NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 11, 2002

3:10 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 everyone present to please rise and join with me in reciting the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, at this time will we all take a moment of silence in honor of the lives who perished on September 11th.

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

SENATOR SKELOS: Thank you, Mr. President.

ACTING PRESIDENT MEIER: The invocation will be given today by the Reverend Peter G. Young.

Father Young.

REVEREND YOUNG: Thank you, Senator.

Dear God, six months ago we were

all traumatized by the attack on the World Trade Center and the Pentagon. We sat by our TV screens witnessing an unbelievable event.

Today represents the resilience of our New York State citizens. And we ask You, O compassionate God, to give those affected strength and courage that will help them in their suffering and the loss of their loved ones.

O God, give us the sensitivity to hear their anguish and their pain so that we can treat them with kindly care. May You, O God, strengthen us with the power to soothe their heartache and help heal their scars with love, as You, O God, have demonstrated Your care for us.

Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, March 10, the Senate met pursuant to adjournment. The Journal of Saturday, March 9, 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.

Senator Volker.

SENATOR VOLKER: I'd like to announce an immediate meeting of the Finance Committee in Room 332, please.

ACTING PRESIDENT MEIER: Immediate meeting of the Finance Committee in Room 332.

Senator Paterson.

SENATOR PATERSON: Mr. President, going back to messages from the Assembly, I wanted to know if the desk had received notification from the Assembly of the annual election and reelection of Regents, as per Section 202 of the Education Law, and that the time and date of that occurrence will be tomorrow in the Assembly chamber at noon.

ACTING PRESIDENT MEIER: It's my understanding, Senator, that that notice has been received and it is on file in the Clerk's

office.

SENATOR PATERSON: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Seward, from the Committee on Insurance, reports the following bills:

Senate Print 389, by Senator Skelos, an act to amend the Insurance Law;

2810A, by Senator Seward, an act to amend the Insurance Law;

3795B, by Senator Seward, an act to amend the Insurance Law;

And Senate Print 6132, by Senator Seward, an act to amend the Insurance Law.

All bills ordered direct to third reading.

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator McGee.

SENATOR McGEE: Thank you, Mr. President. Mr. President, on behalf of Senator Rath, on page number 4 I offer the following amendments to Calendar Number 12, Senate Print Number 3413, and ask that said bill retain its place on Third Reading Calendar.

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

Senator McGee.

SENATOR McGEE: Thank you, Mr. President. Mr. President, on behalf of Senator Morahan, on page number 12 I offer the following amendments to Calendar Number 178, Senate Print Number 6036A, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR McGEE: Thank you, Mr. President. Mr. President, I wish to call up my bill, on behalf of Senator Skelos, my bill, Print Number 6263, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 84, by Senator Skelos, Senate Print 6263, an act to amend the Correction 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.

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Are there any substitutions at the desk?

ACTING PRESIDENT MEIER: We have two, Senator.

The Secretary will read the substitutions.

THE SECRETARY: On page number 12, Senator Spano moves to discharge, from the Committee on Labor, Assembly Bill Number 9454, and substitute it for the identical Senate Bill Number 5813, Third Reading Calendar 175.

And on page 22, Senator Maltese moves to discharge, from the Committee on Elections, Assembly Bill Number 5463A and substitute it for the identical Senate Bill Number 2904A, Third Reading Calendar 282.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Volker.

SENATOR VOLKER: Mr. President, there is a privileged resolution at the desk

by Senator Rath. May we please have it read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Rath, Legislative Resolution Number 4316, memorializing the Honorable George E. Pataki to designate March 2002 as "Women's History Month" in the State of New York, and commemorating the New York State Senate's "Women of Distinction" tribute.

"WHEREAS, It is the sense of this Legislative Body to acknowledge and celebrate individuals and events of historic significance which add vitality, sensitivity, understanding, and inspiration to the diversity and value of the people of this great Empire State; and

"WHEREAS, Women of every economic, ethnic, and religious background have made significant contributions that are reflected in our cultural, social, educational, industrial, and economic diversity, and have contributed in many ways, including as

writers, educators, scientists, heads of state, politicians, civil rights crusaders, artists, entertainers, businesswomen, military personnel, aviators, entrepreneurs, philanthropists, health professionals, engineers, religious leaders, judges, lawyers, law enforcement personnel, athletes, mothers, nurturers, and the building blocks of our communities; and

