to do that? I don't know why we wouldn't.

SENATOR SALAND: Reason not to do -

SENATOR HEVESI: Not to require in law that emergency situations on an application by a school district are met with a required response by SED and DCJS that those applications are processed ahead of the other 60,000 applications and therefore would be cleared or not cleared, which is the point here, immediately or as quickly as possible.

SENATOR SALAND: What you would wind up doing, effectively, would be to slow -- I believe to slow down the entire process. Because this determination is going to be made on a case-by-case basis by the Ed Department.

The mere fact that the school says it's an emergency doesn't mean that SED is going to agree that it's an emergency. They

may declare that it's an emergency hire, but somebody has to make that ultimate determination at SED. And if they're going to be inundated by a series of requests for emergency hires, then they could well find themselves in a situation where everything else gets put to the side.

We've constructed here a system which we believe works. We certainly, when we crafted the initial legislation, were greatly concerned about providing safety in school settings for children.

Incidentally, the classic profile, under testimony by experts on the subject, is generally of a person who ingratiates himself -- of the pedophile or the sexual predator in the classroom who ingratiates himself or herself and over a period of time, in effect by bolstering the rapport between that employee and student, gains the confidence and then takes advantage of and abuses the student.

I think the likelihood of that being a major occurrence or even a minor occurrence in a situation in which this

process is going to run probably no more than 45 days, certainly at the outset - absolutely, I would think, 60 days as you wait for the FBI response -- I just don't think that it really represents a clear and present danger or an imminent danger to our students.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you, Mr. President.

With the greatest of respect for the sponsor, I completely disagree and would put the question to the sponsor -- I understand that New York City is not included in this bill. I'm glad it's not.

But let me suggest to you by way of a question that one of the reasons New York City may not be included in this bill -- and here's the question -- are you aware, Senator,

that one in every 20 applicants for New York City teaching positions result in a criminal background hit that there was a criminal history? One out of every 20 people who apply to be a teacher in New York City have a criminal history. Are you aware of that?

SENATOR SALAND: I'm aware that about 5 percent, which would be your one in 20, of employees. And I don't know if employees -- if your definition being limited to teachers is accurate. But of people applying for employment in the City of New York have a criminal background. I didn't think it was limited to teachers. I believe it was all school employees.

And again, I would repeat what I said before. Please be mindful of the fact that this is optional. If a school doesn't want to do it, it doesn't have to do it.

They must establish a policy that provides for public safety of the child or security of the child. They must sign an affidavit which says they have no criminal record or disclose that criminal record, the violation of which, by making a false

statement, would be at the very least an A misdemeanor; whether it would be an E felony would be another question.

And there would be, depending upon the circumstances -- certainly in the case of the special ed kids that I mentioned before, there would probably be supervision and there's -- there would have to be supervision.

And there is nothing in this bill that would prevent the school district from requiring supervision. If they're concerned about their liability, they certainly could require supervision. If they're concerned about their liability, they could choose not to hire anybody provisionally until such time as they had secured a clearance.

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you. And

I'll ask one or two more questions and then speak on the bill.

Here are my concerns. One is that the school district that's making the application, saying this is an emergency situation, is by definition in a bad place. They're the ones who are short of teachers, as so many school districts in New York State are, and they are therefore, by definition, interested in getting teachers into the classroom and may be much more likely to go ahead and file this emergency application. I'm not sure whether they should be the arbiters of whether or not this is a good idea.

Secondly, the question as to whether or not a school district would then in every circumstance require additional supervision, if you think that's a good idea, Senator -- and I certainly do -- why don't we put it in the bill that if you go ahead and do this and you get the approval to do it, that there is the additional element that before the fingerprints come back and you get the full clearance by SED and DCJS that anybody

who has been conditionally hired has to be in the classroom with another adult, even if that other adult doesn't have the same credentials?

I mean, is that not -- why are we opening this up? This is dangerous, is it not?

SENATOR SALAND: We're not opening it up because when we required fingerprinting of school bus drivers, we did the same thing. And that preceded my bill of last year. We permitted conditional hires of school bus drivers subject to criminal clearance without any supervision.

So this is not precedent-setting. I hope you don't think it is. And we have really put on many more bells and whistles, considerably more, than were provided when the law was enacted for conditional hiring of school bus drivers.

I have enough faith in school districts to say that those that exercise their judgment, if they determine that there's an issue of discomfort, they don't have to do it at all. If they determine that they require supervision in some situation, they

can. And as I said, in certain situations they will have no choice. Certainly that will be the case in special education.

SENATOR HEVESI: Mr. President, a final question for the sponsor if he would yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields to a final question.

SENATOR HEVESI: Just a question clarifying your last response. Is it the case right now that school bus drivers in New York State can be hired conditionally and be alone with children before they have gotten their clearance from SED and DCJS?

SENATOR SALAND: When the legislation was enacted -- and it's still in the law -- it provided for conditional hiring of school bus drivers. Whether, again, that was a -- whether that represented an administrative problem at the time because of the effective date, I can't tell you.

But if you look up the law, if you look up the statute -- I can't give you the section off the top of my head -- you will see the language that says that school bus drivers can be hired conditionally without need for supervision.

SENATOR HEVESI: Currently?

SENATOR SALAND: Currently.

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

ACTING PRESIDENT KUHL: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Mr. President. I thank the sponsor for his patience and his extended answers. I appreciate that.

Let me say at the outset, this bill is much better than the bill that went through the Education Committee. But the fact that we passed the bill -- and I voted against this, and Senator Stavisky voted against it, and I believe a number of my colleagues did -- the fact that we had another bill which would have opened this up to anybody without the caveat in this bill that says it's a narrow situation

lends some credibility and some concern that I have to the notion that this idea that we're going to now accept emergency applications, that these emergency applications are going to be really widespread because there are a ton of school districts in the state who want to hire more teachers.

Let me say flat out, this is not a good idea. And I'll go one step further than Senator Saland was willing to go and say that even if some students wound up not having a qualified teacher or a certified teacher in their classroom for some short period of time, which I think is probably unlikely, that that is better, that is better than having somebody in the classroom alone interacting with children before we know whether they have a criminal history.

Flat out, I'd rather those kids be supervised by somebody who's not a teacher than take a chance, as remote as that chance may be, that something bad could happen. Particularly in light of all the horrible incidents that have occurred in New York City. We had a teacher in the Bronx who had an

unbelievable extended criminal history not too long ago. And this type of legislation, I believe without a shadow of a doubt, will result at some point in some location with kids in a classroom with nobody else in the classroom except for somebody who has not been cleared by DCJS, and that person may or may not have a criminal record, and somebody will have a criminal record.

How do we know this? We know because in the State of Washington, 4 percent of all their applicants for school positions had criminal records. In New Jersey, Mr. President, 1 percent of all applicants for school positions came up with hits for criminal backgrounds. That's one in a hundred. And most startlingly, in New York City, one out of every 20 applicants for a psychological position had a criminal background. Okay?

And let me tell you something. On the application to apply, I'm pretty sure that the question is put to these individuals: Do you have a criminal background? Irrespective of the fact that they are going -- and I see

Senator Marcellino nodding his head, as a former schoolteacher. They are asked that question on the application, Do you have a criminal background? And one in 20 in New York City said no, then went through the check and, bang, there was a hit. They lied.

So despite Senator Saland's suggestion that the fact that they would be committing another crime by filing a false instrument by saying that no, they don't have a criminal history, that wasn't a deterrent for one out of 20 applicants for New York City positions.

And the fact that New York City does have the strenuous check and there will be no exemptions because they're not covered under this bill is another reason why we should not do this bill. And here's the logic. If everybody knows when they apply to become a schoolteacher in New York City that they will not get into a classroom before there is a criminal background check and they know that in certain circumstances, pursuant to the passage of this bill, that there are other school districts in the state where they

could, they might as well go into other school districts and apply in other school districts, with the perception and the reality in some cases that there is a more lenient standard in other areas.

So this is a big mistake. I would never, never, never take this risk, particularly in light of all the problems that we've had in New York City and elsewhere.

I know Senator Saland doesn't want to compromise the safety of any child. But to suggest that by saying that we require the school district (a) to show an emergency situation and (b) to then, and with this nebulous phrase, you know, provide for the safety or ensure the safety, why are we leaving it open to people who have the problem, who are so desperate for teachers that they need to circumvent the security process, why are we leaving it to these folks to be more restrictive in their process when they're by definition the ones who have the most pressing need and are least likely to be concerned with the security needs? They are. They need to get more teachers in.

So it's less likely that these school boards are going to put additional supervision in there, because they don't have these resources. They're also more likely to be the ones who file the emergency applications. And so why are we asking them to police themselves when we have people who are going to now say, go ahead into the classroom, be with our children though we have not proven yet that you are not a criminal?

This is just a bad, bad idea. And I can almost guarantee that somebody with a criminal background is going to wind up in a classroom with our kids. It's almost a guarantee. I just -- I cannot see doing this. I vehemently opposed the bill that came through the Education Committee.

I have a suggestion here, and I, you know, went through this with Senator Saland that, by law, anybody who makes an application that they have an emergency situation in a school district where they have the shortage, and whether that will trigger some other negative implication by law, that would seem to prove the emergency situation,

that SED and DCJS are required in those situations, irrespective of the number of applicants who say they have an emergency, those applicants should be processed first, immediately, ahead of the other 60,000.

And to be honest with you, I actually believe that in the overwhelming majority of cases, that will result in a situation where nobody gets in a classroom before they've been cleared. And those schools who have the emergency situation, those will have the applicants who are cleared first. And those applicants who are cleared first then and only then will get in a classroom with our kids.

This one is clear to me. I understand that we have this problem. And to be honest with you nobody, nobody has a bigger teacher shortage than the City of New York. And the problem is going to be exacerbated in the next few years. We've got a huge shortage. An attrition rate of New York City public school teachers of 50 percent within the first five years.

So we are desperate to get new

teachers into the classroom and, by extension, to process them as soon as possible. But we would never think of allowing this type of a situation -- every situation in New York City can be classified as an emergency. We have huge problems in New York City.

But not only would nobody from the New York City delegation endorse a bill like this, the sponsor didn't extend the, quote, unquote, benefits of this bill to New York City. Which of course you shouldn't do. But New York City is the ultimate example of a school district who, if this bill is necessary for anybody, it's necessary for New York City.

Mr. President, this is a bad idea. Somebody will -- this will result in somebody with a criminal history teaching our kids or being alone with our kids. Even if children as a result of this not passing were sitting and not learning in a classroom, at least we'd know they were protected. That's more important.

I'm against this bill. I urge all my colleagues to be against this bill. And though I certainly commend Senator Saland for

trying to address this problem, I really believe we should be addressing it the way I suggested and requiring these applications in emergency situations to be processed immediately, first, before anybody else. And that way we're protecting our kids. That's the number-one priority always, above all other concerns.

I will be voting no.

ACTING PRESIDENT KUHL: Senator Stavisky, why do you rise?

SENATOR STAVISKY: Most of my questions have been answered, but I have two very, very, very quick questions, if the Senator will yield.

SENATOR MARCELLINO: Senator Saland, do you yield to a question from Senator Stavisky?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STAVISKY: You explained how this bill differed from the one I opposed in the Education Committee. Did the previous

bill include charter schools also?

SENATOR SALAND: Yes. It includes all of the same schools that were included in the original legislation.

SENATOR STAVISKY: All kinds of charter schools?

SENATOR SALAND: Charters, BOCES.

SENATOR STAVISKY: Right. Well, charter schools -- Mr. President, through you.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STAVISKY: I recall the previous bill had quite a number of memos in opposition.

SENATOR SALAND: Did it? As far as I know, there were no memos in opposition, only memos in support.

SENATOR STAVISKY: Only memos in support?

SENATOR SALAND: Correct.

SENATOR STAVISKY: What about

this bill?

SENATOR SALAND: I haven't received anything, simply because this bill has only been out for a few days.

I'm assuming that the same parties that sent the memos in support will probably similarly send memos in support on this bill as well.

SENATOR STAVISKY: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Duane, on the bill.

SENATOR DUANE: I voted against the 2000 version of this bill, and I understand the need to try to fix that bill now.

But, you know, call me zealous, but I don't understand why, on an issue of such grave importance, between the year 2000 and now we didn't have a hearing where we called in the local districts and the unions and

State Ed and the commissioner and DCJS and the feds and asked them how this bill could be implemented, if it was necessary at all. It seems that that would have saved an awful lot of time and pain and it would have answered a lot of these questions by people far more expert in the implementation of it than we are.

So once again, it just goes to show that, you know, we stand around talking to each other even though we prove when we pass legislation, like we did in the year 2000, that we actually don't know that much and we'd be better off asking other people what the bills actually would do when they're implemented.

