THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

July 24, 2001

1:17 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order. I ask everybody to take their place.

And may we please rise and repeat with me 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 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, July 23, the Senate met pursuant to adjournment. The Journal of Friday, July 20, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Velella.

SENATOR VELELLA: Mr. President, may we please adopt the Resolution Calendar.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

Senator Velella.

SENATOR VELELLA: Mr. President, may we call an immediate meeting of the Finance Committee in the Senate Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Finance Committee in

the Majority Conference Room.

SENATOR VELELLA: And the Senate will stand at ease pending the return of the report.

ACTING PRESIDENT MEIER: The Senate will stand at ease pending the report of the Finance Committee.

(Whereupon, the Senate stood at ease at 1:19 p.m.)

(Whereupon, the Senate reconvened at 1:40 p.m.)

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Mr. President, can we return to reports of standing committees. I believe there's a Finance Committee report at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bills:

Senate Print 5710, by the Senate Committee on Rules, an act making

appropriations for the support of government; and Senate Print 5711, by the Senate Committee on Rules, an act to amend Chapter 20 of the Laws of 2001.

Both bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Without objection, all bills directly to third reading.

Senator Velella.

SENATOR VELELLA: Mr. President, may we take up Senate Bill 5710 at this time.

ACTING PRESIDENT MEIER: The Secretary will read Senate 5710.

THE SECRETARY: Calendar Number 1406, by the Senate Committee on Rules, Senate Print 5710, an act making appropriations for the support of government.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Is there a message of necessity and appropriation at the desk?

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

SENATOR VELELLA: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

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

Read the last section.

THE SECRETARY: Section 27. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Velella.

SENATOR VELELLA: Mr. President, may we take up Senate Bill 5711, please.

ACTING PRESIDENT MEIER: Just one moment.

Let's do this. Without objection, we'll reopen the roll call on the previous bill. Will the negatives please raise your hand again.

THE SECRETARY: In relation to Calendar Number 1406, those recorded in the negative are Senators Connor, Dollinger, Hassell-Thompson, Montgomery, Paterson, Schneiderman, A. Smith, and Stavisky. Ayes, 42. Nays, 8.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1407, by the Senate Committee on Rules, Senate Print 5711, an act to amend Chapter 20 of the Laws of 2001.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Mr. President,

is there a message of necessity at the desk?

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

SENATOR VELELLA: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

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

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 1407 are Senators Dollinger, Hassell-Thompson, Montgomery, Schneiderman, A. Smith, and

Stavisky. Ayes, 44. Nays, 6.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations.

As a member of the Board of Trustees of the State University of New York, Nelson A. Rockefeller, Jr., of Tarrytown.

SENATOR VELELLA: Mr. President.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Move the nomination.

ACTING PRESIDENT MEIER: The question is on the nomination of Nelson A. Rockefeller, Jr., as a member of the SUNY Board of Trustees. All those in favor signify by saying aye.

SENATOR LACHMAN: State University of New York.

ACTING PRESIDENT MEIER: Senator Lachman, are you asking to be recognized?

SENATOR LACHMAN: No. No. You

said City University. It's State University.

ACTING PRESIDENT MEIER: The question is on the nomination of Nelson A. Rockefeller, Jr., as a member of the State University of New York Board of Trustees. 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.

The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Daniel J. Hogarty, Jr., of Troy.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Yes, Mr. President and colleagues.

I'm very pleased that the Governor would submit to become a member of the Board of Trustees at SUNY an individual that's a good friend of mine, a good friend of the

people in the Capital Region, and a good friend of all of the people in New York State.

He is a businessman by background, and he will bring an expertise to SUNY that will build on all of the good things they do on behalf of the people that go through that system and being out there competing in the world in our global economy. He will be a tribute to the existing board, to the faculty, the administration, and to the students, and a tribute to this Senate as we confirm him, and to the Governor for having submitted him.

Dan Hogarty has been active in the Capital Region in New York State, I think in something like 18 organizations -- charitable organizations, business organizations, academic, serving presently on the SUNY Foundation Board. He has been honored and recognized in a variety of ways by organizations like the University at Albany, receiving their most prestigious award; the Jewish National Fund, Catholic Central High School, the Capital District Business Review, the Arthritis Foundation, and the list goes on and on.

