NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 3, 2002

3:40 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

THE PRESIDENT: With us this afternoon to give the invocation is the Reverend Larry Waye, from First Bible Baptist Church, in Rochester.

REVEREND WAYE: Please join me in prayer.

Almighty God and Heavenly Father, thank You so much for this beautiful day that You have blessed us with. Thank You for this great republic that we have the privilege of living in, all the freedoms and the rights that we have.

Lord, this morning, this afternoon I bring these members of the Senate before You. I lift them up, and their families, to You in prayer. I know that each one of them spend much time from their families, and I

just pray that You would bless the time that they have together. I pray that it would be quality time.

And this afternoon, Lord, in the issues that they're going to discuss, debate and vote upon, I pray, dear God, that You would give them wisdom.

And may we all be reminded, Lord, that each and every one of us is going to give an account to You individually, and at that point we're not going to be able to point the finger to the other side of the room or anyone else, but rather we're going to give an account for the decisions that we made. May they be decisions that You would be pleased with.

In Christ's name I pray. Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 2, the Senate met pursuant to adjournment. The Journal of Saturday, June 1, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without

objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Volker, I wish to call up his bill, Senate Print 3210B, which was recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 315, by Senator Volker, Senate Print 3210B, an act to amend the Real Property Tax Law.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

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

THE PRESIDENT: The amendments are received, Senator Farley.

SENATOR FARLEY: Madam President, I offer the following amendments to these Third Reading Calendar bills:

Senator Seward, page 4, Calendar 16, Senate Print 4641B;

Senator Hoffmann, page 28, Calendar 659, Senate Print 4089B;

Senator Alesi, page 32, Calendar Number 733, Senate Print 6324;

Senator Maltese, on page 61, Calendar 1158, Senate Print 6855;

And also for Senator Maltese, on page 61, Calendar 1154, Senate Print 6473A;

On behalf of Senator Lack, on page 40, Calendar 882, Senate Print 2777A;

And on behalf of Senator Velella, on page 49, Calendar 1008, Senate Print 7330;

And on behalf of Senator Maltese, on page 59, Calendar 1144, Senate Print 6101.

Madam President, I move that these bills retain their place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received and adopted, Senator, and they will retain their place on the Third Reading Calendar.

Senator Skelos.

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

THE PRESIDENT: Yes, there are, Senator.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 66, Senator Volker moves to discharge, from the Committee on Investigations, Taxation and Government Operations, Assembly Bill Number 1473 and substitute it for the identical Senate Bill Number 138, Third Reading Calendar 1259.

And on page 66, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 11231 and substitute it for the identical Senate Bill Number 7428, Third Reading Calendar 1266.

THE PRESIDENT: The substitutions are ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk by Senator Lack. May we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Lack, Legislative Resolution Number 5844, commending Michael Kampel, D.M.D., upon the occasion of his retirement from the Western Suffolk BOCES Board of Trustees.

THE PRESIDENT: The question is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 400, by the Assembly Committee on Rules, Assembly Print Number 9446, an act to amend the General Municipal Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 474, by Member of the Assembly Ortiz, Assembly Print Number 2329, an act to amend the Labor

Law, in relation to powers of the commissioner.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

This is a very, very good bill. In fact, when Catherine Abate first introduced this bill, I thought it was a terrific bill. In fact, I thought it was such a good bill that I decided to continue keeping the bill on the agenda by sponsoring it myself.

So even though I don't remember speaking with the sponsor about it during his tenure on this side of the aisle, I am pleased that a bill is going to pass that will be helpful to the working women and men in New York State.

So by all means, my colleagues on

the other side of the aisle, you are always more than welcome to take my bills.

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

Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 642, by Member of the Assembly Weisenberg, Assembly Print Number 10601A, an act to amend the Education Law, in relation to providing teachers.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 680, by Senator Larkin, Senate Print 4137A, an

act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to compulsive gambling assistance.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 792, by Senator Lack, Senate Print 6934, an act to amend the Surrogate's Court Procedure Act, in relation to compulsory accounting.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect November 1.

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 806, by Senator Johnson, Senate Print 1367, an act to amend the Vehicle and Traffic Law, in relation to limiting options.

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 876, by Senator Skelos, Senate Print 6831A, an act to amend the Education Law, in relation to voting by residents.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 925, by Senator Morahan, Senate Print 7267, an act to amend Chapter 445 of the Laws of 2001.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 957, by Senator Padavan, Senate Print 6908, an act to amend the Real Property Tax Law, in relation to exemptions.

