NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 6, 2002

3:17 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.

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

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

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

REVEREND YOUNG: Thank you, Senator.

Let us pray. God has given many different gifts to our Senators, but it is always Your spirit, O God, that guides them. There are many different ways of serving as Senators, and they always know that You, O God, have granted them that gift that is to be used for the good of our New York State citizens.

God has gifted each Senator with the unique potential to help their constituents. Let us take a moment to thank God for these talents and skills.

God, we thank You for these gifts unique to each Senator. And let us not be jealous of talents that we don't have, but then rather let us rejoice in who you are or what you're doing. Let us now dedicate ourselves to make this the effort of all of our New York State citizens.

Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

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

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

Senator Skelos.

SENATOR SKELOS: If I could interrupt, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in

the Senate Conference Room.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

Senate Print 1810B, by Senator Seward, an act to amend the Insurance Law;

2187B, by Senator Larkin, an act to amend the Insurance Law;

2944, by Senator LaValle, an act to amend the Insurance Law;

5524A, by Senator Seward, an act to amend the Insurance Law;

6589A, by Senator Seward, an act to amend the Insurance Law;

6701, by Senator Seward, an act to amend the Insurance Law;

7359, by Senator LaValle, an act to amend the Insurance Law;

And 7360, by Senator Seward, an act to amend the Insurance Law.

Senator Bonacic, from the Committee on Housing, Construction and Community Development, reports:

Senate Print 4527, by Senator Nozzolio, an act to amend the Public Housing Law;

5133, by Senator Bonacic, an act to amend the Private Housing Finance Law;

6498, by Senator DeFrancisco, an act to amend the Real Property Tax Law;

6843, by Senator Bonacic, an act to amend Chapter 449 of the Laws of 1986;

6844, by Senator Bonacic, an act to amend Chapter 777 of the Laws of 1986;

6845, by Senator Bonacic, an act to amend Chapter 84 of the Laws of 1993;

6917, by Senator Padavan, an act to amend the Private Housing Finance Law;

And 6908, by Senator Padavan, an act to amend the Real Property Tax Law.

Senator Hoffmann, from the Committee on Agriculture, reports:

Senate Print 6346A, by Senator McGee, an act to amend the Agriculture and Markets Law;

6510, by Senator Hoffmann, an act to amend the Agriculture and Markets Law;

6511, by Senator Hoffmann, an act to amend the Agriculture and Markets Law;

6913, by Senator Hoffmann, an act to amend the Agriculture and Markets Law;

And Senate Print 6915, by Senator Hoffmann, an act to amend the Agriculture and Markets 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 Farley.

SENATOR FARLEY: Thank you, Mr. President.

Amendments are offered to the following Third Reading Calendar bills:

Senator Rath, page 4, Calendar 28, Senate Print 3676;

Senator Maltese, page 10, Calendar 205, Senate Print 4910;

Senator Volker, page 15, Calendar 315, Senate Print 3210A;

Senator Marchi, on page 18, Calendar 379, Senate Print 4322A;

Senator Seward, page 25, Calendar Number 542, Senate Print 6025;

Senator Nozzolio, page 28, Calendar 587, Senate Print 6774;

Senator Kuhl, on page 31, Calendar 642, Senate 6906;

Senator Trunzo, on page 39, Calendar 730, Senate Print 4047;

Senator Seward again, on page 48, Calendar Number 847, Senate Print 6852;

Senator Nozzolio, on page 52, Calendar 888, Senate Print 3703;

Senator LaValle, on page 54, Calendar Number 909, Senate Print 3817;

And Senator Leibell -- wait a minute. That's Libous? -- Leibell, page 56, Calendar 924, Senate Print 7214.

And I ask that these bills retain their place on the Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President.

SENATOR VELELLA: Mr. President, can we have the reading of the noncontroversial calendar.

ACTING PRESIDENT MEIER: Senator, we have one more motion. Could we take care of that first, if you don't mind. Fine.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President. On behalf of Senator Maziarz, please place a sponsor's star on Calendar Number 829.

ACTING PRESIDENT MEIER: So ordered.

SENATOR FUSCHILLO: On behalf of Senator LaValle, I wish to call up Senate Print Number 6372, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The

Secretary will read.

THE SECRETARY: Calendar Number 378, by Senator LaValle, Senate Print 6372, an act to amend the Highway Law.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Balboni, I wish to call up Calendar Number 467, Assembly Print Number 10155A.

ACTING PRESIDENT MEIER: The

Secretary will read.