Dan will be a tremendous addition to the SUNY board, and we're fortunate to have his skills and his experience. Dan is with us today, and I'd like to recognize him and thank him for all of his efforts and wish him the very best as he goes forward, working on behalf of this constituency in this area and the constituency in New York State.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. I also rise to second the nomination of Dan Hogarty, who is truly a community treasure in this Capital District.

Dan Hogarty, who I've known for many years, is an example of a bank CEO, Troy Savings Bank, which he has really brought to the forefront, served on the State Banking Board, appointed by other governors. Dan Hogarty is truly a success story and somebody that has really made a difference for his community.

I concur in everything that Senator Bruno said, but let me just say we're so

fortunate to have somebody that is willing to serve the State University of New York, which I have a great affection for, having worked there for 35 years.

And I am grateful for all that Dan has done, not only for the Capital District, but it's very exciting to see that he's going to be a trustee for the State University, which is truly a treasure, again, for our state.

And, Dan, we're grateful for your service, and thank you so much for all that you've done, not only for our community here but for New York State.

ACTING PRESIDENT MEIER: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President. I also rise to echo the remarks of the Majority Leader, Senator Bruno, and Senator Farley.

I've known Dan Hogarty for over 40 years, as a friend and as someone who played sports at a young age, to someone who now is so involved in our community in so many different and varied ways, as a banker, being

named Executive of the Year, his involvement with educational institutions -- the Maria College Board, La Salle School for Boys, Hudson Valley, the State University Foundation, and it does go on and on and on.

And if there's anything important on a voluntary basis that helps the Capital District, Dan Hogarty is involved. And although he lives in Senator Bruno's district now, he was born and raised in Albany, and he's really, truly a son of the Capital District.

Thank you very much, Mr. President.

ACTING PRESIDENT MEIER: The question is on the nomination of Daniel J. Hogarty, Jr., as a member of the Board of Trustees of the State University of New York. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Mr. Hogarty is with us today,

sitting in the gallery. Mr. Hogarty, we wish you well with your important duties, and congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the Niagara Frontier Transportation Authority, Mary S. Martino, of Buffalo.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Mr. President, move the nomination.

ACTING PRESIDENT MEIER: The question is on the nomination of Mary S. Martino as a member of the Niagara Frontier Transportation Authority. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Small Business Advisory Board, Kevin M. O'Bryan, of Troy.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Mr. President, move the nomination.

ACTING PRESIDENT MEIER: The question is on the nomination of Kevin M. O'Bryan as a member of the Small Business Advisory Board. 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.

The Secretary will continue to read.

THE SECRETARY: As a member of the Genesee State Park, Recreation and Historic Preservation Commission, Howard W. Payne, of Arcade.

ACTING PRESIDENT MEIER: Senator

Bruno.

SENATOR BRUNO: Move the nomination, Mr. President.

ACTING PRESIDENT MEIER: The question is on the nomination of Howard W. Payne as a member of the Genesee State Park, Recreation and Historic Preservation Commission. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Senator Brown, why do you rise?

SENATOR BROWN: Thank you, Mr. President.

I'd like to request unanimous consent to be recorded in the negative on Calendar 1406.

ACTING PRESIDENT MEIER: Without objection, Senator Brown will be recorded in the negative on Calendar 1406.

Senator Bruno.

SENATOR BRUNO: Mr. President, given the fact that we are trying to work some things out for our agenda here today, I'm going to suggest that we recess this session until 4:30.

And I'm going to ask the Republican members of the Senate to conference with me at 4:00 o'clock in our conference room.

And by way of information, we're trying to avoid having to be in and out of session here this week and next week if we can get some of the things done later this afternoon that we're required to get done by next week. If we can do it, I think it would be better government for the people of this state. And if we can't, then we will announce that and we'll be back here early next week.

Recess until 4:30. Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Brown, why do you rise?

SENATOR BROWN: Thank you, Mr. President.

I just would also like to request unanimous consent to be recorded in the

negative on Calendar 1407.

ACTING PRESIDENT MEIER: Without objection, Senator Brown will be recorded in the negative on Calendar 1407.