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 1024, by Senator Hannon, Senate Print 6928, an act authorizing the assessor of the County of

Nassau to accept an application.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1103, by Member of the Assembly DiNapoli, Assembly Print Number 10685, an act to amend the Environmental Conservation Law, in relation to state fish and wildlife.

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 1135, by Senator Oppenheimer, Senate Print Number 4826A, an act allowing John Vasta to purchase retirement service credit.

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 1148, by Senator Maltese, Senate Print Number 6277, an act to amend the Retirement and Social Security Law, Chapter 511 of the Laws of 1988, amending the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1152, by Senator Maltese, Senate Print 6325, an act to amend the Retirement and Social

Security Law, in relation to employee 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, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1246, by Senator Saland, Senate Print 6270, an act to amend the Public Authorities Law, in relation to enabling the Dormitory Authority.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1248, by Senator DeFrancisco, Senate Print 6468, an act to amend the Civil Practice Law and Rules, in relation to excluding.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1249, by Member of the Assembly Bacalles, Assembly Print Number 10533, an act to amend the Alcoholic Beverage Control Law, in relation to exemption.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1254, by Senator Trunzo, Senate Print 7368, an act to amend Chapter 268 of the Laws of 1989.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1259, substituted earlier today by Member of the Assembly Smith, Assembly Print Number 1473, an act to amend the Alcoholic Beverage Control Law, in relation to police officers.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1260, by Senator Wright, Senate Print 5207, an act to amend the Public Service Law, in

relation to increasing penalties.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1261, by Senator Hoffmann, Senate Print 6606, an act to amend the Real Property Tax Law, in relation to real property tax exemption.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Balboni, Senate Print 7180, an act to amend the Public Authorities Law, in relation to water pollution control.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1263, by Senator Spano, Senate Print 7353, an act to amend the Labor Law, in relation to making a technical correction.

SENATOR PATERSON: Lay the bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1265, by Senator Meier, Senate Print 7412A, an act to amend the Social Services Law, in

relation to irrevocable funeral services trust funds.

ACTING PRESIDENT MEIER: Could I ask members, if you're going to have a conversation in the chamber, at least pretend to whisper.

(Laughter.)

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1267, by Senator Marcellino, Senate Print 7434, an act to authorize the Society of St. Vincent de Paul.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1268, by Senator Bonacic, Senate Print 7436, an act to amend the Town Law, in relation to the residency requirements.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

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

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, could I just have unanimous consent

to be recorded in the negative on Calendar Number 1267.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative -- which calendar number, Senator?

SENATOR DOLLINGER: 1267.

ACTING PRESIDENT MEIER: I'm sorry. Without objection, Senator Dollinger will be recorded in the negative on Calendar 1267.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the controversial reading of the calendar.

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

THE SECRETARY: On page 40, Calendar Number 876, by Senator Skelos, Senate Print 6831A, an act to amend the Education Law, in relation to voting by residents.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Skelos, Senator Paterson has requested an

explanation of Calendar 876.

SENATOR SKELOS: Thank you, Mr. President.

Last year Chapter 195 of the Laws of 2001 was enacted as a result of a grand jury investigation into voting fraud in the city of Long Beach, concerning certain absentee ballots delivered to and voted by residents of nursing homes.

Chapter 195 was passed and signed into law to ensure that all absentee ballots received from nursing homes had been delivered in a fair and bipartisan manner.

This bill is a technical amendment to Chapter 195 to add election for BOCES and library districts, and also would clarify that the school board, for example, that is conducting the election would be responsible for the running of the election.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President, and thanks, Senator Skelos.

I just wanted to make sure this is just a technical amendment to a chapter that

we actually passed last year. Thank you.

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

The 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1024, by Senator Hannon, Senate Print 6928, an act authorizing the assessor of the County of Nassau to accept an application.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'll waive the explanation and just comment on the bill briefly. I know Senator Hannon isn't here.

He's catching up in the scoreboard for the property tax exemptions in Nassau

County. He's on his way to challenge the others who have put in a significant amount of bills. Which is, I think, according to our tabulation, we're up to 14 or 15 of these bills.

This bill I think repeals the property tax assessment rules. This is not a late file bill that is years late, this is a bill that was done last year. What we're doing is we're completely repealing the state law with respect to taxable status day for real property tax assessments.

I've said this before; I'll say it again. Senator Hannon has suggested there may be a bill coming. Bring forth the bill. Let's do it statewide. Let's not have a Nassau County rule for partial property tax exemptions. Let's have a statewide rule.