"WHEREAS, Women who have become part of New York's lasting heritage by fighting against stereotypes, prejudice, and seemingly insurmountable obstacles include Sojourner Truth, former slave and famous activist; Harriet Tubman, best known 'conductor' of the Underground Railroad and promoter of black education and women's rights; suffragettes Susan B. Anthony and Elizabeth Cady Stanton; world-renowned folk artist Grandma Moses; famed reporter Nellie Bly; Sybil Ludington, known as the 'female Paul Revere'; Barbara McClintock, Nobel Prize-winning genetic scientist; and 'First Lady of the World,' Eleanor Roosevelt; and

"WHEREAS, New York State has been

and continues to be the home of many distinguished women who have made their mark in history as the first in their field to succeed. Representative of these 'firsts' are contributions by women such as Lady Deborah Moody, first woman grantee for land ownership in the New World; Elizabeth Blackwell, first female physician; Emma Willard, founder of the first endowed institution of education for women; hairdressing entrepreneur Madame C.J. Walker, Harlem leader and first self-made female millionaire in the U.S.; Buffalonian Louise Blanchard Bethune, first professional female architect in the nation; Lucille Ball, actor and president of Desilu Productions, the first woman to lead a major Hollywood production company; Katharine Bement Davis, New York City Correction Commissioner, first woman to head a major city agency; Winifred Edgerton Merrill, the first American woman to receive a Ph.D. in mathematics; Dr. Mary Edwards Walker, the first and only woman to be presented with the Congressional Medal of Honor; and Belva Lockwood, the first woman to practice law before the United States Supreme

Court; and

"WHEREAS, March has been designated as 'Women's History Month' in the State of New York, and in conjunction, the New York State Senate celebrates 'Women's History Month' with its 'Women of Distinction' tribute; and

"WHEREAS, March 11, 2002, marks the six-month anniversary of the unprecedented tragedy which befell our state and nation on September 11, 2001; this year's New York State Senate's 'Women of Distinction' honorees are 38-year-old Moira Smith, a decorated NYPD officer; 46-year-old Captain Kathy Mazza, the first female commandant of the Port Authority Police Training Academy; and 24-year-old Yamel Merino, New York State's 2001 Emergency Medical Technician of the Year, all of whom were among on the first on the scene at the World Trade Center, literally saving the lives of hundreds; and

"WHEREAS, The horrific events of September 11th shone a bright light on the heroic actions of emergency service workers. Working side by side, running stride for

stride, women and men worked together tirelessly to rescue and recover victims. 'Women of Distinction' commemorates the role that women have always played in serving our communities as emergency and rescue workers, and pays special tribute to the women heroes of 9/11 who made the ultimate sacrifice; and

"WHEREAS, This Legislative Body recognizes that New York State is the home to countless women who are strong and colorful threads vital to the fabric of our rich heritage, who have contributed and continue to add to the advancement of our culture through their traditional and nontraditional roles in society; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to officially designate March 2002 as 'Women's History Month' in the State of New York, and to commemorate the New York State Senate's 'Women of Distinction' honorees, a time to recognize the unique and enduring contributions of women throughout New York State and the nation; and be it further

"RESOLVED, That copies of this

resolution, suitably engrossed, be transmitted to the Honorable George E. Pataki, Governor of the State of New York, Lieutenant Governor Mary O. Donohue, the National Women's Hall of Fame, and the New York State Division for Women."

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Thank you, Mr. President.

Listening to the reading of the resolution, it was brought to mind again, as it is poignantly each year, how much we as women in New York State have to be grateful for women who were trailblazers. And as the saying goes, we all stand on the shoulders of those who blazed the trail before us.

Some might ask why are we celebrating a "Women's History Month." And I think a hundred years ago or even fifty years ago, it might have been impossible to have imagined commemorating something like "Women's History Month," because history month is every month. History is being made always.

But why such attention on women's

history lately, in the last 25 years, maybe? The emerging roles, the changing roles, as I look at the young women sitting along the sidelines. Maybe there weren't many young women there twenty years ago or fifty years ago. Women are playing so many different roles today than they were, and it's taken some identification of that for all of us to begin to be significantly aware of how important those roles have been.

Today, as we're particularly honoring and mentioning the three brave and courageous women who threw caution and care of themselves aside and raced into the buildings six months ago today to save the lives of others, unconcerned about their safety -- they were going to work that day at what was twenty years ago, ten years ago considered unconventional jobs for women, unconventional places for them to be. They just went to work that day. They didn't come home that night.

Lots of women are serving in very unusual and unconventional roles today. Some of them are heroes and well known. Certainly as we listen to the litany of the women a few

minutes ago, we heard that. But the women who are serving today in some less than roles like Lucille Ball and Eleanor Roosevelt and some of the ones that are so well known as we talk about the women of distinction of New York State, all women who are serving in any capacity are serving as examples for women of tomorrow.