So I hope this provides a lesson to us that, you know, maybe we might just consider the tool of having a hearing.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: If the

sponsor would yield for one little question.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Oppenheimer?

SENATOR SALAND: Yes, Mr. President.

If Senator Oppenheimer would indulge me for a moment, I just would like to put Senator Duane's mind at ease. We held four public hearings at different locations around the state on this bill. And perhaps that might somehow or other impact his ultimate position on the bill.

Thank you.

ACTING PRESIDENT KUHL: Senator Oppenheimer, the Senator yields.

SENATOR OPPENHEIMER: My question is, what did you say -- I think I didn't hear. What did you say was the amount of time that would transpire when we sent off the information to -

SENATOR SALAND: The clearance to be done by the Division of Criminal Justice Services, DCJS, takes, we're told, 10 to 14 days.

The information to be cleared by the FBI takes longer. We're told it could be anywhere from 30 to as many as 45 days. It's a process that we can't control. We can only attempt to avail ourselves of whatever information they provide as quickly as we can.

SENATOR OPPENHEIMER: On the bill, please.

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: You know, reasonable people can arrive at very different conclusions with all honesty and sincere conviction. I feel this is a bill that we have to support, because I cannot imagine having a classroom with nobody in charge, with no teacher there conducting the class.

I cannot see, considering the emergency that does exist in certain areas of our state. They do not exist in my area, but I do know they exist in other areas. And if we do not have a teacher to stand in that classroom and, you know, run the class, who are we going to have in there?

And I think this is as reasonable

as we can get. Yes, it would be wonderful if we didn't have this pressure on us and if we, you know, could get the criminal justice checkups done in two days. But we have to be reasonable and we have to see what the reality is.

And to me, the reality is I want someone in that classroom and as soon as possible to get the background checks. So I think this is a bill that's just the most reasonable and logical answer to the problem.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Senator Dollinger.

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Dollinger?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, is

there a student-employee exception in this bill?

SENATOR SALAND: Student employee?

SENATOR DOLLINGER: Mm-hmm. The school district hires a junior in high school, someone who is in the school building all the time, to go out and work as a groundskeeper. Or in the case I know of, a video -- there's a student at one of the high schools I represent who's apparently a brilliant videographer, so he shoots video of everything that moves in the school district. They're hiring him for the summer as an employee, and the question is whether they have to fingerprint him.

SENATOR SALAND: The criteria for determining whether you're printed has nothing to do with whether you're a student employee or a regular employee. It's whether you have regular contact with students.

So if he's a student employee who has regular contact with students or she is a student employee who has regular contact with students, they would have to be fingerprinted.

You won't find that in this bill.

You will find that in the bill that we did last year.

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, would you think an amendment to create an exception for student employees might be reasonable given the cost, the administrative problems, all the issues that prompt this bill in the first place? That is, that there are going to be lots of these applications. Do you think that a student exception to this bill would be appropriate?

SENATOR SALAND: It's certainly a case of first impression. As I mentioned a bit earlier when I was responding at least in part to Senator Duane's comments, we held four public hearings in different locales in the

state. I'm sure, if my memory serves me correctly, we probably held one in Western New York also.

We never heard any mention of any issue involving student employees. I'll be very happy to take a look at it, Senator Dollinger. I'm not sure quite what the universe consists of similarly impacted student employees. But I'd certainly be happy to take a look at it, Senator.

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

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question?

SENATOR SALAND: I must confess my counsel just mentioned to me, and rightfully so, that if he or she was a juvenile, they would be sealed records and wouldn't show up on a DCJS search.

SENATOR DOLLINGER: That too is an interesting question.

Through you, Mr. President, this statute, the proposal, this proposal includes the phrase "conditional appointment." Is that

a phrase contained in either the Civil Service Law or under the Education Law? I mean, I've heard the term "probationary employee," "probationary teacher," but I've never heard the phrase "conditional appointment" as a civil service designation.

And my question is, how does that phrase work in with all that other mass of law that we have out there that governs public employees?

SENATOR SALAND: The term is one which was provided us in the course of our discussions and negotiations with SED. They provided that as the term of art to use. And whether it's used elsewhere in the Education Law, I honestly couldn't tell you.

My assumption is the clear meaning of the language, you are employed conditionally unless and until such time as either you're told that you shouldn't be employed, for whatever reason, or at which you become an unqualified employee.

SENATOR DOLLINGER: A final question, through you, Mr. President, just so I can make sure I understand this.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator Saland, this may involve an interpretation of last year's bill, the bill we did last year as well.

The fingerprints come through, either DCJS or the FBI, and there's a determination made not to clear. Is that determination binding upon the local school district? Could they create an exception based on their determination about the level of offense, the time from which they've applied, the circumstances of rehabilitation or restitution to, in essence, waive a strict adherence to the disqualification from either DCJS or someone else?

SENATOR SALAND: SED has the ability to say you don't clear. And if you don't clear, that's pretty well the end of the ballgame.

However, the bill that we did last year included Article 23A, I believe, of the Corrections Law, which sets forth criteria or factors to be considered with regard to somebody who was previously convicted of a crime. And those factors are laid out and include issues of relevance, remoteness. And, you know, that would be part of, I'm sure, SED's consideration.

SENATOR DOLLINGER: Through you, Senator Saland's response has raised just one other question, so I make sure I understand.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Who at SED actually makes that determination, and is there a review of that determination? I assume this is in the prior statute and not -

SENATOR SALAND: Again, that is in the prior statute.

SENATOR DOLLINGER: But who does

make that?

SENATOR SALAND: I believe it's the commissioner or his or her designee, and I'm not quite sure who that designee might be. But I don't believe that -- I would reasonably expect that the commissioner would review each and every one of these questionable or perhaps general clearance issues.

SENATOR DOLLINGER: Okay.

ACTING PRESIDENT KUHL: Senator Dollinger.

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

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I assume Senator Saland is finished with his answer.

I'm going to vote in favor of this bill. I understand the articulated reasons from Senator Hevesi about not wanting anyone in our classrooms. But the complaints that I've heard from the school districts I represent have been largely tailored to the need to hire someone quickly and put them in the classroom.

In the experience at least in the Brighton Central School District and the Greece Central School District, which I represent, when their superintendents came to me they said that oftentimes their hiring letters are not actually delivered until the Friday before school starts. Because they have so many problems in that last two-or-three-week period with interviewing and figuring out who is going to leave and then someone will retire quickly or someone on maternity leave who they thought would be there for three months receives doctor's instructions that they can't teach and they need a long-term sub, and they run into a tremendous problem of facing the new school year without teachers.

And the difficulty is that if they have a disruption in the first 45 days of the school year, it's absolutely devastating to their ability to get those kids transitioned into the classroom.

I agree with Senator Hevesi's major premise, which is that no one -- we should make every attempt to prevent anyone with a

criminal record from being in our classrooms. But I think to balance against that, from the school districts that I represent that have come to me on this specific issue and said, This is critically important, otherwise we will have no one in these classrooms, we're just not going to have the teachers -- and in many cases, because they hire so late in the summer season, they would be putting off for 45 days, if the FBI is correct -- and, Senator Saland, my guess is, I'm just going to guess, but I'll bet you that at least 50 percent of the FBI clearances don't come back within 45 days this year.

We may get to a point where, as you properly point out, we don't have the backlog. But I'm willing to bet that the FBI clearance process takes twice that time. That I would expect 60 to 90 days before the FBI gets done.

And the other interesting thing, Senator Saland, is my guess is with those kinds of cases that we discussed a couple of minutes ago -- that is, what constitutes a disqualification, which has to be reviewed by the commissioner, and the questions of

remoteness and appropriateness suddenly become a factor, my expectation is that that clearance will take far more than 15 to 30 days. My guess is that that's going to be - if you're going to do it right, if you're going to give everyone some form of due process and reasonable review, I think that that process alone will take somewhere between 30 and 45 days.

The consequence is that it could be 90 days before someone who's hired the 1st of September actually can show up in the classroom.

I understand Senator Hevesi's point, and I think it's a very good one, that we should do everything possible. But we do have to balance it against the practicality in this year, this year, because of the tremendous impact, first-year impact of this bill, of this law, the last year's law, I think we can balance it reasonably by the school district needs by allowing this legislation to go forward.

I would suggest that in future years we should look for other amendments, as

is our practice. We put a big piece of legislation in place, we realize that there are things we have to work out.

And my hope is that someday, Senator Hevesi, we'll be in a position where this review can be done instantaneously, through the Internet and other services, so that we won't even have to run that risk, we'll be able to screen them in 48 years. Our technology isn't there yet, but we may there that day, and then we'll be able to accommodate, I think, your point as well as Senator Saland's and bring this together so we don't run the risk of having anyone with a criminal record in the classroom with our children.

But at this point, given these limitations, I vote yes.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. On the bill a second time.

ACTING PRESIDENT KUHL: On the bill.

SENATOR DUANE: I'm sorry, I stand corrected that there were four public hearings on this bill. Although I find it even more bizarre that after four hearings on it that this issue didn't come up. So there's something terribly wrong there.

You know, we can double-check and see if this did come up, but of course we don't keep transcripts of our committee hearings here.

And in my own defense, on the Minority task force on the Rockefeller Drug Laws and corrections and SHUs, Senator Smith, Montgomery, and I did put out a report on our meetings and hearings.

Maybe there was a report put out. It certainly didn't come to my office. But maybe in the future it would be a good idea if there were reports put out on committees.

I know when I raised with Senator Goodman his moving company committee meetings from 1992 -- when I wasn't here, so I hadn't gotten that report -- he did rush that 1992 report over to me.

So -- but I do stand corrected if

there were four public hearings. But again, it's almost more disturbing that even with those hearings that these problems were not anticipated. So there's something terribly wrong with the system.

And I know that the Senator is trying to fix what happened with the 2000 bill now. But if we can't find out what impact our bills are going to have on people after four public hearings, then I think we're in big trouble.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 9. This act shall take effect on the same date as Chapter 180 of the Laws of 2000.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

Record the negatives.

SENATOR MARCELLINO: Mr. President, I'm going to be supporting this bill, and I think it is a good bill

considering the problem that we are facing.

I can go into any store anywhere in the world, I can show them one of these little plastic cards, they can swipe it and get an entire background on me as far as my credit within seconds. And it doesn't matter, anywhere in the world.

We cannot do that on a criminal background check basis. That just simply isn't available to us at this time. And as Senator Dollinger and others have so rightly said, you've got to balance need to reality and you've got to put yourself in the real world. We live in the real world. The ideal is something we strive for.

We have no choice on this one, we have to do this kind of legislation. The districts that need it need it and will do the kind of safety measures that have to be done in order to protect children. Without this bill, we are going to put them in very desperate needs and very desperate straits.

I vote aye again.

ACTING PRESIDENT KUHL: Senator Marcellino recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1165 are Senators Duane, Fuschillo, Hevesi, LaValle, Mendez, Sampson, and Stavisky. Ayes, 53. Nays, 7.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. Would you please call Calendar 1157.

ACTING PRESIDENT KUHL: Before we do that, Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: Thank you, Mr. President. I ask unanimous consent to be recorded in the negative on Calendar Number 310, Assembly Print 1810.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Nozzolio will be recorded in the negative on Calendar Number 310.

The Secretary will read.

THE SECRETARY: Calendar Number 1157, by Senator McGee, Senate Print 5241, an

act in relation to authorizing the City of Jamestown.

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

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator McGee, an explanation of Calendar Number 1157 has been requested by Senator Paterson, the Acting Minority Leader.

SENATOR McGEE: Thank you very much.

This legislation allows the City of Jamestown to transfer four parcels of land to the Gebbie Foundation, which has been designated for public works purposes and is currently being used for public parking.

The land transfer would allow for a major downtown redevelopment project to move forward. Upon completion, the redevelopment project will encompass a new skating rink, a newly constructed hotel, and new parking facilities.

ACTING PRESIDENT KUHL: Senator Paterson, explanation satisfactory?

SENATOR PATERSON: Mr. President, I was just wondering if Senator McGee would yield for a few questions.

ACTING PRESIDENT KUHL: Senator McGee, do you yield to a question?

SENATOR McGEE: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, I'm curious as to what the consideration is for this transfer of land. And what is the nature and service provided by the foundation to which it's going to be transferred?

SENATOR McGEE: The foundation, the Gebbie Foundation, is an outstanding foundation that is very philanthropic to various projects throughout the Chautauqua region. And they are partnering with the City of Jamestown to undertake a major development in the downtown area.

And this bill would authorize that land transfer, which would advance the project.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if there's no exchange of promises here, if it's just a transfer, does this bill require a two-thirds vote for passage?