THE SECRETARY: Calendar Number 467, by Member of the Assembly Klein, Assembly Print Number 10155A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the Assembly Bill was substituted for Senate Print Number 6594A on April 23rd.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now move that Assembly Bill 10155A be recommitted to the Committee on Water Resources and the Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT MEIER: So ordered.

SENATOR FUSCHILLO: I now offer

the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 18, by Senator Seward, Senate Print 5584B, an act to amend the Insurance Law, in relation to increasing.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 173, by Senator Lack, Senate Print 1263A, an act to amend the Labor Law, in relation to direct sellers.

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, 54. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 215, by Senator Maziarz, Senate Print 3222, an act to amend the General Municipal Law, in relation to restricting.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

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 297, by Member of the Assembly Levy, Assembly

Print Number 6603, an act to amend the Executive Law, in relation to the submission of arson reports.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 317, by Senator Morahan, Senate Print 3951A, an act to amend Chapter 415 of the Laws of 1998.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 501, by Senator Libous, Senate Print 3667A, an act to amend the Mental Hygiene Law, in relation to providing.

ACTING PRESIDENT MEIER: Read the last section.

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

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 541, by Senator Hoffmann, Senate Print 6629, an act to amend the Agriculture and Markets Law, in relation to the definition of the term "gross sales value."

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 588, by Senator Marcellino, Senate Print 487, an act to amend the Vehicle and Traffic Law, in relation to aggravated unlicensed operation.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 597, by Senator Velella, Senate Print 5706A, an act to amend the Labor Law, in relation to air temperature standards.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 606, by Senator Saland, Senate Print 1342, an act to amend the Criminal Procedure Law, in relation to authorized child witnesses.

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.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 686, by Senator Balboni, Senate Print 6933, an act to amend the Environmental Conservation Law and the Public Authorities Law, in relation to water resources.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 9. 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 710, by Senator Johnson, Senate Print 5770, an act to authorize the Ascension Evangelical Lutheran Church.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR DOLLINGER: Thank you, Mr. President.

I'm going to vote against this

bill, as I will also vote against the other proposed -- the other four or three proposed tax assessment bills in which we are deviating from the rule in New York that sets a taxable status day for the establishment of real property tax exemptions.

I suggested when we did this first bill about three or four years ago that this body would become the grand overseer of the Long Island counties and their tax-exempt status projects. And now I find that, true to my belief, we've already done three or four this year, we've got four more coming. I would suggest we're going to start doing chapters by the dozens, purely to rectify the problem which exists in Nassau County, apparently just Nassau County, for property tax exemptions.

Mr. President, I point out that in these proposals, and the other bills are in there, there are instances of what I consider attorney malpractice. There's one instance where a property was purchased by a tax-exempt organization and it wasn't actually filed with the county clerk for a year later.

It seems to me, Mr. President, my prediction has come true. We're starting to act more and more like the grand overseer of property tax exemptions, for partial property tax exemptions for religious and charitable organizations, and we're absolving all these attorneys who fail to file deeds and fail to follow through with property tax exemptions, we're absolving them of their malpractice.

Mr. President, these continuing parade of bills call for a statewide change so that local assessors will have the ability to grant partial property tax rebates to qualified organizations. Until we do a statewide bill, Mr. President, my voice will continue to rise in the negative on this bill and I'll vote no on the others that are on the calendar as well.

Thank you.

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

The Secretary will announce the results.

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

negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 716, by Senator Skelos, Senate Print 6388, an act authorizing the assessors of the Village of Cedarhurst in the County of Nassau.

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 Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 717, by Senator Trunzo, Senate Print 6417, an act in relation to authorizing the assessor of the Town of Islip.

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 Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 718, by Senator Skelos, Senate Print 6620, an act to authorize the assessor of the County of Nassau to accept and consider.

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 Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 732, by Senator Spano, Senate Print 6068, an act to amend the Vehicle and Traffic Law, in relation to exempting flood and sandstorm damage.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 817, by Senator Wright, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 819, by Senator Bonacic, Senate Print 6201, an act making certain findings and determinations.

ACTING PRESIDENT MEIER: There is a home-rule message and a local fiscal impact note 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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 841, by Senator Volker, Senate Print 6389, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator Paterson, Senate Print 1478, an act to amend Criminal Procedure Law, in relation to admissibility.