And as the young women come along behind those of us who are serving, please feel free: stand on our shoulders, take credit for some of the things we've done, learn from us, criticize what we have missed doing, and recognize that you have an unlimited possibility as the future holds it out for you here in New York State.

And when you go other places and say that you are from New York State, people will recognize that you have come from one of the best places on earth that sets an example for the rest of the country and, indeed, the rest of the world, as we did six months ago today as we set an example for the world by the bravery and courageous action of the people of New York City.

I'd like to open this resolution up for all of the members who would like to be on the resolution. Thank you very much for your attention.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on the resolution.

I wish to rise and congratulate Senator Rath for again making these very important contributions noted for the record of this state.

I couldn't help, though, but notice that during the discussion and reading of this resolution how the distinguished women so honored were not so honored because of their participation in Women's History Month, but because they did things so important to the history of this state and the history of this nation.

They did so in tremendous contribution. And it's something I believe should be pointed out time and time again. Many of these women came from the Finger Lakes region, the area that I represent -- Harriet

Tubman, Elizabeth Cady Stanton, Susan B. Anthony, most notably.

That we have a wonderful franchise in this state that is unique to New York, that no one can take away from us, because of the contributions of these distinguished individuals mentioned in the resolution.

It's a heritage that we can be extremely proud of, and one that we need to continue to promote because it presents such a wonderful focus on not just the women so honored but for our entire state.

And thank you, Senator Rath, for again your leadership.

Thank you, Mr. President, for letting me speak on this resolution.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. On the resolution, just a comment.

I am very pleased about the women who have been selected to be a part of this resolution. But I have a momentary concern that there are no women from the Minority who

have been placed in nomination for this singular honor. Particularly when we look at the fact that too often our women from the Minority have started from a point of disadvantage.

So that's just my note that I would like to go on the record as regards this resolution.

ACTING PRESIDENT MEIER: The sponsor has opened the resolution to sponsorship. Any member who would like to sponsor the resolution, please notify the desk.

Senator Volker.

SENATOR VOLKER: Let's just do it the normal way, which I think is that anybody can be on it. If they're objecting, they can just raise their hand and say they don't want to be on it.

Is that right? Okay.

ACTING PRESIDENT MEIER: Very well. Resolution 4316 is opened for cosponsorship by all members of the Senate. If you do not wish to be on this resolution, please notify the desk.

SENATOR VOLKER: Thank you, Mr. President.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Volker.

SENATOR VOLKER: Mr. President, I think there are a couple of other privileged resolutions by Senator Larkin at the desk. Would you read the title only, please.

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

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 4344, honoring the United States Military Academy at West Point upon the occasion of the March 16, 2002, ceremony marking the issuance of a United States Postal Service stamp and a coin

commemorating its bicentennial.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Volker.

SENATOR VOLKER: Senator Larkin indicated that he would also like the title to be open for cosponsors. So that we could do the same thing we did on the last resolution, that everybody will be put on unless they object.

Is that right?

ACTING PRESIDENT MEIER: Okay. With regard to Resolution 4344, the Secretary will add every member's name unless they notify us otherwise.

The Secretary will continue to read.

THE SECRETARY: By Senator

Larkin, Legislative Resolution Number 4345, paying tribute to Jacques Bayle, the French General Inspector of Finance, and extending a warm welcome on his visit to Albany, New York, on March 12, 2002.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Volker.

SENATOR VOLKER: Mr. President, I believe there are two other privileged resolutions by Senator Hoffmann. Would you please read the titles only, please.

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

THE SECRETARY: By Senator Hoffmann, Legislative Resolution Number 4346, paying tribute to the memory of Firefighter

Timothy J. Lynch, of Manlius, New York.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senator Hoffmann, Legislative Resolution Number 4347, paying tribute to the memory of Firefighter John Evo Ginocchetti, of Cazenovia, New York.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Volker.

SENATOR VOLKER: Mr. President, may we please have the noncontroversial calendar read, please.

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

THE SECRETARY: Calendar Number 48, by Senator DeFrancisco, Senate Print 4919, an act to amend the Economic Development Law, in relation to establishing.

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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 98, by Senator Alesi, Senate Print 520, an act to amend the Public Health Law, in relation to mandatory reporting.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 100, by Senator Hannon, Senate Print 2451, 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 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

175, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 9454, an act to amend the Labor 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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 185, by Senator Skelos, Senate Print 403, an act to amend the Penal Law, in relation to sentencing of persistent, violent felony offenders.

SENATOR PATERSON: Lay it aside.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number

187, by Senator Morahan -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 190, by Senator Libous, Senate Print 1990, an act -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 208, Senate Print 1428, an act to amend the General Municipal Law, in relation to allowing.