SENATOR McGEE: I'm sorry, I don't understand what you're talking about, Senator Paterson. I'm not sure if you're talking about a transfer of money, et cetera, et cetera. Is that what you're suggesting?

SENATOR PATERSON: Yes, Mr. President. If it's a situation where public land is being transferred for -

SENATOR McGEE: Actually, the Gebbie Foundation is taking the lead on this project, and they've already agreed to acquiring the parcels of land for the appraised value of $200,000, which is called the fair market value.

SENATOR PATERSON: So that's the consideration that -

SENATOR McGEE: Yes.

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

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino, why do you rise?

SENATOR MARCELLINO: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 310.

ACTING PRESIDENT KUHL: Without objection -

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT KUHL: - hearing no objection, Senator Marcellino will be recorded in the negative on Calendar Number 310.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1162, by Senator Johnson, Senate Print 5441, an act to authorize the First Methodist Church.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1163, by Senator Rath, Senate Print 5444, an act to amend the County Law, in relation to wireless telephone service.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Rath, an explanation of Calendar Number 1163 has been requested by Senator Paterson, the Acting Minority Leader.

SENATOR RATH: Mr. President, 1163 is a fairly simple bill. It establishes

a uniform procedure for counties that seek to assume responsibility for responding to wireless 911 calls.

There are different kinds of ways of response in this state. In New York City, Long Island, and much of Western New York, wireless calls are handled by the counties. And others go directly through the State Police. And there is an effort here to get a uniform procedure together for counties.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, this bill was passed unanimously prior, but vetoed by the Governor. And in the veto message he talks about the standards for the establishment of a board.

And although I don't totally understand the rationale of the executive branch for that reason, I wondered if Senator Rath did and had addressed it in this particular legislation.

ACTING PRESIDENT KUHL: Senator Rath, would you like to respond to that question?

SENATOR RATH: This bill, Senator Paterson, is a Governor's program bill. The bill last year was not. And the problems that he had with last year's bill were addressed.

And frankly, there's this issue, I recall this from the days when I was in the county legislature, the idea of standards here of procedure and prompt mobilization. The number of calls that emanate from people who are actually on the highway and difficult for where they're coming from, because they're actually -- now they won't be talking on their -- or soon, I hope, won't be talking while they're driving -- but the number has gone from 16,000 to 119,000 in the last 10 years, from 16,000 to 119,000 emanating from wireless phones.

So we really need to address this, and we really need to address who the answering groups are going to be and what kind of standards are going to be expected for their training and staffing and et cetera. This is where this is going to.

SENATOR PATERSON: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect in 60 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1169, by Senator Paterson -

SENATOR DeFRANCISCO: May I have an explanation, please.

ACTING PRESIDENT KUHL: Senator Paterson, an explanation of Calendar Number 1169 has been requested by Senator DeFrancisco.

SENATOR PATERSON: Senator DeFrancisco, this bill amends the Criminal Procedure Law by adding a new section, 6047. It speaks to the Rules of Evidence and the admissibility of testimony of out-of-court

statements by minors, children under 12 years of age.

The five sections of the bill first require, of course, that the child, the minor under 12 years of age or 12 and under, is unavailable or is unable to testify in a child-sexual-abuse type of a case.

The two other sections are also pretty much definitional in the sense that they require that there was a statement made by the child to either a law enforcement agency, to the Office of Children and Family Services, or to a social service agency, and that a written report is included with the child's statement.

Secondly, there is also a need to clarify that the statement was made by the child and that the statement was made in the presence of such a party who could report the statement.

There are two other sections of the legislation that probably are a little more subjective in their determination. One calls for what would be a spontaneous and consistent pattern of statements on the part of the

child, that the child's statement speak to - in terms of terminology that would reflect the age of the speaker, making sure that the child was not prepped for these types of statements, and that the statement reflect the mental capacity of the child.

The final section of the legislation covers the issue related to the viability of the statement itself, that there is a statement that's made by the child that is not coerced and that there is no motive on the part of the child for making a statement against the interests of the defendant and that the person reporting the statement is not moved by any bias or unfairness that would be held against the defendant.

Now, obviously in the last two sections there's some subjectivity and the court is cautioned, in Section 4 of the legislation, to take all deliberate care to make sure that these statements are honest statements that were made, they were consistent statements, and that they were statements that would speak to a child sexual abuse or a sexual offense as defined under

Section 130 of the Penal Law.

SENATOR DeFRANCISCO: If the sponsor would yield to a couple of questions.

ACTING PRESIDENT KUHL: Senator Paterson, do you yield to a question from Senator DeFrancisco?

SENATOR PATERSON: I don't know. Let me think about it.

Yes, Mr. President, of course.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DeFRANCISCO: Senator, are there any other examples in the Criminal Procedure Law where the victim of a crime is not required to testify to face the person who that victim is accusing?

SENATOR PATERSON: To be honest, Mr. President, I don't think there should be any other examples. And in a utopian world, I don't think that even in this particular situation it's most desirable to have the defendant placed in the position where they can't confront their accuser.

But it has become the practice in a number of state courts around this country

that we've relaxed the hearsay rule to allow for these types of statements, because generally speaking it's very difficult for children to testify in these types of situations. A lot of states have gone to videotaping the testimony, and even that hasn't helped particularly.

One of the problems that children have where perhaps their initial statements to law enforcement or to social services might be helpful but they're easily impeached is that children don't have a very good concept of time. So when you ask them how often did this occur or what day it occurred, they have trouble answering the questions.

When Senator Volker and I held hearings on this type of proposed legislation in 1992 -- and we held it in five venues, in Syracuse, in Buffalo, in Westchester, Long Island, and New York City -- we found that sometimes if children are 4 or 5 years old, perhaps if they have different parents, if their parents are divorced and each parent gives a birthday party for the child, that the child actually thinks in the same week that

they were 5 and then they were 6.

So it's very difficult to obtain this testimony, really because of the mental capacity of children in the first place.

So as strongly as I would want to defend the rights of individuals to confront their accusers in this one specific situation -- and there is a court case, Maryland versus Craig, and although it speaks to the videotaping of proceedings, it also speaks to the hearsay rule at times being excepted by the nature of circumstances that would lead one to believe that there is going to be undue suffering on the part of the child who's testifying or that the child is in some way incapacitated by the testimony itself.

SENATOR DeFRANCISCO: Another question, please.

ACTING PRESIDENT KUHL: Senator Paterson, do you continue to yield?

SENATOR PATERSON: Yes, I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DeFRANCISCO: Who is going to be the source of the information that

the child showed spontaneity and consistent repetition of the facts?

SENATOR PATERSON: That of course would be the individuals who interviewed the child, the members of law enforcement or the members of social services.

And I think that where there is clear evidence that there's been some type of sexual abuse to the child, it does impinge upon the integrity of the process to the extent that there could be a very strong compulsion on the part of those officials to feel that it was the fault of a particular party who's being accused when, in fact, maybe the offense occurred but it might not have been this particular individual that was accused.

And here's where I think the court has to be scrupulously fair to the defendant by recognizing that the defendant isn't really getting the opportunity to question the accuser.

And I wouldn't want for this legislation to open the door, as you're suggesting, Senator, to this just becoming a

standard, since it is difficult for children to testify, that no child is invited to testify or that the attorneys representing the child would always claim or the families would claim that they can't testify and then substitute it on a rather familiar basis with this type of testimony.

I don't think that this testimony is the best testimony we could receive. I think the best testimony we could receive is from the individual. It would only be in those extreme cases where, even though we've relaxed the rules and allowed video testimony and that type of thing, we just are not able to get this type of testimony.

SENATOR DeFRANCISCO: Another question, please.

ACTING PRESIDENT KUHL: Senator Paterson, do you continue to yield?

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DeFRANCISCO: So the premise for this bill is that children are

highly impressionable, sometimes it's difficult to get the information out in a coherent fashion, so the solution is to find that information out from a third party who will then give that third party's interpretation to a court, and the court or jury may end up convicting the person on someone else's interpretation of a child that's too impressionable to give the direct testimony.

SENATOR PATERSON: Mr. President, if what Senator DeFrancisco is describing were to come to pass, I would be very disappointed myself that I offered this bill.

And it is a very valid concern. If this is going to be manipulated by law enforcement or prosecutors or anyone else who, as benevolent as they might be, acting on behalf of the child, are going to infringe upon the rights of the defendant, then I'd just as soon that we not have the legislation.

But the reason that I brought this bill before this body, and the reason why I think it's important, is because it's not the validity of the statements that the children

are making -- because it's my opinion that children very often are not going to tell lies that are going to be more damaging to them than the truth -- it is the fact that it is so difficult for them to testify.

Not that they're incoherent when they testify, but that reliving the situation or the tragedy itself in front of other people or being asked those questions over and over or a repeated number of times can inflict harm on the child, according to a lot of psychiatrists and psychologists who have looked into these situations.

So my solution was to substitute the adult who on information and belief is giving an honest recounting of what the child said to them at an initial point that the child shared the information, and allowing that adult to share that information later as a hearsay exception. So that we would certainly not force the child into a situation that would be a double injury compounded with the sexual abuse, then the difficulty having to testify about it.

SENATOR DeFRANCISCO: On the

bill.

ACTING PRESIDENT KUHL: Senator DeFrancisco, on the bill.

SENATOR DeFRANCISCO: I certainly don't in any way question Senator Paterson's motive. I know it's sincere and I know it's a balancing act that we all have to play in important issues such as this one.

My concern is, in having had experience in trying cases, and some dealing with Family Court matters, is that children are not only sometimes unwilling or unable or concerned about testifying, or it may hurt their psyche, but the younger the child, the more susceptible to suggestive interview techniques that the child is susceptible to.

And there's been celebrated cases which have indicated that and which have ended in not-guilty verdicts and determinations that the investigators -- in this case, Social Services Department investigator -- because of the suggestive nature of the interview have really suggested possible answers to kids that really don't know any better or they'd rather just get the interview over so they could go

home.

We have provided protections, I believe, in the video testimony of young children where questions can be asked, people can view the child, people can make their own determination in the nonintimidating atmosphere of a trial. And it's really important that we have made those types of decisions.

But these are criminal cases that we're talking about. These are cases that carry with them substantial penalties. These are cases that could make an individual branded for life on a sex offender's registry. These are charges that could ruin somebody's life if there was suggestion -- and I don't care how objective an interviewer might want to be or claim that they are, there's going to be some subjective determinations, and there's no way a cross-examiner could possibly test the veracity of those subjective determinations without at least having the opportunity to interview a child.

So despite the good intentions, in my mind, in weighing all of these factors, I

think since we have videotaping available of young children it's very, very difficult for me to believe that the constitutional right to confront your accuser doesn't apply to people charged with a certain offense.

So as a result of that, I am going to vote no on this particular legislation.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: This is not the most preferred remedy that I could think of on this particular situation.

In my opinion, the best remedy would be if we were to toll the statute of limitations on these types of crimes, which currently runs five years, and allow the statute to start running when the victim reaches the age of majority, which could be 21 years of age. Now we're asking the adult to testify, and we're asking the adult to testify about what they remember happened in their

childhood. Even though we would have turned the clock back a longer period of time and put the defendant in a difficult situation because the information and evidence is not fresh, we are still asking the complaining witness to testify in this particular case.

If we're not going to do it that way -- and I've had that legislation here for 14 years, and we haven't done it that way - we do have to address the fact that even though we do have the videotaping prerogative available that it really has not been particularly successful, and that most who have studied these types of situations find that the children are a lot more responsive when they are initially asked the question than when they are asked in further interviews, particularly those conducted with cameras and new people that they've never met before.

So in those types of situations, we have to, as Senator DeFrancisco said, balance the fairness of the protections against the defendant with the fact that prosecutor after prosecutor in this state -- and Senator

Gentile, who is a cosponsor of this bill, and I were prosecutors in the same office -- keep finding that you just can't get the witnesses in even though there's strong evidence that there is an opportunity to convict in these particular cases.

And so the solution that I bring before the house today is that we allow for third parties who are professionals who are in law enforcement situations and in social service remedies to testify as to what they heard the child say.

Now, although the victim isn't given the opportunity to confront the complaining witness in this situation, there are other exceptions to the hearsay rule where we do accept what one party said about another. And I think this probably would be the most apt situation where we should meet that acceptance, because the defendant can question the party to see whether or not the judge or the jury feels that this person is honestly reporting what they heard the child say. And I think it's a valid remedy.

As for Senator DeFrancisco's

concern, it's one that troubles me and one that I get up and talk about in situations involving criminal justice legislation on this floor every day, that the defendant has to be afforded every possible right to clear themself of the actual charges.