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. Nays, 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 865, by Senator Padavan, Senate Print 3124, an act to amend the Criminal Procedure Law, in relation to peace officer training.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

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 877, by Senator Meier, Senate Print 6940, an act in relation to adjusting certain state aid payments.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 879, by Senator Stafford, Senate Print 7000, an act to amend Chapter 698 of the Laws of 1996.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 899, by Senator Meier, Senate Print 7137A, an act to amend the Welfare Reform Act of 1997.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 913, by Senator Leibell, Senate Print 6289, an act to amend the Administrative Code of the City of New York, in relation to member contributions.

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.

Senator Velella, that concludes the noncontroversial reading of the calendar.

SENATOR VELELLA: Mr. President, before we go to the controversial calendar, can you please call up Calendar Number 899, which was laid aside inadvertently, I believe.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 899.

THE SECRETARY: Calendar Number 899, by Senator Meier, Senate Print 7137A, an act to amend the Welfare Reform Act of 1997.

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.

Senator Velella.

SENATOR VELELLA: May we proceed to the controversial calendar now.

ACTING PRESIDENT MEIER: The

Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 541, by Senator Hoffmann, Senate Print 6629, an act to amend the Agriculture and Markets Law, in relation to the definition of the term "gross sales value."

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Hoffmann, Senator Duane has requested an explanation of Calendar 541.

SENATOR HOFFMANN: Thank you, Mr. President.

This bill is at the request of the New York State Thoroughbred Breeders Association. They would like proceeds from the development fund to be applied toward the gross income, so that people who are raising thoroughbred horses and can fit within the definition of agriculture will receive the $10,000 agriculture threshold.

ACTING PRESIDENT MEIER: Does any other member wish to be heard on this 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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 732, by Senator Spano, Senate Print 6068, an act to amend the Vehicle and Traffic Law, in relation to exempting flood and sandstorm damage.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Spano, Senator Paterson has requested an explanation of Calendar 732.

SENATOR SPANO: Thank you, Mr. President.

This bill was introduced after talking to a couple of consumers who have purchased vehicles in New York State from licensed dealers and then were told that they needed to wait up to six months for inspection of those vehicles.

What we are -- the original chop shop, if you will, legislation that was passed has been working very well. But what -- it includes in New York State a dealer, for instance, who goes out of New York State and purchases 150 or 200 or 300 vehicles that were mightily damaged in a sandstorm or a flood.

Those vehicles that are purchased and brought into New York State have to go through the same inspection procedures as a salvage vehicle, as any other vehicle that would be purchased by an insurance company that maybe replaced a fender or replaced parts to that vehicle.

What this legislation does specifically is exempt those new vehicles, vehicles that have not been titled before in New York State, from the inspection procedures of this statute, but keeps in place the salvage vehicle identification so that consumers will know they have in fact purchased a vehicle that is a salvage vehicle. But the dealers would have to attest to the fact by signing a sworn affidavit that there were no parts changed, that there were no

components changed to this vehicle.

If the salvage vehicle, as a result of the sandstorm or flood, would need to have a major component replaced, like a computer or other components, then it would be subject to the inspection procedures.

What this does is streamline the process, puts the consumers in New York State who purchased these vehicles who are at an economic disadvantage by putting money out, purchasing -- paying a down payment and then told: You've got to wait six months for an inspection.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: The salvaged vehicles that arose from the result of a sandstorm or flood damage are not guaranteed in spite of the fact that there may not be any parts changed or even a sworn affidavit by the automobile dealer. As a consumer protection

security, it doesn't guarantee that there wasn't damage to the actual car.

What Senator Spano's bill is addressing isn't as much the consumer protection problem, but a problem in the delay of inspections, which he rightly points out is an economic inconvenience to the buyer.

What I would like to suggest is that we address that, that Senator Spano might want to address that in legislation, maybe, if necessary, mandating a particular time at which the inspection must be completed and the vehicle is then presented back to the consumer.

But I think that the consumer protection legislation that we have now, or at least the credo of it that would compel there to be an inspection, is even more manifest, considering the fact that there was at least a reasonable sense that there could have been damage to the actual vehicle.

So I think that there is a real issue that Senator Spano is addressing, but I would favor the value of consumer protection over the inconvenience to the consumer

economically, with the caveat that there is a cure, perhaps, in legislation that perhaps Senator Spano would want to introduce that would allow for a way in which the process needs to be truncated.

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

Debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 732 are Senators Andrews, Connor, Dollinger, Duane, L. Krueger, Onorato, Oppenheimer, Paterson, Rath, Sampson, A. Smith, Stachowski, Stavisky, Wright. Also Senator Mendez. Also Senator Hevesi. Also Senator Brown. Also Senator Farley.