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 222, by Senator Maziarz, Senate Print 6139, an act to authorize the transfer of cash and cash reserves.

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 223, by Senator Leibell, Senate Print 6195, an act to amend Chapter 742 of the Laws of 1971.

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.

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

SENATOR VOLKER: Mr. President, would you just stand at ease for just a second.

Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, would you call up Calendar Number 187, by Senator Morahan, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 187.

THE SECRETARY: Calendar Number 187, by Senator Morahan, Senate Print 1759, an act to amend the Penal Law and the Criminal Procedure Law, in relation to fixing sentences.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Morahan, an explanation has been requested of Calendar 187 by Senator Duane.

SENATOR MORAHAN: Thank you, Mr. President. I'll be happy to explain the bill.

It requires that a person serving a sentence of parole supervision or on parole, conditional release, temporary release, or postrelease supervision who has been convicted of a felony committed while on such parole or release to be recommitted to serve the maximum term imposed by the court for the initial felony, in addition to the minimum term imposed for the subsequent felony, before reconsideration for parole, conditional release, temporary release, or postrelease supervision or a parole supervision.

ACTING PRESIDENT MEIER: Senator Duane.

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

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Is this a Governor's program bill?

SENATOR MORAHAN: No, sir. Not to my knowledge, let me put it that way.

SENATOR DUANE: And if the sponsor would continue to yield.

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Have you discussed this matter with the Governor's criminal justice people?

SENATOR MORAHAN: No, I have not.

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

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering if you have discussed this matter with the Department of Corrections.

SENATOR MORAHAN: No, I have not.

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

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: About how many people are sent back to prison for parole violations each year?

SENATOR MORAHAN: I don't know, Senator. Must be thousands.

SENATOR DUANE: I'm sorry, must be thousands?

SENATOR MORAHAN: Must be hundreds, thousands. I really don't know.

SENATOR DUANE: What will the - through you, Mr. President, if the sponsor would continue to yield.

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

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

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR DUANE: Will this legislation cause overcrowding in the state's correctional system in the outyears?

SENATOR MORAHAN: I don't believe it will, because the population, as you may know, is going down year after year.

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

ACTING PRESIDENT MEIER: Senator Morahan, do you continue?

SENATOR MORAHAN: Happily.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: If parole is eliminated for a person who reoffends while being out on parole, do you think that that will mean that there will be a lot more people serving 30 years or more in prison?

SENATOR MORAHAN: I really don't know what that may or may not call for in the future, Senator. It's hard, I don't have a crystal ball.

I just know there's something wrong

with allowing someone who's been given the privilege of parole or probation or supervised activity, who commits a felony while on such leave from prison, to allow that person back on the streets or to not let them know how seriously we think about felonies.

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

ACTING PRESIDENT MEIER: Senator Morahan, do you yield?

SENATOR MORAHAN: Yes, I do, Senator.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Now, should we not be leaving these kinds of decisions up to the Parole Board?

SENATOR MORAHAN: Well, let's put it this way. The Parole Board put them on parole or supervised maintenance, if you will, at one time in the past. I believe we have to make a statement. We can leave some decisions to the parole bureaus, but I think we have to speak to the policy.

SENATOR DUANE: And then through you, Mr. President, if the sponsor would continue to yield.

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you, Mr. President.

Is there companion legislation which addresses the purview of the Parole Board in the state, then?

SENATOR MORAHAN: I didn't understand the question. Would you repeat the question, Senator?

SENATOR DUANE: Well, yes, of course. Through you, Mr. President.

If the way I understand this bill is it would eliminate some of the Parole Board's discretion, then is there companion legislation which in fact deals with the issue of the responsibilities of the Parole Board?

SENATOR MORAHAN: No.

SENATOR DUANE: And through you,

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

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

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: However, we could agree that this bill would take away the power of the Parole Board.

SENATOR MORAHAN: Well, it just mandates under certain conditions what will happen to those who commit a felony. And, yes, it does mandate that to a degree for those who commit felonies while on parole. But there's other aspects other than the parole.

SENATOR DUANE: So in a way, then, this bill says that we don't really trust the actions of the Parole Board, is that correct?

SENATOR MORAHAN: No, that would be your interpretation if that's your interpretation. It's not mine.

I think this encourages them and rewards them, and I think it recognizes the difficult task they have.

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

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

SENATOR MORAHAN: Yes, sir.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm not sure I understand how this rewards the Parole Board.

SENATOR MORAHAN: Well, maybe "reward" is not the appropriate word. Maybe it does recognize the difficulties that they face in executing their obligations.