And the ramifications of child sexual abuse convictions are probably the worst, even including murder itself. That someone would victimize a minor in this fashion is going to create a huge stigma on the individual, and we have decided even after their incarceration that there should be community notification of their actions. That's how severe the effect of conducting this type of an action is.

But when you realize what the damage is to the victim, the dissociative responses, the multiple personality affectation, that sometimes some of these victims couldn't even testify against their accusers. They're not adults. We can't hold them to too much of a standard. We don't make them sign contracts, we don't force them to fight in armed struggles. And yet to make

them come forward and testify in these types of situations in my opinion is going beyond the balance of what would really be fair to them.

And so if they did make statements that were recorded and were written in what would be apt professional situations, I aver to this body that we should accept that only in the extreme case where the victim is unable to testify for himself or for herself.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Senator Gentile.

SENATOR GENTILE: Yes, thank you, Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Gentile, on the bill.

SENATOR GENTILE: I want to commend Senator Paterson for sponsoring this legislation.

Certainly in my years as a prosecutor, many of those years were spent prosecuting child sexual abuse cases. And in those years prosecuting child sexual abuse cases, one of the toughest hurdles to overcome

had been preparing those children to testify in a court of law. Now, with the Vulnerable Child Witness Statute, we have been given the opportunity to use closed-circuit television as means of having those children testify.

But I think what Senator Paterson is saying, and certainly what I experienced as a prosecutor in this area of the law, is that when you deal with child witnesses it is a very special and fragile group of witnesses that you have to deal with who often have to tell their story many times over. Just as someone who is a rape victim would tell their story many times over, except in this case you're dealing with a child's emotions, a child's mentality, and a child's inability to understand the system in which we ask them to participate in.

And so when something occurs, usually that child would first have to tell a detective or a police officer, then would have to tell a social worker or a therapist of some type, then they would come to me, as the prosecutor, and we'd go through the story again as they'd tell me. Then we would put

the child into a grand jury and have the child tell the grand jury what happened again. And then we would prepare the child again for a trial and have to prepare that testimony once again.

You always run the risk with children as witnesses that at some point in that process, because they don't understand the process, that they will no longer wish to participate in the prosecution, which is a prosecution that the district attorney has determined should go forward. But you never know with a child witness, when a child has been traumatized so much or for whatever reason has emotionally decided to close up and not testify, and therefore what you're left with is a witness for all intents and purposes that cannot testify at trial but yet has made statements several times over about what happened to him or her, and yet you're faced with this inability to go forward because of this witness.

Having Senator Paterson's bill enacted into a law would at least give prosecutors an opportunity to use those

previous out-of-court statements as a basis for going forward. And, you know, I think everyone here who has tried any of those cases, anyone who has been a defense attorney in any one of these cases knows that in every case, whether the child testifies or not, there is always -- the jury will always require some other type of corroborating evidence to confirm what has been said and testified to by the child.

So whether that child actually testifies or whether there's some out-of-court statement that is used in lieu of a child's testimony, a prosecutor would always be under that burden of bringing in other evidence to corroborate what was happening and what that testimony concerned.

So I understand Senator DeFrancisco's concern about the right to confront your accusers. And in most cases I would agree, and that's why we have the videotape, the closed-circuit-TV Vulnerable Child Witness Statute.

But Senator, I also understand, having done this for many years, that there

are those children that cannot even participate in the closed-circuit TV because of the trauma they have faced and because at some point, not understanding the system, they decide not to participate anymore. And given that, a prosecutor is faced with a serious crime, a crime that should be prosecuted, but a witness, because of that witness's age and vulnerability, decides they're not going to participate anymore.

In those situations, Senator Paterson's bill would allow the prosecutor to at least present that case to the jury and, with other evidence, let the jury decide the guilt or innocence of that accused.

So there are concerns about it, but I think in this particular situation with child witnesses this is a situation where a certain relaxing of the rules on hearsay is commendable and certainly something that would be in the best interests of those victims.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I wonder if Senator Gentile would yield to a question.

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

SENATOR GENTILE: Yes.

ACTING PRESIDENT MEIER: Senator Gentile yields.

SENATOR DeFRANCISCO: In your experience as a prosecutor, can you tell me whether the statute denying an accused the right to confront his accuser would be constitutional?

SENATOR GENTILE: Well, I believe in the case of the closed-circuit television situation, the vulnerable child witnesses, there have been court decisions saying that the fact that the child has not been in the courtroom facing his accuser does not make it unconstitutional.

Extrapolating from that, I would have to say that the fact that the child is not in the courtroom but testimony is available would therefore, if there's other corroborating evidence, would therefore be as acceptable to a court.

SENATOR DeFRANCISCO: Would Senator Gentile yield to another question?

ACTING PRESIDENT MEIER: Senator Gentile, do you yield?

SENATOR GENTILE: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DeFRANCISCO: So it's your opinion that a defense attorney being able to ask questions, through video, of the accuser is the same as someone questioning somebody else about what the accuser said to that somebody else?

SENATOR GENTILE: Well, I wouldn't say it's of the same quality. I would agree with you, it's not of the same quality as asking the actual witness.

But nevertheless, we were talking about the constitutionality of confronting your accuser. And in this case, knowing the case law from closed-circuit television, I would believe, under Senator Paterson's scenario, that it would be found constitutional.

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

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.)

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

SENATOR DeFRANCISCO: First, on the constitutional issue. The right to confront the accuser doesn't say you have to be in the same room facing the accuser ten feet away. I think videotaped testimony would still give -- and I can see the constitutional basis for allowing that, because it would still give the defendant the opportunity to ask questions of the accuser and thereby confront the accuser.

This does not allow that. It allows for hearsay. Senator Paterson mentioned there are other examples of hearsay. And my first question to him was whether or not there are any examples of hearsay being admitted when it's the accuser's hearsay to somebody else. And I don't think there are

any such similar situations in criminal cases.

The other point that Senator Paterson raised I think should be mentioned. He kept talking about the child is found to be unavailable. There's another clause in here that says the child refuses. Well, with this bill I'm sure there would be a lot more children refusing to testify even though they were available.

Lastly, there's another alternative that I would suggest -- not that I would agree with, but I think would be less onerous. If we're giving the prosecutors and the Social Services Department this opportunity to avoid having the child testify, there should be a corresponding rule that the interview should be videotaped and likewise admissible from the first interview that the child has.

So the jury would then at least have the opportunity to view whether there was suggestive behavior, what occurred during the interview, to make their own judgment about what the child said when he first said it.

So the bill under the present form, I certainly understand the good motive in

having it happen. Nobody wants children to go through these things. But for the constitutional reasons, I vote no.

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

Senator Paterson, to explain his vote.

SENATOR PATERSON: Mr. President, in explaining his vote Senator DeFrancisco offered a very good suggestion. I don't know that the law enforcement officials or social service employees or employees of the Office of Children and Family Services always know what the child is going to say to them. But certainly at that point it would be something worth considering to have these statements videotaped.

And we'd better do something, because it's now known that one out of three females and one out of eight males have experienced some abuse sexually in their childhood. So with that large a number of the population, if you looked around this room it would mean there are ten people in this room likely to have had that experience, and I'll

bet no prosecutions.

We've got to find a way to confront individuals who know that there's really no way to get back at them because all you have to try to get back at them is the word of a child. You don't always have physical evidence or that type of thing.

At the same time, the need to defend the constitutional rights of defendants is the same. But I think that in the case of Maryland versus Craig, a 1990 Supreme Court case, that the court didn't just rule based on the hearsay rule, they based on the suffering that the child might have. I don't think the courts should just allow a child to refuse testimony just because they're not going to do it.

But in situations where there is some evidence that it would be injurious to the child, and the other sections of the bill being adhered to, I think that this bill would be good law.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1169 are Senators DeFrancisco, Kuhl, and Meier. Ayes, 57. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, I ask for unanimous consent to be recorded in the negative on Calendar Number 310.

ACTING PRESIDENT MEIER: Without objection, Senator McGee will be recorded in the negative on Calendar 310.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 1146.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 1146.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, could I have unanimous consent to be recorded in the negative on Calendar Number 1162.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar 1162.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, could I have unanimous consent to be recorded in the negative on Calendar 310, please.

ACTING PRESIDENT MEIER: Without objection, Senator Stachowski will be recorded in the negative on Calendar 310.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1176, by Senator Alesi, Senate Print 3000A, an act to amend the General Business Law and the Civil Practice Law and Rules, in relation to the Uniform Trade Secrets Act.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Alesi, an explanation has been requested of Calendar 1176 by Senator Paterson.

SENATOR ALESI: Thank you, Mr. President.

This bill would enact the Uniform

Trade Secrets Protection Act.

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

ACTING PRESIDENT MEIER: Senator Alesi, will you yield for just one question?

SENATOR ALESI: Yes, Mr. President.

ACTING PRESIDENT MEIER: I can't imagine what's left to explain.

SENATOR DOLLINGER: Is this the same bill that we did last year, the exact same bill that we did last year?

SENATOR ALESI: Through you, Mr. President, this is the Uniform Trade Secrets Act of 2001. And it is based in concept on the trade secrets bill of 2000 which passed this house.

SENATOR DOLLINGER: Mr. President, thank you to Senator Alesi for answering my one question.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I voted

against this bill last year. I'm going to vote against it again, Mr. President.

I think, number one, there are lots of contractual ways for employers to protect trade secrets. They ought to be encouraged to do that.

And, two, I think this bill, while it's uniform in the sense that many states would like to apply it, I think it tilts the advantage in employee information and knowledge. And in a vibrant marketplace, I think it tilts it far too heavily in favor of the employers and, frankly, far too heavily in discouraging new innovation.

I don't think we should support misappropriation of trade secrets, but I do think we should encourage people that have new ideas, new concepts to take those concepts even if they may be in part derived from what they've learned while working for an employer, to take those concepts out into the marketplace.

I think the history of technology in the last 30 years in this state has stood the test of time without this kind of

legislative approach to trade secrets. I think the common law deals with it perfectly well. Anybody that's got a very valuable trade secret ought to have extensive contract protections to ensure that they're not lifted by an employee.

From my point of view, Mr. President, I spoke against this bill last year. I will vote against the Trade Secrets Act of 2001 as I did in its corollary of 2000.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Alesi, on the bill.

SENATOR ALESI: I wouldn't want to press my luck by trying to convince Senator Dollinger to reconsider his vote.

However, I think that if you look at the importance of this bill from what we are trying to do in the state of New York by encouraging high-tech industries to establish themselves, to grow here, to expand here, then this legislation is absolutely necessary to

encourage that kind of high-tech expansion and growth.

Because without that kind of protection, there are 40 other states where high-tech industries can go where they can establish and grow jobs and know that they'll have the kind of protection that the Trade Secrets Act will provide them and will provide their investors.

So with everything that we're trying to do in New York State to grow high-tech jobs and to protect existing jobs, I think that this is part and parcel of that effort, and I would encourage my colleagues to support this with a yes vote.

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

Read the last section.

THE SECRETARY: Section 3. This act shall take effect 180 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1176 are

Senators Connor, Dollinger, Hassell-Thompson, Onorato, Paterson, and Schneiderman. Ayes, 54. Nays, 6.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1194, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8930, an act to amend Chapter 533 of the Laws of 1993.

SENATOR PATERSON: Explanation.

SENATOR MARCELLINO: Senator McGee, an explanation has been requested by Senator Paterson.

SENATOR McGEE: Thank you, Mr. President.

This bill would amend the license and registration suspension and revocation section of the Vehicle and Traffic Law to extend from October 1st of this year to October 1st of the year 2002, the mandatory six-month license suspension and authority to suspend a vehicle registration for conviction of or possession of -- I'm sorry, for a conviction of possession or sale of a

controlled substance or marijuana or any driving while ability impaired by drugs or any out-of-state or federal misdemeanor or felony drug-related offense.

The bill does not change the provision of the current law, only extends its expiration. This license suspension is required by the federal Drug Offenders Driving Privilege Act. Extension of this provision will allow the state to maintain its federal allocation of $43 million in federal funds.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1195, by Senator Nozzolio, Senate Print 5544A, an act to amend Chapter 887 of the Laws of

1983.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Nozzolio, an explanation has been requested of Calendar 1195 by Senator Dollinger.

SENATOR NOZZOLIO: This measure, Mr. President, extends several provisions of the Crime and Corrections Law.

Among its provisions it extends the effective dates of the laws pertaining to psychological testing of correction officers, expanding the geographical area of employment for certain officers, the New York City Prisoner Furlough Program, the State Department of Correctional Services Earned Eligibility Program, Comprehensive Alcohol and Substance Abuse Treatment Program. It limits eligibility for participation in the temporary release program, the State Department of Correctional Services Temporary Release Program, work release program, community treatment facilities program, and a variety or other suspension, fees, and even parking violation enforcement.