Ayes, 41. Nays, 18.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 817, by Senator Wright, Senate Print 5787, an act to amend the General Municipal Law, in relation to the purchase of farm products.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Wright, an explanation has been requested by Senator Dollinger with regard to Calendar 817.

SENATOR WRIGHT: Thank you, Mr. President.

The bill before you amends the General Municipal Law, and it's to facilitate the sale of natural produce and farm vegetables, milk, et cetera, to school districts, directly from the farmer to the district.

This is an extension of several bills that we've passed earlier this year - or, excuse me, last session -- to facilitate this process.

What you will find is that the bill had its origins with the School Food Service Association, the professionals who deliver some 1.5 million meals a day to students throughout this state. In turn, the changes

in the statute were developed in conjunction with State Ed and State Ag and Markets, so that we're focusing on the proper area.

And, as you can see, it enjoys the support from the Farm Bureau, because we're facilitating the use of our largest industry in the state.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Senator Meier, will Senator Wright yield to one question.

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

SENATOR WRIGHT: I will, Mr. President. I heard him say one.

SENATOR DOLLINGER: Just one.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Through you, Mr. President, this proposal eliminates the Commissioner of Education's ability to control these purchases by regulation, does it not?

SENATOR WRIGHT: It does, in terms of this specific section which had a

very specific requirement in it. We're eliminating that requirement. It does not preclude the Commissioner's generic right to develop regulations for the governance of the department.

SENATOR DOLLINGER: Thank you.

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

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate what Senator Wright is trying to do here. I think that having local produce -- and it talks about fish and eggs, dairy products, juice, grains, and species of fresh fruit and vegetables directly from New York producers - is a great idea.

I do, however, think that the removal of the Department of Education's direct oversight of this regulatory process is misplaced. And the reason for that is, Mr. President, that we do have public bidding laws, we do have requirements under those laws that, in essence, require that the public look to maximize the return to the taxpayer by

finding the lowest, best-qualified bidder.

And I'm concerned that what this suggests is that we will end up with local suppliers for local school districts that will have virtual -- well, I won't say monopoly power, but that a traditional supplier will become the sole-source supplier.

The other thing that I'm struck by, Mr. President, is that this includes language that says that "the items so purchased do not exceed the market value of such items." There's no protocol for determining the market value, there's no way to enforce that provision for market value.

I understand what Senator Wright is saying, which is that, I assume, that the price for these goods should not be beyond the normal, accepted price for them in the marketplace of a school district. But I quite frankly think the language leaves a little bit to be desired in attaining that goal.

The other thing is, Mr. President, the final comment is that it says that all producers and grocers who decide to sell to a school district shall have equal opportunities

to do so. I would suggest that's exactly what our public bidding laws are for. The public bidding laws codify a fair and even-handed procedure so that any supplier or any producer of these products will have an equal access and equal opportunity to sell these goods and commodities to the school district for the best possible price.

Senator Wright's goal I think is a laudable one, and one that we should use every effort to try to promote the purchase of New York's home-grown products by its local school districts. I am afraid, however, that this bill's removing of the Commissioner of Education's ability to oversee the process and this substitution of what I regard as weaker language for the very strong language contained in our public bidding laws, Mr. President, suggests that as well-intentioned and as important a goal as Senator Wright seeks to attain here, Mr. President, I'm going to reluctantly vote in the negative.

ACTING PRESIDENT MEIER: Does any other member wish to be heard?

Debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 817 are Senators Dollinger, Duane, and L. Krueger. Ayes, 57. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on Calendar 732, Senate Print 6068, and 861, Senate Print 1478.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative with regard to Calendars 732 and 861.

The Secretary will continue to read.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you,

Mr. President. I'd request unanimous consent to be recorded in the negative on Calendar 732, Senate 6068.

ACTING PRESIDENT MEIER: Without objection, Senator Schneiderman will be recorded in the negative on Calendar 732.

Senator Gentile.

SENATOR GENTILE: I too, Mr. President, request unanimous consent to be recorded in the negative on Calendar 732.

ACTING PRESIDENT MEIER: Without objection, Senator Gentile will be recorded in the negative on Calendar 732.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 877, by Senator Meier, Senate Print 6940, an act relating to adjusting certain state aid payments.

ACTING PRESIDENT MEIER: Senator Dollinger.

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

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I'm going to vote in favor of this bill, Mr. President. And the theory underlying this bill is absolutely the correct one for the State of New York.