And I think it's our obligation to give them some of the guidance on the policy on how this State Legislature and/or the Governor, should he sign the bill, feels about matters such as this.

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

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

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Is the sponsor then saying that the job of a Parole Board member is too difficult for them and they need our help and that we're probably underpaying them by paying them over $100,000 a year?

SENATOR MORAHAN: No, I don't think that's what the bill says, Senator.

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

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Then perhaps I just don't understand. If we're going to be legislating what the Parole Board can and cannot do, then, in terms of what its role is

of how it treats people within the correctional system, if we're going to micromanage that, then why do we even need the Parole Board?

SENATOR MORAHAN: Senator, each year we past a host of bills here in the Senate and in the Assembly. Some of them match, some of them become law, signed by the Governor, that deal with a whole host of issues on criminal justice. And I don't believe that any of those bills calls into question any department in the Criminal Justice Department, in the state agency Corrections Department, or the Parole Department.

This is a simple bill.

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

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: But does not this

bill basically order the Parole Board to have someone who may have committed another offense serve out their entire term?

SENATOR MORAHAN: The bill requires anyone who's serving on parole or probation or any other form of release, okay, a recommitment. It requires them to be recommitted if they commit a felony while on release.

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

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: But doesn't this bill usurp whatever a Parole Board might decide to do and mandate it to do something?

SENATOR MORAHAN: I don't believe it does. I believe this says we're going to readmit the felon back to do the completed first term and serve a minimum of a new sentence before he can be released on parole

again. So the Parole Board would have jurisdiction on the second offense, the felony which he commits.

We're saying the felony he commits while on parole forfeits his parole, forfeits his probation, all of which I believe to be a privilege and subject to your conduct while on such a parole, that he would -- he or she would be returned to complete the entire term of the felony that they have been released for.

SENATOR DUANE: And through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT MEIER: Senator Morahan, do you yield?

SENATOR MORAHAN: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: However, without this legislation, the Parole Board would have the discretion; is that correct?

SENATOR MORAHAN: Yes.

SENATOR DUANE: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: I'm just -- I'm puzzled that we would have this bill before us but not really have the facts on how many - the facts, I assume, are available on how many people on parole are sent back for parole violations each year, what the cost of this would be in the outyears.

You know, I am aware that by and large Majority bills never have any cost, but it just strikes me that this one in fact would have a cost. And I know that the Governor has made it part of his platform to eliminate the Parole Board. However, as far as I know that hasn't happened yet, and the Parole Board, by statute, has certain discretions that it can use for people in the criminal justice system.

So I don't really understand why we would piecemeal be taking away the power of the Parole Board. If the Parole Board needs to be overhauled, then it should be overhauled. But to do it this way strikes me as not really an appropriate way to legislate.

Also, there's no allowance in this bill for someone, say, who as a young person commits a crime and then while out on parole commits another crime and then 30 years later is actually rehabilitated. There's no way that this person could ever, then, get out. So basically it would become a -- you know, it could be a life sentence, it could be a 30-year sentence. Which means we're going to have an awful lot of old people in prison. We already do have an awful lot of older people in prisons as it is.

But I just don't understand why we would have this legislation on our desks without really knowing what the impact of the legislation would be.

So I'm going to vote no on it, and I would encourage my colleagues to vote no as well.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to ask the sponsor a question.

ACTING PRESIDENT MEIER: Senator

Morahan, do you yield for a question?

SENATOR MORAHAN: Yes, sir.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Thank you, Mr. President.

Senator Morahan, does this bill - the bill says a felony. Does that -- is that specific to violent felonies, or is that any felony that -

SENATOR MORAHAN: Just a felony.

SENATOR MONTGOMERY: -- including drug felonies, nonviolent drug felonies?

SENATOR MORAHAN: Felonies.

SENATOR MONTGOMERY: So anything. All.

SENATOR MORAHAN: Yes, ma'am.

SENATOR MONTGOMERY: Another question, Mr. President.

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Senator

Morahan, you know that we now have - certainly in Kings County the Department of Corrections runs a drug treatment facility. The DAs in many of the counties across the state are using more and more the option of sending a particular case into a drug court proceeding.

And there are -- basically the penalty is avoided by agreeing to go into drug treatment. In other words, the option that is more and more being used for drug felony arrests, nonviolent drug felony arrests, is the alternative to incarceration.

SENATOR MORAHAN: Yes.

SENATOR MONTGOMERY: And alternative sentencing.

And so I'm just wondering, it seems to me that your legislation, then, essentially violates the intent and the possible positive outcome of the drug courts in particular and, in general, the move to move this whole issue of drug felony out of corrections so much and place it into an arena that is more geared to treatment.