SENATOR BROWN: Thank you.

ACTING PRESIDENT MEIER: The Senate will recess and reconvene at 4:30. Majority conference at 4:00 p.m.

(Whereupon, the Senate recessed at 2:00 p.m.)

(Whereupon, the Senate reconvened at 4:54 p.m.)

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Mr. President, I move that the house stand in recess until 7:00 p.m. tonight.

ACTING PRESIDENT MEIER: The Senate will stand in recess until 7:00 p.m.

(Whereupon, the Senate recessed at 4:55 p.m.)

(Whereupon, the Senate reconvened at 8:30 p.m.)

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT FUSCHILLO:

Senator Bruno.

Can we have some quiet in the chambers, please.

SENATOR BRUNO: Thank you, Mr. President.

Mr. President, can we ask for an immediate meeting of the Finance Committee in Room 2 -- 332.

ACTING PRESIDENT FUSCHILLO: There will be an immediate meeting of the Finance Committee wherever he wants to have it.

(Laughter.)

ACTING PRESIDENT FUSCHILLO: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to the reports of standing committees.

I believe there's a report of the Finance Committee at the desk, and I ask that it be read at this time.

ACTING PRESIDENT FUSCHILLO: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Stafford,

from the Committee on Finance, reports the following bills:

Senate Print 5712, by the Senate Committee on Rules, an act making appropriations for the support of government; and Senate Print 5713, by the Senate Committee on Rules, an act to amend a chapter of the Laws of 2001.

Both bills ordered direct to third reading.

ACTING PRESIDENT FUSCHILLO: Without objection, the bills are ordered direct to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 5712.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 1408, by the Senate Committee on Rules, Senate Print 5712, an act making appropriations for the support of government.

SENATOR BRUNO: Is there a message of necessity and appropriation at the

desk?

ACTING PRESIDENT FUSCHILLO: Yes, Senator Bruno, there is.

SENATOR BRUNO: Move we accept the message of necessity and appropriation.

ACTING PRESIDENT FUSCHILLO: All in favor of accepting the message of necessity and appropriation signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FUSCHILLO: Opposed, nay.

(No response.)

ACTING PRESIDENT FUSCHILLO: The ayes have it.

The Secretary will read the last section.

THE SECRETARY: Section 11. This act shall take effect on the same date as a chapter of the Laws of 2001.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator A. Smith recorded in the negative.

ACTING PRESIDENT FUSCHILLO: The

bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number S5713.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 1409, by the Senate Committee on Rules, Senate Print 5713, an act to amend a chapter of the Laws of 2001.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT FUSCHILLO: Yes, Senator Bruno, there is.

SENATOR BRUNO: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT FUSCHILLO: Opposed, nay.

(No response.)

ACTING PRESIDENT FUSCHILLO: The

message is accepted.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, is there any housekeeping left to be done at the desk?

ACTING PRESIDENT FUSCHILLO: Yes, there is.

Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

On behalf of Senator Maltese, I wish to call up Assembly Bill Number 8463, which is now at the desk.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number

699, by the Assembly Committee on Rules, Assembly Print 8463, an act to amend the Election Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR MEIER: I now move to commit the bill to the Rules Committee.

ACTING PRESIDENT FUSCHILLO: So ordered.

Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

On behalf of Senator Maltese, I wish to call up Assembly Bill Number 6958A, which is now at the desk.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 179, by Member of the Assembly Sidikman,

Assembly Print Number 6958A, an act to amend the Election Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR MEIER: Mr. President, I now move to commit the bill to the Committee on Rules.

ACTING PRESIDENT FUSCHILLO: So ordered.

Senator Bruno, that completes the housekeeping.

SENATOR BRUNO: Thank you, Mr. President.

I want to thank the members that are here for your patience, your stamina, endurance, understanding, and all your good work.

And there being no further business to come before the Senate, I would move that

we stand adjourned, subject to the call of the Majority Leader, and that intervening days be legislative days.

ACTING PRESIDENT FUSCHILLO: On motion, the Senate stands adjourned until the call of the Majority Leader, intervening days being legislative days.

(Whereupon, at 8:45 p.m., the Senate adjourned.)