Mr. President, can I have some

order, please.

ACTING PRESIDENT MEIER: Your point is well taken, Senator Nozzolio.

Can we have some quiet in the chamber, please.

SENATOR DOLLINGER: Mr. President, I can perhaps spare Senator Nozzolio if he would just answer one quick question.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Is this bill simply an extender of programs already currently in place? It has no programmatic or policy changes other than the extensions?

SENATOR NOZZOLIO: Mr. President, I can answer in the affirmative.

SENATOR DOLLINGER: Thank you, Mr. President.

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

Read the last section.

THE SECRETARY: Section 21. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll call.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Alesi, that completes this calendar.

SENATOR ALESI: Thank you, Mr. President. May we at this time, then, take up the noncontroversial reading of Supplemental Calendar 1.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial portion of the supplemental active list.

THE SECRETARY: Calendar Number 323, by Senator Farley, Senate Print 1992A, an act to amend the Vehicle and Traffic Law, in relation to eliminating provisions.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR FARLEY: Can I explain my vote on that, Mr. President?

ACTING PRESIDENT MEIER: Without objection.

SENATOR FARLEY: Many years ago they passed a law that says that you have to have your little conviction stub with you. I would venture to say that the vast majority of this chamber who are licensed drivers do not have their conviction stub on them. Because if you have to go before a magistrate and you don't have that conviction stub, you're fined $50.

What we're going to do away with is that conviction stub, because it's no longer needed. Because, believe it or not, there are some judges in this state, magistrates, that

fine people if they don't have their conviction stubs with them.

Is there anybody that has their conviction stub with you?

SENATOR MARCHI: I have it right here.

SENATOR FARLEY: There's one guy that does.

Outside of that, thank you for supporting the bill. DMV is in favor of it, the judges are in favor of it, everybody is in favor of it. It's a good piece of legislation.

Thank you.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: Calendar Number 454, by Senator Skelos, Senate Print 1583, an act to amend the Criminal Procedure Law, in relation to the designation.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number

1196, by Senator Stachowski, Senate Print 884, an act to amend the Public Authorities Law, in relation to the employees.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1197, by Senator Hoffmann, Senate Print 1741, an act to amend the Public Health Law, in relation to the sale and possession.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1198, by Senator Skelos, Senate Print 2683A, an act to amend the Family Court Act and the Domestic Relations Law, in relation to abandoned infants.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1199, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 7344A, an act to amend the Civil Practice Law and Rules.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1200, by Senator Goodman, Senate Print 3541, an act to amend the Tax Law, in relation to including.

SENATOR DOLLINGER: Lay that bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1203, by Senator Kuhl, Senate Print 4606A, an act to amend the Alcoholic Beverage Control Law, in relation to licensed wineries and farm wineries.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay that bill aside, please.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 1204, by Senator Trunzo, Senate Print 4671, an act to amend the Transportation Law, in relation to regulation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 20. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1205, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8374, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 120 days.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1206, by Senator Saland, Senate Print 4899A, an act to amend the Social Services Law, in relation to abandoned infants.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1207, substituted earlier today by Member of the Assembly Lopez, Assembly Print Number 3996, an act to amend Chapter 613 of the Laws of 1996.

SENATOR DUANE: Lay it aside,

please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1208, substituted earlier today by Member of the Assembly Lopez, Assembly Print Number 1872A, an act to amend the Banking Law, in relation to prohibiting.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1210, by Senator Stafford, Senate Print 5200A, an act to amend the Executive Law, in relation to revitalization.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 13. This

act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1211, by Senator Johnson, Senate Print 5248, an act to amend the Education Law, in relation to report.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1212, by Senator Larkin, Senate Print 5406, an act to authorize the Town of Chester, Orange County.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1213, by Senator Goodman, Senate Print 5411, an act to amend the Real Property Tax Law, in relation to tax exemption.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1214, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8868, an act to amend the Alcoholic Beverage Control 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1215, by Senator McGee, Senate Print 5435, an act to amend the Education Law, in relation to the payment.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2003.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1216, by Senator Nozzolio, Senate Print 5466,

an act to authorize the County of Monroe.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1217, by Senator Kuhl, Senate Print 5485, an act in relation to authorizing the appropriation.

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, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1218, by Senator Johnson, Senate Print 5488A, an act to amend the Environmental Conservation Law, in relation to regulation.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1219, by Senator Libous, Senate Print 5492, an act authorizing the Commissioner of Transportation.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1221, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 9050B, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 10. This act shall take effect January 1, 2002.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays. 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1222, by Senator Marcellino, Senate Print 5551, an act to amend the Environmental Conservation Law, in relation to natural heritage.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1223, by Senator Trunzo, Senate Print 5552, an act to amend the Public Authorities Law and Chapter 774 of the Laws of 1950.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1224, by Senator Bonacic, Senate Print 5558, an act to amend the Public Officers 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, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1225, by Senator Stafford, Senate Print 5561, an act to amend the Vehicle and Traffic Law, in relation to special hauling permits.

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1226, by Senator Stafford, Senate Print 5574, an act to amend the Environmental Conservation Law and others, in relation to the practice of forestry.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR ALESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: Please lay that bill aside for the day.

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

THE SECRETARY: Calendar Number 1227, by the Senate Committee on Rules, Senate Print 5579, an act to amend Chapter 166 of the Laws of 1991.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1228, by Senator Seward, Senate Print 5586, an act to amend the Insurance Law, in relation to including.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number

310.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar 310.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Alesi, that completes the reading of the noncontroversial calendar from Supplemental Active List 1.

SENATOR ALESI: Thank you, Mr. President. May we then proceed to the reading of the controversial calendar.

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

THE SECRETARY: Calendar Number 454, by Senator Skelos, Senate Print 1583, an act to amend the Criminal Procedure Law, in relation to the designation.

SENATOR DOLLINGER: Mr. President, if the sponsor is available for just one question about the veto message. We'll waive an explanation if Senator Skelos would yield to just one question.

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

SENATOR SKELOS: Yes.

SENATOR DOLLINGER: Through you, Mr. President, this bill was vetoed by Governor Pataki last year. Can you explain what changes, if any, have been made to the bill as a result of the gubernatorial veto?

SENATOR SKELOS: In his veto message the last sentence says "I have not been presented with any reasons to treat this bill differently than the bill I vetoed last year." So there were two vetoes.

I think we will convince him this year to sign it. We will present him with information that will, I believe, optimistically, have the Governor sign this bill.

SENATOR DOLLINGER: Through you, Mr. President, this will be an offer he can't refuse?

SENATOR SKELOS: No such thing.

SENATOR DOLLINGER: No such thing.

Through you, Mr. President, just on

the bill briefly.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: It seems to me this is another example where we should just override the Governor's veto. We should have brought this bill back, we should have sat down -- this bill passed by a huge margin in the Senate, it has bipartisan support. It obviously has the support of our colleagues in the Assembly, I think has passed by a similarly large margin there.

I don't know why we don't take back some of our legislative power by just overriding these vetoes. We're going to send him the same exact bill. We could have turned it into law ourselves. We could make it law ourselves without his signature. I don't understand why we don't do that. I think it would be good for this chamber, it would be good for the Legislature, and it would have made Senator Skelos' bill a law a year before it's going to eventually take effect.

We ought to do what we have the power to do. We should have done it in this

instance as well.

SENATOR ONORATO: I move for the override.

(Laughter.)

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

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 Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

As you all know, the Governor and I are very, very close. And we agree on this particular bill. But we're certainly open to hearing more compelling reasons why we should vote in favor of it and look forward to that.

But until that time, the Governor and I are sticking with our no.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Smith, why do you rise?

SENATOR MALCOLM SMITH: Yes, Mr. President. I rise to request unanimous consent to be recorded in the negative on Calendar Number 1176.

ACTING PRESIDENT MEIER: Without objection, Senator Malcolm Smith will be recorded in the negative on Calendar 1176.

Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, can I have unanimous consent to be recorded in the negative on Calendar Number 310.

ACTING PRESIDENT MEIER: Without objection, Senator Onorato will be recorded in the negative on Calendar 310.

Secretary will continue to read.

THE SECRETARY: Calendar Number 1200, by Senator Goodman, Senate Print 3541, an act to amend the Tax Law, in relation to

including.

ACTING PRESIDENT MEIER: Senator Goodman, an explanation has been requested of Calendar 1200 by Senator Dollinger.

SENATOR GOODMAN: Mr. President, this bill provides that certain new multiple dwellings in the City of New York shall be exempt from real property taxes if construction thereof is commenced before December 31, 2003, rather than completed by such date.

Wait a minute, stop, hold it. Could you repeat the number you called, please, Mr. President? What is the number of the bill you called just now?

ACTING PRESIDENT MEIER: Calendar 1200, Senator. Senate Print 3541.

SENATOR GOODMAN: Okay, I'm sorry. Here we go, right. I beg your pardon, Senator Dollinger. Here we go. Are you ready?

This is an act to amend the Tax Law in relation to including limited liability companies in a list of organizations which may become exempt from sales and use taxes. It's

a relatively simple bill, the purpose of which is simply to codify existing departmental policy.

ACTING PRESIDENT MEIER: Senator Dollinger.

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

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

SENATOR GOODMAN: Yes, sir. I'll be glad to.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Why, Senator Goodman, do we need to include the limited liability companies in the list of organizations that can qualify for tax-exempt status?

As I understand it, limited liability companies have unique liability provisions attached to them in that they allocate liability to the members of the company according to their own individual fault.

And I guess I just don't understand why you would form a limited liability company for not-for-profits or to obtain tax-exempt status when you can form a corporation just as easily. I just don't quite understand it.

SENATOR GOODMAN: Senator, let me share with you the nearly incomprehensible gibberish that is presented by the Tax Department in support of this bill, if I may. Let's see if we can decipher it. I think I can, but I'll give you the chance to try your luck.

"The omission of limited liability companies has been subject to review by the Department of Taxation and Finance in the past. The Sales Tax Law has been previously amended to include a limited liability company in the definition of person, Tax Law Section 1101A, for sales and use tax purposes. However, that amendment is not applicable in this instance, since the term 'person' is not used in Section 1116A(4). In the instance where limited liability companies met the criteria set forth in Section 529.7 of the sales and use tax regulations which governs

exempt organizations, the department has granted exempt organization status. See Brookhaven Science Associates, LLC, TSB-A-98(14)S. This bill would essentially serve to codify existing department policy."

I trust that will allay any concerns that you have and clarify the matter definitively.

SENATOR DOLLINGER: Explanation satisfactory, Mr. President.

(Laughter.)

SENATOR GOODMAN: Thank you.

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

There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1203, by Senator Kuhl, Senate Print 4606A, an act to amend the Alcoholic Beverage Control Law, in relation to licensed wineries and farm wineries.

SENATOR ONORATO: Explanation, please.

ACTING PRESIDENT MEIER: Senator Kuhl, an explanation has been requested of Calendar 1203 by Senator Onorato.

SENATOR KUHL: Thank you, Mr. President.

This is a bill that is simply meant to clarify a law that we passed in 1984 which was meant to help and aid the then-struggling wine and grape industry in this state. At that time, under a farm winery piece of legislation, we authorized that each winery be able to have five off-site premises for tasting and for purchase under the same kinds of qualifications that then the winery was able to operate under.

Since that time, we have had a significant growth of wineries in New York,

from roughly 20 in 1984 to in excess of 150 throughout the entire state, whether it's on Long Island, the mid-Hudson, in the Buffalo-Niagara area, or in the Finger Lakes, which I happen to represent a part of.

These wineries have seen a great deal of benefit in joining together to create what we call "wine trails," and we have had legislation before this house before which has allowed a special designation for those wine trails.

We have just recently been made aware of a threat to this entire tourism-based industry, and certainly to this very fine wine-producing industry, in that there now appears that there's some question as to whether or not these off-site premises could in fact operate under the same hours as was designated back in 1984.

This piece of legislation very succinctly and I think very specifically says that on these five -- if they choose to use five off-premises sites, that they in fact will be able to taste and to sell the product which they make.

It's not meant to be a competition for the commercial operations. It's just meant as an introductory kind of method that these wineries can now use to actually sell their produce, if you will.

We have in the Finger Lakes area, and I know that there are other places throughout the state where we have established what they call "wine days." It's now currently located in what you call the Watkins Glen region. It's going to be held at the Watkins Glen Racetrack this coming year in the middle of July. And at that time you will have a large percentage of these wineries coming and utilizing this piece of legislation to actually display their wares and to sell their product.

This bill just goes to verify that in fact you can do it on Sunday as well as Saturday. If we were not able to do it on Sunday, there would be a significant loss of sales and certainly availability of product to taste, and certainly a loss of a lot of revenue to the state, so you would not see the kind of flourishing industry in this state as

you have over the last 17 years.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, will the sponsor yield to a couple of questions?