But with your legislation, that

goes by the wayside. Isn't that a contradiction for us right here?

SENATOR MORAHAN: I don't believe it is, Senator. I believe that if a court does so assign a felon to that sort of treatment but, while in that condition and in that rehabilitation program, they continue - he or she continues or does commit a felony, then I think the rehabilitation obviously was not that helpful.

And I don't know the sincerity - or we don't know the sincerity, if you will, of the people who are so sentenced to that rehabilitation.

But it does allow for that rehabilitation to occur, just as probation does and parole does, so people do have a chance.

SENATOR MONTGOMERY: All right. Thank you for your explanation, Senator Morahan.

Mr. President, briefly on the legislation.

ACTING PRESIDENT MEIER: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. I support Senator Duane and his concerns raised. I also believe that this is just going in the opposite direction of where even the Governor is attempting to go -- at least he is making signals in that direction -- and that is we want to reduce the tremendous burden that the state now has in terms of incarcerating people who essentially have an illness, many of them mental illness, many of them dual-diagnosed with mental illness and drug abuse. And obviously, with that kind of combination, they are bound to commit an infraction.

But rather than simply looking at the infraction, especially if it is a nonviolent situation -- i.e., drugs and what have you -- we're now looking to treat the person as if that person has those illnesses which are exhibited and that those trigger that behavior.

This legislation takes all of that away. Mr. President, we're going absolutely backwards. We're losing all sense of any direction to make a correction in the way that we have been going, a direction that we all

agree has cost too much money, too many lives, destroyed communities, and has not bought us any additional security or sense of safety.

So I'm opposed to this. I appreciate Senator Duane's discussion and illuminating this whole question for us. And I certainly also encourage my colleagues to vote no on this legislation. It's the wrong direction for us to be taking at this time.

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

Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 187 are Senators Andrews, Duane, Hassell-Thompson, Ms. Krueger, Montgomery, and Senator Santiago. Also Senator A. Smith. Ayes, 52. Nays, 7.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Volker.

SENATOR VOLKER: Mr. President, would you return to reports of standing committees for a finance report, please.

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 Number 1508, by Senator Alesi, an act to amend the Executive Law;

3291, by Senator LaValle, an act to amend the Executive Law;

3517, by Senator Seward, an act to amend the State Finance Law;

3813, by Senator Velella, an act to amend the Executive Law;

5492A, by Senator Libous, an act authorizing the Commissioner of Transportation;

5853, by Senator Kuhl, an act to amend the Executive Law;

6026, by Senator Volker, an act to

amend the Executive Law;

6073, by Senator Marcellino, an act to amend the Executive Law;

6074, by Senator Marcellino, an act to amend the Executive Law;

And Senate Print 6158, by Senator Spano, an act to amend the State Finance Law.

All bills ordered direct to third reading.

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

Senator Volker.

SENATOR VOLKER: Mr. President, would you take up Senator Kuhl's bill, Senate Print 5853, please.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 301, by Senator Kuhl, Senate Print 5853, an act to amend the Executive Law, in relation to requiring.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator

Kuhl, an explanation has been requested by Senator Duane.

SENATOR KUHL: Thank you, Mr. President.

This is a bill that essentially amends Subdivision 21 of Section 403 of the Executive Law, which currently indicates that the flag that's displayed at every public facility in the state of New York will be flown at full staff except when it is necessary to or appropriate to commemorate the death of a person of national or state standing, or of a local serviceman or -woman, or of an official or public servant who, in the opinion of the local agency, contributed to the community, or at times when the Governor or President designate that it shall be flown at half-mast -- with the exception of one day. That day is Pearl Harbor.

This bill would amend the statute to essentially acknowledge the fact that we had the most horrific, unbelievable tragedy occur in this state on September 11th, just six months ago today, and that we will henceforth, after this bill passes the

Assembly -- and I have no doubt that it will -- and it's signed into law by the Governor, we will fly the flags at all public facilities in this state at half-mast on September 11th.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. If the sponsor would yield, please.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering if this legislation was open to all members of the Senate for sponsorship.

SENATOR KUHL: I think I heard the question, even though there was a little noise in back of me here.

But the answer is yes, Senator, you should have gotten that communication from your counsel earlier today, as I delivered the message to all members of my Majority who

asked whether or not they were going to be on it. And the answer was absolutely.

This is a time of nonpartisanship. This is not a partisan bill. While we could make it a program bill, certainly that's not the intention.

And so, in fact, your staff and your leadership have been informed that all of you are going to be placed on the bill. Unless, Senator, you don't wish to be on the bill. If that's the case, you should notify the desk.