As everybody knows, when a school district receives an overpayment from the state government, they demand it back in a single year. If the state government owes you money, they pay it back over a six-year period. What Senator Meier's bill does is it creates a both-ways situation. If they overpay you, you've got six years to pay it back. If they underpay you, you've got six years to get it.

Mr. President, this is a good bill. I would just encourage you that this is a bill that not only helps Potsdam, but this bill will help every school district in the state. Let's treat them all fairly. Let's take the Meier principle and put it in effect across the state.

I'll be voting in the affirmative.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: I used to vote in favor of all of these bills, Mr. President. I have stopped doing that six or seven bills ago because, while I agree with Senator Dollinger that if a district is owed money or the state is owed money that proper action should be taken, we never seem to take the corrective action necessary to prevent this type of situation.

And I could overlook it still if any one of these bills included interest payments from the local school district back to the State Education Department. So many times we have local school districts that request money errantly that they don't deserve. For some reason SED -- and they never correct this -- goes ahead and pays the money.

When you add up the total number of these claims, and I've done this in the past, it's millions of dollars. No interest is paid

back by the local school district to SED, to the state. And that means that all of our schoolchildren are shortchanged thousands and thousands of dollars because no interest is provided for.

I could even let that go a couple of times if we corrected this problem. But SED never corrects the problem. The oversight is insufficient. And as a result, Mr. President, I will be voting no on this bill.

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

Debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Hevesi recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Velella, that concludes the controversial reading of the calendar.

SENATOR VELELLA: Mr. President, may we return to reports of standing committees. I believe we have a report from the Rules Committee.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills direct to third reading:

Senate Print 7355, by Senator Fuschillo, an act to amend Chapter 33 of the Laws of 2002;

And Senate Print 7356, by Senator Marchi, an act to amend the Workers' Compensation Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: All those in favor of accepting the report of Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report is accepted.

Senator Velella.

SENATOR VELELLA: Can we take up Calendar 959 now, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 959.

THE SECRETARY: Calendar Number 959, by Senator Fuschillo, Senate Print 7355, an act to amend Chapter 33 of the Laws of 2002 authorizing the removal.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Just on the bill briefly, Mr. President. I'll waive the explanation from Senator Fuschillo, if I can.

ACTING PRESIDENT MEIER: Senator

Dollinger, on the bill.

SENATOR DOLLINGER: Thank you, Mr. President.

My friend Senator Fuschillo comes back to us with a technical amendment on this critically important concept of the Roosevelt School District. And I know, Senator, that you and I have had different points of view on this and its appropriate resolution.

The concern I have, Mr. President, is with respect to the severability clause. It was described to me in the Rules Committee as a super-special severability clause. It's designed to strengthen -- it's even in more forceful language, quite frankly, than the severability clause that usually accompanies our statutes.

I would suggest, however, that there is, from the point of view of what's going on in the Roosevelt School District - it seems to me that what Senator Fuschillo has tried to do is, even though I've disagreed with him, is put together a comprehensive package that will aid this school district.

And it seems to me that to sever

any portion of that comprehensive package could be undercutting the very goal that Senator Fuschillo's bill is trying to achieve, that to allow a portion of the bill to be severed off and to continue other portions of the controls and the monitoring and, if necessary, the replacement of the school district -- it seems to me would defeat the purpose, to allow a broad, an exceptionally broad severability clause that may allow the courts to in essence reform this legislation, to take a piece out and at the same time disrupt the comprehensive system that Senator Fuschillo has attempted to achieve.

Mr. President, I'm concerned about the extent of the severability clause. I still believe that the solution to the Roosevelt School District lies with a different approach. And I'm going to vote against this bill.

But I'm fearful that the broad severability clause could lead to a situation where the comprehensive package of reforms that Senator Fuschillo has advocated for consistently in this house, in the spirit of

his predecessor, Norman Levy, may not actually come to pass if we allow this broad severability clause to enable the courts to leave part of the package in place and remove a portion of it.

I would suggest that what we would need to do, Mr. President, if the courts invalidate any portion of the entire proposal, come back here, bring another comprehensive approach back and allow this house to approve it before we allow the courts to pull one piece out and let this multilegged stool perhaps crumble because one of its legs had been removed by the court.

Mr. President, reluctantly, I'll again be voting in the negative.

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

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: Those recorded in

the negative on Calendar Number 959 are Senators Andrews, Connor, Dollinger, Duane, Hassell-Thompson, Paterson, Schneiderman, A. Smith, and Stachowski. Also Senator Brown. Ayes, 50. Nays, 10.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 732.