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

SENATOR KUHL: I'd be happy to.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Senator Kuhl, are you aware of the opposition that has been registered by the Metropolitan Package Store Association?

ACTING PRESIDENT MEIER: They have filed no memo with me, Senator.

SENATOR ONORATO: Pardon?

SENATOR KUHL: They have filed no memorandum in opposition with me.

And this is not -- I should just simply say I don't know what it says, Senator, but this is not an expansion of the current legislation. It is just a clarification of what has been in practice for the last 17

years.

SENATOR ONORATO: Well, again, through you, Mr. President, the Metropolitan -- the local stores are objecting to the fact that it will allow them to be selling it on Sundays. They object very, very strenuously to that aspect of it.

They made the agreement reluctantly back in 1977 to allow owner/producers to establish their off-premises consumption and purchasing of it. They feel that by allowing them to open on Sundays now from 10:00 a.m. to midnight will put an added burden upon them to open up their stores on Sundays, which they are very, very reluctant to do at this particular time.

They don't object to them -- to the original agreement, but they do object to the fact that we are now extending it to Sundays. And we have basically a Sunday blue law where you can't sell alcoholic beverages before 1:00 o'clock in your local restaurants or off-premises consumption in your local beer distributors. Why are we giving these people extra time, especially on Sunday?

SENATOR KUHL: Senator, we're not. This -- as I said before, this is meant to just clarify and put into statute what has essentially been the statute but is now being questioned to some degree by the State Liquor Authority.

If you were to go into my district, for instance, or to Senator Nozzolio's district or to Senator Larkin's district or any of our Long Island colleagues' districts and go and visit the winery or one of their off-premises sites, you'd see that you'd be able to taste their product and you could even buy their product and take it home.

This is not an expansion. It is not intended to be an expansion. It's a simple clarification and a placement into statute of actually what is the practice right now.

Farm wineries, keep in mind, if you were to go back to the original statute in 1984 -- you were here, Senator, and I was here, not in this house, but in the other house at that time -- you would find that those hours were created and that ability to

sell on Sunday was created at that time. So this is not a new idea, not a new idea at all.

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

Senator Dollinger.

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

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I'm going to vote against this provision.

I think that the whole issue of when alcohol should be sold and how it should be sold and whether we should put Sunday restrictions on it in this day and age makes little sense, and that would incline me to vote in favor of this bill. But I think that this is a piecemeal approach, the wrong way to go.

I think rather than create this ability to -- or clarify what -- one man's clarification, Senator Kuhl, may be another person's expansion. What I think we're doing here is we're telling retail outlets run by wineries that they can operate under

circumstances different from everybody else that sells alcohol in the state. I think that's a mistake.

If we're going to have a discussion and debate about who gets to sell alcohol, when and where and under what circumstances, we ought to do that. I personally see little basis for the old restrictions on not selling alcohol on Sundays and when you can sell it and who can sell it. I think it's a commodity that ought to be available and we ought to end this Prohibition-era approach to the sale of alcohol.

But I don't think a piecemeal approach is the right way to do it, and I'm going to vote no, Mr. President.

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

Senator Stachowski.

SENATOR STACHOWSKI: Briefly on the bill.

Normally I'm as pro-little mom and pop liquor store as anybody, but in this case it helps promote New York State wines, it helps the wineries in New York. And pretty

much we all know that liquor stores don't really push New York State wines anyway. So I don't see how we're competing with them, because they're only selling their wines and it's a good promotional thing and helps them enhance their business and enhance the New York State industry.

So I'm going to support the bill.

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: Those recorded in the negative on Calendar Number 1203 are Senators Dollinger, Duane, Gentile, Hassell-Thompson, Onorato, Oppenheimer, and Padavan. Ayes, 53. Nays, 7.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1207, substituted earlier today by Member of the Assembly Lopez, Assembly Print Number

3996, an act to amend Chapter 613 of the Laws of 1996.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Bonacic, an explanation has been requested of Calendar 1207 by Senator Duane.

SENATOR BONACIC: Thank you, Mr. President.

This is a bill that would extend the sunset provision of Section 696A of Article 6 of the General Municipal Law, which gives municipalities the authority to restructure rents of dwelling units in municipally owned buildings which have been rehabilitated with the aid of loans.

Right now it sunsets on June 30th of 2001. This legislation would extend that authority to June 30th of 2006.

This has been requested by the City of New York. The city has taken over so many buildings for back taxes. At one time, they owned 80,000 units. What they do is -- and today they own 10,000 units, less than 10,000 units, because of their ability to restructure

rents.

Through the competitive bidding process, the city will sell the building to a developer. Then the city makes a loan to the developer and the developer fixes the buildings up, and then the city sets the rents in the buildings. And the bill will just continue the city to restructure the rents.

There's never been one tenant displaced since this program was initiated as a result of the city's authority to restructure rents.

SENATOR DUANE: Thank you.

SENATOR BONACIC: By the way, it passed in the Assembly, by Assemblyman Lopez, on May 30th of this year by a vote of 143 to zero.

SENATOR DUANE: Explanation satisfactory. Thank you.

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

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1213, by Senator Goodman, Senate Print 5411, an act to amend the Real Property Tax Law, in relation to tax exemption.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Goodman, an explanation has been requested of Calendar 1213, Senate Print 5411.

SENATOR GOODMAN: Who asked for the explanation, please, Mr. President?

ACTING PRESIDENT MEIER: I believe it was Senator Duane.

SENATOR GOODMAN: Senate 1213?

ACTING PRESIDENT MEIER: Calendar 1213, Senate Print 5411.

SENATOR GOODMAN: Okay.

This bill provides that certain new multiple dwellings in the City of New York shall be exempt from real property taxes if

construction thereof is commenced before December 31, 2003, rather than completed by such date. The existing law requires the projects to begin and end in a certain period.

And let me be a little more explicit as to the reasons for the bill. The 421(a) program was created in 1971 to provide an incentive for the construction of new residential multiple dwellings in the City of New York. Since then, the program has been instrumental in the construction of over 124,000 housing units in the city.

Newly constructed Class A multiple dwellings of three units or more, including co-ops or condos, are eligible for this program.

Projects containing 20 percent low-income units located south of or adjacent to either side of 110th Street in Manhattan can receive a 20-year exemption. This is known as the 80-20 program. The full exemption lasts for the period of construction or for a period of three years immediately following commencement of construction.

Projects in the same geographic

area that do not contain 20 percent low-income units also may be eligible for a 10-year exemption.

This legislation establishes that the deadline for the commencement of construction for the entire 421(a) program will be December 31, 2003.

Now, the point to the bill is that it does conform all the dates of the 421 program's various elements. It does so to prevent confusion amongst prospective developers and financial institutions who have expressed concerns over the current statutory inconsistency in the beginning and ending or the commencement and completion dates of the 421(a) statute.

SENATOR DUANE: Explanation satisfactory. Thank you.

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

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Alesi, that completes the reading of the controversial portion of the supplemental calendar.

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

ACTING PRESIDENT MEIER: Yes, we do have some to take care of.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. On behalf of Senator Saland, on page number 41 I offer the following amendments to Calendar Number 1011, Senate Print Number 4895, 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.

On behalf of Senator Goodman, I move to amend Senate Bill Number 733A by striking out the amendments made on 6/13 of this year and restoring it to its original previous print number, 733.

ACTING PRESIDENT MEIER: So ordered.

SENATOR MARCELLINO: Thank you, sir.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Mr. President, I'd like to request unanimous consent to be recorded in the negative on Calendar 310.

ACTING PRESIDENT MEIER: Without objection, Senator Rath will be recorded in the negative on Calendar 310.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. There will be a Rules Committee meeting in the Majority Conference Room at 5:20. And thereafter, some of the bills coming out of that committee will be taken up on the floor.

Between now and that time, we will

stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:11 p.m.)

(Whereupon, the Senate reconvened at 5:55 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT MORAHAN: Reports of standing committees.

The Secretary will read.

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

Senate Print 359, by Senator Morahan, an act to amend the Executive Law.

603, by Senator Santiago, an act to amend Chapter 209 of the Laws of 2000.

842A, by Senator Velella, an act to amend the Insurance Law.

918, by Senator Kruger, an act authorizing the City of New York.

1106, by Senator Markowitz, an act authorizing the City of New York.

1168, by Senator McGee, an act to amend the Vehicle and Traffic Law.

1758, by Senator Morahan, an act to amend the Retirement and Social Security Law.

2142, by Senator Spano, an act to amend the Labor Law.

2216B, by Senator Volker, an act to amend the Education Law.

2269, by Senator Bonacic, an act to amend the Insurance Law.

3057, by Senator Wright, an act to amend the Vehicle and Traffic Law.

3351, by Senator Montgomery, an act authorizing the City of New York.

3375A, by Senator Alesi, an act to amend the Criminal Procedure Law.

4085A, by Senator Bonacic, an act to amend the Civil Rights Law.

4258A, by Senator Maltese, an act

to amend the Administrative Code of the City of New York.

4306A, by Senator Kuhl, an act to amend the General Business Law.

4471, by Senator Spano, an act to permit certain employees.

4672, by Senator Trunzo, an act to amend the Vehicle and Traffic Law.

4861B, by Senator Meier, an act to amend the Social Services Law.

4979, by Senator Johnson, an act to amend the Retirement and Social Security Law.

5131, by Senator Saland, an act to amend the Family Court Act and the Domestic Relations Law.

5201, by Senator Trunzo, an act to amend the Public Authorities Law.

5271, by Senator Trunzo, an act to amend the Vehicle and Traffic Law.

5290A, by Senator Johnson, an act to amend the Vehicle and Traffic Law.

5291, by Senator Morahan, an act to amend the Retirement and Social Security Law.

5423A, by Senator Leibell, an act to amend the Administrative Code of the City

of New York.

5475, by Senator Larkin, an act to amend the General Municipal Law.

5486, by Senator Libous, an act to amend the Mental Hygiene Law and the State Finance Law.

5489, by Senator LaValle, an act to amend the Civil Rights Law.

5502A, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

5509, by Senator Seward, an act to amend Chapter 459 of the Laws of 1996.

5512, by Senator Marchi, an act to amend the New York City Health and Hospitals Corporation Act.

5545, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law.

5564, by Senator Rath, an act to ratify, legalize and validate certain actions and proceedings.

5578, by Senator Meier, an act to adjust certain state aid payments.

5589, by Senator Fuschillo, an act to relation to state intervention.

5590, by Senator Leibell, an act to amend the Administrative Code of the City of New York.

5592, by Senator Farley, an act to amend the Banking Law.

5595, by Senator Morahan, an act to amend the Penal Law.

5596, by Senator Morahan, an act to amend the Penal Law.

5610, by Senator Meier, an act to amend Chapter 953 of the Laws of 1983.

5612, by Senator Volker, an act to amend the Penal Law.

5616, by the Senate Committee on Rules, an act to amend the Education Law.

5622, by the Senate Committee on Rules, an act to amend the Chapter 266 of the Laws of 1986.

5640, by Senator Skelos, an act to amend the Criminal Procedure Law.

5642, by Senator Stafford, an act to authorize certain health care professionals.

5646, by Senator Balboni, an act to amend the Penal Law and the Criminal Procedure

Law.

5653, by Senator Volker, an act to amend the Penal Law and others.

And 5656, by Senator Skelos, an act to amend Chapter 549 of the Laws of 2000.

All bills ordered direct to third reading.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Move we accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Nay.

(No response.)

ACTING PRESIDENT MORAHAN: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk at this time? Are there any substitutions to be made?

SENATOR MORAHAN: There are substitutions.

SENATOR SKELOS: If we could make the substitutions, please.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 125 and substitute it for the identical Senate Bill Number 359, Third Reading Calendar 1230.

Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 2839 and substitute it for the identical Senate Bill Number 1758, Third Reading Calendar 1236.

Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 7458 and substitute it for the identical Senate Bill Number 2142, Third Reading Calendar 1237.

Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 7696A and substitute it for the identical Senate Bill Number 4085A, Third Reading Calendar 1243.

Senator Maltese moves to discharge,

from the Committee on Rules, Assembly Bill Number 8354A and substitute it for the identical Senate Bill Number 4258A, Third Reading Calendar 1244.

And Senator Marchi moves to discharge, from the Committee on Rules, Assembly Bill Number 3543 and substitute it for the identical Senate Bill Number 5512, Third Reading Calendar 1260.