And that is the case with all my Majority members over here. They've been told that their names will be placed on the bill unless they wish not to be. In that case, they can notify the desk that they don't wish to be sponsors.

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

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

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR DUANE: I am just taken aback that when I read the bill in front of me that it only has the names of Majority members on it. And I'm wondering why it was not opened at its inception but was opened down the line.

I'm going to withdraw the question, Mr. President.

SENATOR HASSELL-THOMPSON: Thank you.

ACTING PRESIDENT MEIER: You're welcome.

Any other Senator wishing 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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Volker.

SENATOR VOLKER: Mr. President, could you take up Senator Marcellino's bill, Senate Print 6073, please, which is on the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 303, by Senator Marcellino, Senate Print 6073, an act to amend the Executive Law, in relation to display of the flag on 9/11 Remembrance Day.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: And on the bills, we would certainly like this bill to be opened up to all members in the usual fashion.

ACTING PRESIDENT MEIER: We'll handle this bill in the same fashion, then.

All members will be recorded as cosponsors. If for some reason a member wishes not to be, notify the desk.

The Secretary will announce the results of the roll call.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Volker.

SENATOR VOLKER: Mr. President, if we can take up Senator Marcellino's bill, Senate Print 6074, which is now currently on your desks.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 304, by Senator Marcellino, Senate Print 6074, an act to amend the Executive Law, in relation to designating September 11th as 9/11 Remembrance Day, a day of commemoration.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I'd like to do the same thing and open this bill up to all cosponsors, in our

fashion in this house. Anybody not wishing to be, please notify the desk. Otherwise we'll put everybody on the bill.

This bill basically states that this day will be commemorated from hereafter as a day of commemoration, a day of contemplation of the horrific and cowardly act that took place on 9/11.

It's also to be commemorated in honor of the bravery of those individuals who went to that site and helped to rescue literally thousands of people -- or 3,000 lives were lost, approximately. Many thousands more could have been lost but for those who went into that building with disregard for their own health and safety and got out all those who got out safely.

This is probably an example of the most heroic and successful rescue operation that has ever occurred in the history of mankind, and we believe this day should be commemorated from here on.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: In the same fashion as the previous bill, then, all

members will be listed as cosponsors unless they wish not to be; in which case, inform the desk.

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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 185.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 185.

THE SECRETARY: Calendar Number 185, by Senator Skelos, Senate Print 403, an act to amend the Penal Law, in relation to sentencing.

SENATOR DUANE: Explanation, please.

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

SENATOR SKELOS: Thank you, Mr. President.

This legislation will eliminate discretionary parole for violent felony offenders who have been convicted and sentenced for three or more violent felonies.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. If the sponsor would yield.

ACTING PRESIDENT MEIER: Senator Skelos, do you yield?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering whether or not this is a Governor's program bill.

SENATOR SKELOS: No.

SENATOR DUANE: And through you, Mr. President, if the sponsor would continue

to yield.

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

SENATOR SKELOS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: And I'm wondering if there have been any discussions with the Governor's criminal justice staff members regarding this legislation.

SENATOR SKELOS: I am not familiar with discussions at the staff level. Certainly I have not.

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

ACTING PRESIDENT MEIER: Senator Skelos, do you yield?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Is there similar legislation in other states?

SENATOR SKELOS: Yes, I'm sure

there is.

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

ACTING PRESIDENT MEIER: Senator Skelos, do you yield?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: And what has been the -

SENATOR SKELOS: Senator, would it be possible for you to speak into the mike? Because it's just not picking you up. Thank you.

SENATOR DUANE: Through you, Mr. President. I was -- even when I was small, I was tall. It's always been a problem.

I'm wondering if there's any data on what the impact of these kinds of laws has been in the other states.

SENATOR SKELOS: Mr. President, if I could, the impact would be safer communities for the people of the State of

New York.

SENATOR DUANE: Thank you, Mr. President.

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

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Thank you, Mr. President.

At the risk of beating a dead horse -- which I'm sure people will say I've taken that risk -- I don't understand how we can pass this legislation without even discussing it with the Executive branch and whether or not this is part of their criminal justice package. Or, for that matter, how we can do this without finding out what the impact would be on our correctional system.

And, for that matter, to find out how the Parole Board members feel about it. For, you know, $100,000 plus a year, I would think they might actually have an opinion on this kind of bill.

So I just would encourage us to have a little bit more data before we pass these pieces of legislation. And until such time as we do a more sweeping look at the Parole Board and its functions, I would encourage my colleagues to vote no.

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

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I would just like to point out to my colleagues that this bill is a "three strikes and you are in for life" legislation. And it includes burglary and assault as violent felonies, obviously.