ACTING PRESIDENT MEIER: Without objection, Senator Fuschillo will be recorded in the negative on Calendar 732.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 732.

ACTING PRESIDENT MEIER: Without objection, Senator Nozzolio will be recorded in the negative on Calendar 732.

Senator Breslin.

SENATOR BRESLIN: Mr. President, I would request unanimous consent to be

recorded in the negative on Calendar 732.

ACTING PRESIDENT MEIER: Without objection, Senator Breslin will be recorded in the negative on Calendar 732.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I too would rise to request unanimous consent to be recorded in the negative on Calendars 732 and 888.

ACTING PRESIDENT MEIER: Without objection, Senator Hassell-Thompson will be recorded in the negative on Calendar 732.

And, Senator, Calendar 888 was amended and hasn't been voted on yet.

SENATOR HASSELL-THOMPSON: Okay. Thank you.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. I ask for unanimous consent to be recorded in the negative on Calendar 732.

ACTING PRESIDENT MEIER: Without objection, Senator Morahan will be recorded in the negative on Calendar 732.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Mr. President, I'd like unanimous consent to be recorded in the negative on Senate 7355, the bill we just discussed.

ACTING PRESIDENT MEIER: Without objection, Senator Liz Krueger will be recorded in the negative on Calendar 959.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I would also request unanimous consent to be recorded in the negative on Calendar 173, Senate 1263A.

ACTING PRESIDENT MEIER: Without objection, Senator Schneiderman will be recorded in the negative on Calendar 173.

Senator Stavisky, why do you rise?

SENATOR STAVISKY: Mr. President, I wish unanimous consent to be recorded in the negative on Calendar 173, Senate Bill 1263A.

ACTING PRESIDENT MEIER: Without objection, Senator Stavisky will be recorded in the negative on Calendar 173.

Senator Velella.

SENATOR VELELLA: Can we take up Calendar 960.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 960.

THE SECRETARY: Calendar Number 960, by Senator Marchi, Senate Print 7356, an act to amend the Workers' Compensation Law, the Estates, Powers and Trusts Law, and the Surrogate's Court Procedure Act.

SENATOR PATERSON: Explanation.

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

SENATOR MARCHI: Hopefully this bill clarifies certain provisions of the New York State law in order to address issues affecting the victims of the terrorist attack on September 11.

It provides that the Workmen's Comp Law does not permit insurance carriers to assert a lien against awards made from the Federal Victims Compensation Fund. It provides that such carriers may not terminate benefits which are being paid as a result of the terrorist attacks if any individual files a claim with the fund.

It provides liability protections

for individuals who serve as personal representatives. And the jurisdiction there is as the Surrogate's Court determines.

All awards from the fund are exempt from state and local taxes.

And domestic partners of victims of the terrorist attacks are eligible for distribution from the fund. And it provides guidance for the federal special master in determining awards and ensuring that the distribution plan compensates the domestic partners for the losses they've sustained.

So it has a broad base of support among members of this body on both sides of the aisle. I would trust that your major concerns are met.

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 immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Gonzalez.

SENATOR GONZALEZ: Yes, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 732.

ACTING PRESIDENT MEIER: Without objection, Senator Gonzalez will be recorded in the negative on Calendar 732.

SENATOR GONZALEZ: Thank you, Mr. President.

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

ACTING PRESIDENT MEIER: Yes, we do, Senator.

SENATOR VELELLA: Can we take care of that at this time.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: Mr. President, on page 35 I offer amendments to Calendar Number 680, Print Number 4137, and ask that said bill will 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 Santiago.

SENATOR SANTIAGO: I seek unanimous consent to be recorded in the negative on Calendar 732.

ACTING PRESIDENT MEIER: Without objection, Senator Santiago will be recorded in the negative on Calendar 732.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, thank you, Mr. President. I request unanimous consent to be recorded in the negative on Calendar Number 732.

ACTING PRESIDENT MEIER: Without objection, Senator Malcolm Smith will be recorded in the negative on Calendar 732.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, would you do me a favor and have the Secretary give us an accounting of what the vote on Calendar 723 is at this point.

ACTING PRESIDENT MEIER: Senator

Paterson, the Secretary informs me that Calendar 732 stands at ayes, 31; nays, 29.

Senator Velella.

SENATOR VELELLA: Mr. President, there being no further business, I move we adjourn until 3:00 p.m. tomorrow.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, May 7th, at 3:00 p.m.

(Whereupon, at 4:08 p.m., the Senate adjourned.)