ACTING PRESIDENT MORAHAN: Substitutions are ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to Supplemental Calendar 55B, noncontroversial.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 1229, by Senator Larkin, Senate Print 5502A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1230, substituted earlier today by Member of the Assembly Gromack, Assembly Print Number 125, an act to amend the Executive Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1231, by Senator Santiago, Senate Print 603,

an act to amend Chapter 209 of the Laws of 2000.

ACTING PRESIDENT MORAHAN: 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 MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1233, by Senator Kruger, Senate Print 918, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT MORAHAN: 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 MORAHAN: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1234, by Senator Markowitz, Senate Print 1106, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT MORAHAN: 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 MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Aye.

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1235, by Senator McGee, Senate Print 1168, an

act to amend Vehicle and Traffic Law, in relation to requiring.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1236, substituted earlier today by Member of the Assembly Gromack, Assembly Print Number 2839, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MORAHAN: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

1237, substituted earlier today by Member of the Assembly Nolan, Assembly Print Number 7458, an act to amend the Labor Law, in relation to prevailing wage supplements.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1238, by Senator Volker, Senate Print 2216B, an act to amend the Education Law, in relation to the administration.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1239, by Senator Bonacic, Senate Print 2269, an act to amend the Insurance Law, in relation to payments.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1240, by Senator Wright, Senate Print 3057, an act to amend the Vehicle and Traffic Law, in relation to creating.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first day of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 1241, by Senator Montgomery, Senate Print 3351, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT MORAHAN: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1242, by Senator Alesi, Senate Print 3375A, an act to amend the Criminal Procedure Law, in relation to permitting.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Anno unce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1243, substituted earlier today by Member of the Assembly Tokasz, Assembly Print Number 7696A, an act to amend the Civil Rights Law, in relation to fair procedure.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1244, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8354A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: A home rule message is at the desk.

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1245, by Senator Kuhl, Senate Print 4306A, an act to amend the General Business Law, in relation to applicability.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1246, by Senator Spano, Senate Print 4471, an act to permit certain employees.

ACTING PRESIDENT MORAHAN: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1247, by Senator Trunzo, Senate Print 4672, an act to amend the Vehicle and Traffic Law, in relation to the length of semitrailers.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1248, by Senator Meier, Senate Print 4861B, an act to amend the Social Services Law, in relation to child daycare.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1250, by Senator Saland, Senate Print 5131, an act to amend the Family Court Act and the Domestic Relations Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: We passed Calendar Number 1250. What about 1249?

ACTING PRESIDENT MORAHAN: I believe it's high, Senator.

SENATOR SKELOS: Mr. President, why don't we continue with the calendar until we locate that bill.

ACTING PRESIDENT MORAHAN: Good idea, Senator Skelos.

The Secretary will read.

THE SECRETARY: Calendar Number 1251, by Senator Trunzo, Senate Print 5201, an act to amend the Public Authorities Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1252, by Senator Trunzo, Senate Print 5271, an act to amend the Vehicle and Traffic Law, in relation to school-zone speed limits.

SENATOR DOLLINGER: Lay that aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1253, by Senator Johnson, Senate Print 5290A,

an act to amend the Vehicle and Traffic Law, in relation to low-speed vehicles.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1254, by Senator Morahan, Senate Print 5291, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MORAHAN: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1255, by Senator Leibell, Senate Print 5423A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MORAHAN: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1256, by Senator Larkin, Senate Print 5475, an act to amend the General Municipal Law.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1257, by Senator Libous, Senate Print -

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

ACTING PRESIDENT MORAHAN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1258, by Senator LaValle, Senate Print 5489, an act to amend the Civil Rights Law, in relation to imposing.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1259, by Senator Seward, Senate Print 5509, an act to amend Chapter 459 of the Laws of 1996.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

SENATOR MARCELLINO: The bill is laid aside.

THE SECRETARY: Calendar Number 1260, substituted earlier today by Member of the Assembly Perry, Assembly Print Number 3543, an act to amend the New York City Health and Hospitals Corporation Act.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Rath, Senate Print 5564, an act to ratify, legalize and validate.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1263, by Senator Meier, Senate Print 5578, an act to adjust certain state aid payments.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

1264, by Senator Fuschillo, Senate Print 5589, an act in relation to state intervention.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1265, by Senator Leibell, Senate Print 5590, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MORAHAN: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

1266, by Senator Farley, Senate Print 55 -

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

ACTING PRESIDENT MORAHAN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1267, by Senator Morahan, Senate Print 5595, an act to amend the Penal Law, in relation to authorized dispositions.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1268, by Senator Morahan, Senate Print 5596, an act to amend the Penal Law, in relation to penalties.

SENATOR PATERSON: Lay it aside, please.

SENATOR MARCELLINO: The bill is laid aside.

THE SECRETARY: Calendar Number 1273, by Senator Skelos, Senate Print 5640, an

act to amend the Criminal Procedure Law, in relation to eliminating.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

SENATOR MORAHAN: Yes, there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT MORAHAN: All those in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed say nay.

(No response.)

ACTING PRESIDENT MORAHAN: The message is accepted.

The clerk will read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 3. Senators Duane, Montgomery, and Paterson recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1275, by Senator Balboni, Senate Print 5646, an act to amend the Penal Law and the Criminal Procedure Law.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT MORAHAN: Yes, there is, Senator.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT MORAHAN: All in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed say nay.

(No response.)

ACTING PRESIDENT MORAHAN: The

message is accepted.

Read the last section.

SENATOR DOLLINGER: Lay that bill aside.

ACTING PRESIDENT MORAHAN: Lay the bill aside.

THE SECRETARY: Calendar Number 1276, by Senator Volker, Senate Print 5653, an act to amend -

SENATOR DOLLINGER: Lay it aside.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT MORAHAN: Yes, there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MORAHAN: All those in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MORAHAN: The message is accepted.

Read the last section.

THE SECRETARY: Section 74. This act shall take effect on the -

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1277, by Senator Skelos, Senate Print 5656, an act to amend Chapter 549 of the Laws of 2000.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT MORAHAN: Yes, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MORAHAN: All those in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed say nay.

(No response.)

ACTING PRESIDENT MORAHAN: The message is accepted.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

The Secretary will read 1249.

THE SECRETARY: In relation to Calendar Number 1249, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 6873 and substitute it for the identical Senate Bill Number 4979, Third Reading Calendar 1249.

ACTING PRESIDENT MORAHAN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1249, by Member of the Assembly Vitaliano, Assembly Print Number 6873, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Skelos.

SENATOR SKELOS: If we could go to the controversial calendar now.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 1235, by Senator McGee, Senate Print 1168, an act to amend the Vehicle and Traffic Law, in relation to requiring.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MORAHAN: Senator McGee, an explanation has been requested.

SENATOR McGEE: Yes, sir.

Mr. President, this bill will require the immediate suspension or revocation of an offender's driver's license when a compulsory chemical test is administered pursuant to a court test, unless the person is unable to refuse the test.

The current law requires the immediate suspension and revocation of a

license upon refusal to submit to a chemical test. Yet if a court order is granted to conduct a chemical test, the law implies that the driver's license is not to be suspended or revoked.

Those who refuse to take a chemical test incur the penalty of driver's license suspension or revocation. This penalty should not be removed just because a court order was obtained to proceed with the chemical test. If anything, the penalty should be stronger if a court order must be obtained.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

SENATOR McGEE: You're welcome.

ACTING PRESIDENT MORAHAN: Senator Dollinger.

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

ACTING PRESIDENT MORAHAN: Senator McGee, will you yield?

SENATOR McGEE: Certainly.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR DOLLINGER: Just so I'm clear on this, Senator, this says that "when the test is administered." Is there a requirement that there be a positive result from this test before these suspensions occur?

SENATOR McGEE: Well, the - there's an immediate suspension and revocation of an offender's driver's license if they refuse to take the chemical test. Is that what you mean?

SENATOR DOLLINGER: No. Through you, Mr. President, if the sponsor will continue to yield.

SENATOR McGEE: Sure.

SENATOR DOLLINGER: One of the difficulties sometimes, Senator, is that this of course is a section plucked out of a statute that has A through G. This is F. And I'm just trying to figure out, this says, as I read it, that when the test is administered then the person affected immediately has their license suspended.

My question is, obviously it can't be just the administration of the test. Doesn't there have to be a positive finding

that suggests that alcohol or some other substance that would influence their ability to operate the vehicle has been found in their blood system? It can't be just the test.

SENATOR McGEE: The current law requires an immediate suspension and revocation of a license upon a refusal to submit to a chemical test. The law then allows a petition to the court for an order to conduct a chemical test. If the court order is granted, the law implies that the driver's license is not suspended and revoked.

In other words, what they're saying is that if you refuse to take a chemical test immediately, then your license is revoked. If they then have to go and get a court order, then your license is not revoked. The driver then is -- in a case where a court order is obtained, the violator is escaping from a penalty that would be applied if there were no court order.

SENATOR DOLLINGER: Again, through you, Mr. President. I'm not sure, maybe I'm missing something here. If the sponsor will yield to another question.

ACTING PRESIDENT MORAHAN:

Senator, will you yield for another question?

SENATOR McGEE: Yes, I will.

SENATOR DOLLINGER: The rule now is if you fail to take the test, your license is automatically suspended.

SENATOR McGEE: Automatically.

SENATOR DOLLINGER: This bill. As I understand it, says if there's a court order that says you have to take the test, then you still have it automatically suspended.

SENATOR McGEE: That's what the bill says, yes.

SENATOR DOLLINGER: My question is, if the test comes back without any presence of alcohol in your system, do you still have your license suspended if the test proves that you weren't driving while you were intoxicated?

SENATOR McGEE: Yes. Yes, it does.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT MORAHAN:

Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if I could just make sure I understand the answer, then.

ACTING PRESIDENT MORAHAN: It was yes.

SENATOR DOLLINGER: If you have a suspicion and they ask that you take the test and you refuse to take it, they can then get a court order that says you have to take it, and you take it.

But if the test result shows that you didn't have any alcohol in your system, then what -- you've in essence submitted to the test, it's been proven that you weren't driving while you were intoxicated, and you still lose your license?

SENATOR McGEE: This bill says if chemical test refusal penalties are to serve as a deterrent, they must be applied in every case where there is a refusal.

In other words, the law -- as I said, the law allows a petition for a court order to conduct a chemical test. If the court order is granted, the law implies the driver's license is not suspended or revoked.

In those cases where a order is obtained, the violator is escaping from a penalty provided by the report, the chemical test.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, I'll thank Senator McGee for her answer.

I'm not sure I understand this bill, Senator. And I'm still not quite sure what to do. I've supported strict measures to enforce the drunk driving laws and to require that people that fail to take a test be properly punished. But as I understand it, what this bill says is if you refuse to take the test, you then get a court order that says you have to take the test, you take the test and it shows that you weren't under the influence of alcohol, it seems to me that that turns the law on its head.

I mean, I don't understand then why the penalty would be appropriate. The theory is -- and maybe somebody can clarify this for

me -- the theory is that people that don't want to take the test do so because they know that the test or there's a likelihood that the test will show they were driving under the influence.

And my concern is, at least as I understand what Senator McGee has explained, if you get a test and it shows that you weren't, doesn't that suggest that your original refusal was not inappropriate and in fact what you were doing was protecting your right against self-incrimination and then you found out that there wasn't any truth to the original suspicion that there was alcohol or that the person was operating under the influence?

I'm not sure I understand this bill and what it involves. So perhaps some other member may be able to enlighten me.

SENATOR VOLKER: Yes, I can.

ACTING PRESIDENT MORAHAN: Senator Volker.

SENATOR VOLKER: First of all, if the client did decline, the client is an idiot if he wasn't drinking.

But the problem, I think, is that under the law now it doesn't matter what the test turns out. If you refuse to take a test under the law -- and under the motor vehicle rules which came actually before the law, but we put it in force -- you automatically lose your license for six months. Not because you were drinking, but because you refused the test.

I think what her bill does is put together the issue of drinking and refusing the test. I think the one difference is that what her bill does, as I understand it, is allows, when you refuse the test, that your license can be taken away virtually immediately or as soon as you -- I guess as soon as you get before the judge. Which I think is actually pretty well done now, except not in an as expeditious a manner.

I think you have to remember, Richard, that driving is not a right, it's a privilege. And the arguments that we've had over this deals with the fact that when people refuse to take a test, they put everybody in a tough position. A lot of times you can't get

a court order fast enough to take a valuable test anyways.

And it's happened, and I know it's happened to some law enforcement people that by the time they get the order, the person's blood alcohol level is down because the alcohol is out of them. So that one of the arguments, I think, is that the person may well have been drunk but by the time you get the court order, they're no longer drunk.

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

SENATOR DOLLINGER: Thank you, Mr. President.