And this is despite the fact that in 1995 we already passed legislation which increased the sentencing of these felonies from a term of 12 to life up to 25 years to

life, and the requirement that 6/7 of that term be fulfilled before you are eligible for parole.

So I think this is once again we're going very, very far in terms of increasing the length of time any person is to be incarcerated. And this is essentially a "three strikes and you're in for life" bill which we know has not worked at all in the state of California, which is the first state that enacted such a law.

So I'm going to vote no. This is a very bad bill for us to consider today.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 185 are Senators Andrews, Duane, Hassell-Thompson, Ms. Krueger, Montgomery, Paterson, Sampson, Santiago, Schneiderman, and Senator A. Smith. Ayes, 49. Nays, 10.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please lay aside Calendar Number 190 for the day.

ACTING PRESIDENT MEIER: Calendar 190 will be laid aside for the day.

That then would complete the calendar, Senator.

SENATOR SKELOS: Mr. President, would you please call up Calendar 84.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 84.

THE SECRETARY: Calendar Number 84, by Senator Skelos, Senate Print 6263A, an act to amend the Correction Law, in relation to the registration of sex offenders.

ACTING PRESIDENT MEIER: Senator Skelos.

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

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

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The question is on the message of necessity. All

those in favor of accepting the message say 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 24. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: I want to be considered in the negative on Calendar 84.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 84.

SENATOR MONTGOMERY: Thank you.

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

SENATOR DUANE: Thank you, Mr. President. I would also like to be recorded in the negative on Calendar Number 84.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 84.

Senator Skelos.

SENATOR SKELOS: Mr. President, I inadvertently laid Senator Libous's bill aside, Calendar Number 190. And with the gracious consent of the Minority, they would allow us to bring it up at this time.

ACTING PRESIDENT MEIER: Without objection, the Secretary will read Calendar 190.

THE SECRETARY: Calendar Number 190, by Senator Libous, Senate Print 1990, an act to amend the Penal Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. 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 Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Yes, thank you. I'm sorry our friend Senator Libous is not here. We had a colloquy over this last year.

I do feel very strongly that additional penalties for possession of a firearm are appropriate in virtually every circumstance. The reason that I have to vote against this bill is that I think that it isolates drug offenses, which are unfortunately locked into a very, very bad framework in our laws by the Rockefeller Drug Laws and other statutes.

And I think isolating crimes which can involve very, very small quantities of drugs with disproportionate punishments and attaching an additional penalty for the possession of a firearm really, if anything,

calls attention to the need for reform of those laws more than it does for the penalties called for in this bill.

While I generally support the idea of additional penalties for firearms, as I noted to Senator Libous last year, I'm voting no because of the catastrophic condition of laws against drugs in New York State. And that's what this bill would limit its effect to.

Thank you, Mr. President. I vote no.

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

Senator Hevesi, to explain his vote.

SENATOR HEVESI: Thank you, Mr. President. I rise to explain my vote very briefly, and I made similar comments last year.

I support this bill that if somebody is convicted of a drug offense that they should be deemed unsuitable to possess a rifle or a shotgun, but again would like to point out that we have no background checks,

no checks of any kind for anyone who wants to purchase a rifle or a shotgun.

So even though this is a worthy piece of legislation, we don't have the additional implementation to prevent somebody who would be convicted under this bill from actually being prevented, when they walked in, to buy the rifle or the shotgun.

It's a policy loophole that I think if this is worthy to pass, it would be worthy to correct that.

But I vote yes on this bill.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 190 are Senators Montgomery, Paterson, and Schneiderman. Ayes, 56. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Please recognize Senator Montgomery.

ACTING PRESIDENT MEIER: Senator

Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I was not in the chamber when we debated and voted for the Calendar Number 184 last Wednesday. But had I been here, I would have voted no on that legislation.

I just would like the record to show it, please.

ACTING PRESIDENT MEIER: The record will so reflect, Senator Montgomery.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: No, there is not, Senator.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno, I hand up the following notice of leadership changes and ask that it be filed in the Journal.

ACTING PRESIDENT MEIER: Received and filed.

Senator Skelos.

SENATOR SKELOS: Mr. President, as we conclude the session, as we began the session, may we please have a moment of

silence in honor of the victims of the tragedy of September 11th.

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

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Thank you.

Mr. President, there being no further business to come before the Senate, I move we adjourn until Tuesday, March 5th, at 3:00 p.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, March 5th, at -- March 12th, at 3:00 p.m.

SENATOR PATERSON: Mr. President, Senator Skelos is running a week behind. March 12th.

(Whereupon, at 4:15 p.m., the Senate adjourned.)