I won't quiz Senator Volker. I think he's absolutely correct. That's why I was confused by Senator McGee's explanation, because I wasn't sure what the consequence - I mean, there's no question that under the current law, if you refuse to take a test, you lose your license. But that would be premised on the fact that you had something to hide, that you were disguising the fact or refusing to acknowledge the fact that you were under the influence of alcohol or had been drinking.

And it just seems to me that if the test comes back positive, it undercuts the notion -- or if it comes back negative, I should say, it undercuts the notion that somebody has been drinking. And assuming that it's properly applied within the two-hour period, that would be proof that they weren't guilty of anything and in essence they lose their license even though they're not guilty of anything.

Senator McGee, I guess I'm going to vote for this bill upon Senator Volker's clarification. But we certainly give our police officers a lot of authority to demand that test. And it seems to me if the result were to come back without any alcohol, it would undercut the reason for giving the test in the first place.

And I'll with reluctance vote for this bill and wait to see how it comes out in the law.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Any other Senator wish to be heard?

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1237, substituted earlier today by Member of the Assembly Nolan, Assembly Print Number 7458, an act to amend the Labor Law.

SENATOR DOLLINGER: Explanation, please.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MORAHAN: The bill is laid aside for the day.

The Secretary will read.

THE SECRETARY: Calendar Number 1238, by Senator Volker, Senate Print 2216B, an act to amend the Education Law, in relation

to the administration and monitoring.

SENATOR DOLLINGER: Can I have an explanation, please.

ACTING PRESIDENT MORAHAN: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Mr. President, this bill is a bill that's been around in one form or another for a couple of years, but it's an agreement between the dental hygienists and the Dental Society, both of whom support this bill. And thanks to the committee chairman, who shall remain unnamed, to my left, this bill was amended so that I think it would probably be considered to be in proper form.

There were some objections before because of the question of direct supervision of the dentist over the dental hygienist. Now, the law already, if you look at it very carefully, says that the dentist must supervise the dental hygienist. But to be very clear, the B amendment makes it perfectly clear that the supervising dentist must remain in the dental office and directly supervise

the dental hygienist in the administration and monitoring of nitrous oxide and Novocain.

I think probably most of you realize that nitrous oxide -- and if you want, I'll read the technical term. That's laughing gas.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

SENATOR VOLKER: And the dentist must also, by the way, examine the condition of the patient after the procedure is completed.

I think it's pretty straightforward.

ACTING PRESIDENT MORAHAN: Any other Senator wish to be heard on this bill?

Read the last section.

THE SECRETARY: Section 4. This act shall take effect 540 days.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1243, substituted earlier today by Member of the Assembly Tokasz, Assembly Print Number 7696A, an act to amend the Civil Rights Law.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MORAHAN: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: On behalf of Senator Bonacic, current law provides that a witness in a state agency investigation has the right to an attorney. This legislation would allow a witness summoned to a hearing to be accompanied by a nonattorney representative from an employee organization.

ACTING PRESIDENT MORAHAN: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President. And I appreciate Senator Skelos pinch hitting for Senator Bonacic. He may not know the answer to this question, but I'll ask it anyway if he will yield to a question.

ACTING PRESIDENT MORAHAN:

Senator Skelos, will you yield for a question?

SENATOR SKELOS: Yes.

SENATOR DOLLINGER: Senator Skelos, one of the advantages, of course, of having a lawyer appear on your behalf is that they're protected by attorney-client privilege, they can't disclose the substance of the conversations.

Is there a similar protection for the union representative in this case, or would the union representative be in a position where they could be subpoenaed to appear at a hearing -

SENATOR SKELOS: I am not aware of any confidentiality. And of course that would be your option of taking the individual with you.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

SENATOR DOLLINGER: Thank you, Mr. President. Thank you, Senator Skelos.

I'm going to vote in favor of this bill because I don't mind the idea of an employee representative going to these hearings.

But I would suggest we're going to get into the same problem that we had with the -- that Senator Volker had in the police departments, when the issue will be whether the discussions between the union representative and the individual are protected by some type of qualified privilege. Because what will eventually happen is they will subpoena the representative to come in and attempt to verify the accounts that were given to them by the employee in the proceeding.

I just -- it just strikes me as that's a problem that this bill invites and that will be right around the corner next time.

I'll still vote in favor, Mr. President.

ACTING PRESIDENT MORAHAN: Any other Senator wish to be heard on this bill?

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1247, by Senator Trunzo, Senate Print 4672, an act to amend the Vehicle and Traffic Law, in relation to the length of semitrailers.

SENATOR DOLLINGER: Can we have explanation on that, please.

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1252, by Senator Trunzo, Senate Print 5271, an act to amend the Vehicle and Traffic Law.

SENATOR DOLLINGER: Can we have an explanation on that bill, please.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MORAHAN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number

1256, by Senator Larkin, Senate Print 5475, an act to amend the General Municipal Law.

ACTING PRESIDENT MORAHAN: Senator Larkin, an explanation has been requested.

SENATOR LARKIN: Mr. President, who asked? So I can make -

ACTING PRESIDENT MORAHAN: Senator Dollinger requested the explanation. He's asked for the explanation, sir.

SENATOR LARKIN: Richard, that wasn't confession, was it?

ACTING PRESIDENT MORAHAN: Senator Larkin yields.

SENATOR LARKIN: Richard, this is a new bill that -- this bill makes amendments to the General Municipal Law in relation to provisions governing the games of chance. Specifically, this bill will amend the structure for the payment of license fees for manufacturers' placement of bar codes required for packaging and credit provisions.

If you remember a couple of years ago, Richard, we discussed why don't we package all of this together, because we

didn't have the bar graphs on them before and all that. This has taken it all together.

It also takes one other provision in it. In amending the bill, we're going to provide for the manufacturers to pay either a flat fee of a stated amount as their yearly New York State bell jar license or the current fee of $25 plus 2 percent gross sales. And we've discussed this with everybody, all the vendors that do bell jars. And originally we had asked for 5 percent, and they thought 2 percent was more appropriate.

I can continue.

ACTING PRESIDENT MORAHAN: That's good, Senator.

Senator Dollinger?

SENATOR DOLLINGER: Explanation satisfactory, Mr. President. You can just read the last section.

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

Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 60th day.

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1258, by Senator LaValle, Senate Print 5489, an act to amend the Civil Rights Law.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MORAHAN: Senator LaValle, an explanation has been requested.

SENATOR LaVALLE: Thank you, Mr. President.

In 1979 this Legislature passed probably the first laws in the nation protecting individuals who went through genetic testing. We protected them in a number of ways. Any test results would need informed consent. We protected them in the Executive Law in terms of their employment so that both insurance companies and employers could not take advantage of an employee who

wanted to go through genetic testing.

Yesterday this body spoke about the GE-NY-SIS legislation, and we talked about the need and what is going on in terms of genome research and the research into genetic predispositions.

This legislation allows and carves out a -- that would allow researchers to, with informed explicit written consent of a donor, would -- that an individual who is going through genetic testing and has donated samples, they, the donor, would give explicit written consent that the sample that is being donated could -- for a specific period of time, the researcher can do research on that tissue. And it involves coding that the institution would establish to protect the identity of the individual.

So what we have done in this legislation is to continue with genetic testing, allow samples to be used for research, but in all situations to guard the privacy of the individual who is having that tissue -- would allow the researcher to do research while making sure that privacy was

being given to the individual.

That's it, Senator Dollinger.

ACTING PRESIDENT MORAHAN:

Senator Dollinger.

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

ACTING PRESIDENT MORAHAN:

Senator, will you yield for one question?

SENATOR LAVALLE: Yes.

SENATOR DOLLINGER: Senator LaValle, this appears to be a well-constructed bill with lots of provisions in it. But my question deals with what happens if the donor is deceased.

I would assume that oftentimes the type of genetic research may involve someone who has a terminal illness or they may be studying for those who have particular rates of morbidities. But I don't see any provision that talks about -

SENATOR LAVALLE: Senator, the donor is in control of the time period that the researcher must -- could do research on that tissue. If they said upon my death that

is the period, then the tissue is destroyed at that point in time, because it is time-specific.

If the donor -- and the donor has to carve out a period, or they can leave it open-ended. And at any time, at any time they can come back in, the legislation allows for them to say: Well, you know, I had indicated that you can do research on this for 10 years, but I am withdrawing my consent. At that point, consent is withdrawn, tissue is destroyed.

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

ACTING PRESIDENT MORAHAN: Senator LaValle, do you continue to yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MORAHAN: The sponsor yields.

SENATOR DOLLINGER: Is there any corresponding piece of this bill that deals with the concept of sort of a surrogate decision-making, in the sense that they would appoint the power to a family member after

death to make decisions about use of the samples or the testing or anything of that nature? I didn't see it in a quick read-through.

SENATOR LaVALLE: No, it doesn't.

But the key element here -- and here we're into an area, Senator, and I'm going to do some conjecture. And doing some practice in this area, I would say that an individual could -- because the most important thing is the donor is in control. So the donor could sign, in a durable power -- no, they couldn't even do that, because durable powers cease on death.

So they couldn't -- as we're now talking this through, so they couldn't do it in that way. And the same would be on any other consent, it would cease with the individual's death.

So I think we have gone through a legal analysis here on this floor that I think I feel comfortable with.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

SENATOR DOLLINGER: Okay. Thank

you, Mr. President. Thank you, Senator LaValle.

ACTING PRESIDENT MORAHAN: Senator Dollinger.

SENATOR DOLLINGER: I'm going to vote in favor of this. As I read it quickly, Senator, this is a well-laid-out system of protection in the disclosure of genetic information.

I do think, Senator, that at some point that issue, the question of the family's involvement or who is going to make future decisions if the person who donated the tissue or the sample is deceased, my prediction would be that we'll be back here at some point trying to resolve the legality of that issue as well.

I'm going to vote in favor of it and urge my colleagues to do so, with an understanding that we'll probably have to revisit this at some time in the future.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Any other Senator wish to be heard on the bill?

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1259, by Senator Seward, Senate Print 5509, an act to amend Chapter 459 of the Laws of 1996.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

1264, by Senator Fuschillo, Senate Print 5589, an act in relation to the state intervention.

SENATOR DOLLINGER: Explanation.

SENATOR FUSCHILLO: Lay it aside for the day.

ACTING PRESIDENT MEIER: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1267, by Senator Morahan, Senate Print 5595, an act to amend the Penal Law, in relation to authorized dispositions.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT MEIER: Senator Morahan, an explanation has been requested of 1267 by Senator -- who requested the explanation, please? -- by Senator Montgomery.

SENATOR MORAHAN: Senator, I would ask that that bill and the following bill be laid aside for the day.

ACTING PRESIDENT MEIER: Calendars 1267 and 1268 will be laid aside for the day.

SENATOR SKELOS: Mr. President, please lay aside the balance of the calendar.

ACTING PRESIDENT MEIER: The

balance of the calendar will be laid aside.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: Yes, we have a little bit to do here, Senator. One amendment.

SENATOR SKELOS: If we could do that.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on page number X I offer the following amendments to Calendar Number 1226, Senate Print Number 5574, and ask that said bill be retained on the Third Reading Calendar on behalf of Senator Stafford.

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

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, thank you. Mr. President, I would like to unanimous consent to be recorded in the negative on Calendar Number 310 and 1273.

ACTING PRESIDENT MEIER: Without objection, Senator Hassell-Thompson will be recorded in the negative on Calendar 310 and 1273.

Senator Seward.

SENATOR SEWARD: Yes, I would ask for unanimous consent to be recorded in the negative on Calendar Number 1239 which passed earlier this evening.

ACTING PRESIDENT MEIER: Without objection, Senator Seward will be recorded in the negative on Calendar 1239.

Senator Skelos.

SENATOR SKELOS: Please recognize Senator Paterson.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, there will be a conference of the Minority tomorrow morning at 10:30 in the Minority Conference Room, Room 314.

ACTING PRESIDENT MEIER: Conference of the Minority tomorrow morning in the Minority Conference Room -- did you say 10:30 a.m., Senator?

SENATOR PATERSON: 10:30.

ACTING PRESIDENT MEIER: -- at 10:30 a.m.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Mr. President. I request unanimous consent to be recorded in the negative on Calendar Number 1235.

ACTING PRESIDENT MEIER: Without objection, Senator Malcolm Smith will be recorded in the negative on Calendar 1235.

Senator Skelos.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno, I just wish to urge all the members tomorrow to be in the chamber. In that it's expected that this will be our last regular day of session, we have many bills to discuss tomorrow. So if all members could be in the chamber, it certainly would be appreciated.

And there being no further business, I move we adjourn until Wednesday, June 20th, at 11:00 a.m.

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

Wednesday, June 20th, at 11:00 a.m.

(Whereupon, at 7:04 p.m., the Senate adjourned.)