Think of the amount of money we would save purely from not having to print these bills, this being, according to my analysis, our 17th real property tax partial exemption bill that we've done this year.

Quite frankly, Mr. President, we're wasting our time, we're wasting the time of

the printer. What we ought to do is come up a statewide partial property tax exemption bill, a both-ways bill. Not hard to draft, not hard to do. Could easily be done. And I'm sure, like all of these partial property tax exemption bills that we've done, would have broad support in this chamber.

In fact, Mr. President, I would suggest that I would be voting in the affirmative. You wouldn't even have to listen to me explain my negative votes. Do it for that reason if no other.

Until then, Mr. President, I vote no.

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

The 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: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1148, by Senator Maltese, Senate Print 6277, an act to amend the Retirement and Social Security Law, Chapter 511 of the Laws of 1988, amending the Retirement and Social Security Law.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT MEIER: Senator Maltese, Senator Hevesi has requested an explanation of Calendar 1148.

SENATOR MALTESE: Mr. President, this is an act to -

SENATOR MARCELLINO: Mr. President -- excuse me, Senator.

SENATOR MALTESE: Sure.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Things are a little bit unclear here. Could you announce the results of the Calendar 1024 vote?

ACTING PRESIDENT MEIER: The Secretary will announce the results with regard to Calendar 1024.

THE SECRETARY: In relation to Calendar Number 1024: Ayes, 59, nays, 1. Senator Dollinger recorded in the negative.

SENATOR MARCELLINO: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Maltese.

SENATOR MALTESE: Yes, Mr. President.

This bill relates to a reduction in retirement age for certain members and would reduce the retirement age for Triborough Bridge and Tunnel employees.

Basically this bill is an extender which would extend for two more years, until December 31, 2004, the application of provisions for a reduced retirement age for certain TBTA employees. It would allow those employees hired between December 31st of this year and December 31st of '04 who would be in Tier 4 of the retirement system to retire at age 55 and receive an unreduced retirement allowance.

The current law expires on December 31, 2002. That's why this bill is an

extender that was agreed upon between the negotiators for the union and the TBTA. It's been in place for current hirees since 1988 and would extend the provisions for two more years.

The only group covered by this extender are the TBTA maintenance workers, because bridge and tunnel officers already have a twenty-year age 50 retirement.

I asked for a rough guess as to how many people would be covered in that two-year span. It would be approximately 500.

The bill is supported by D.C. 37 and indicates that the District 37 represents approximately 350 TBTA laborers and maintainers. And they speak about the problems that are encountered by the maintainers and the laborers as far as working within the tunnels and inhaling all the bad ventilation, the exhaust fumes, carbon monoxide, carbon dioxide, and every other hazardous material that our environmental agencies would protect workers from.

So basically this is an element of fairness. All TBTA maintainers and laborers

have been covered by this since 1988. And what we would propose to do is extend it for two more years.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

SENATOR MALTESE: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you. Just a quick question about the cost.

I notice in your memo, Senator Maltese, you've put about a quarter of a million dollar price tag on that. That cost presumably is picked up by the TBTA in retirement benefits and health benefits and what have you; is that correct?

SENATOR MALTESE: Yes, Mr. President, that's correct.

That's an estimate based on the 500 new hirees that would be hired in the two-year period we're talking about.

SENATOR HEVESI: Okay. Thank

you, Mr. President. Will the sponsor continue to yield?

ACTING PRESIDENT MEIER: Senator Maltese, will you yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: I have two quick concerns. Maybe you can respond to them, if you would.

The first is I'm concerned about this putting pressure fiscally on the TBTA, because ultimately the mass transit users in and around New York City would be responsible for any fare increases that might come as a result of fiscal hardship on their part. And now we're going to sanction a quarter of a million dollar increase, which is going to be more than a quarter of a million dollars in subsequent years.

So let me take the first question first and ask the sponsor whether or not the TBTA is in a position to be able to financially afford this legislation.

SENATOR MALTESE: Mr. President,

I haven't examined all the books and records and accounting records of the TBTA. But I have to rely on the TBTA as an agency and their negotiators with the union. They sat down and agreed with the union that this extender would be agreed upon and that it would be extended for the two-year period.

So they're in the best position to judge as to whether or not their budget would provide for this -- the passage of this bill, and they apparently decided that it would be within their budgetary restrictions.

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

ACTING PRESIDENT MEIER: Senator Maltese, do you yield?

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I appreciate that comment, though I must say that to cross one of the TBTA bridges now costs $3.50, which is outrageous. And

it's been -- the cost of using TBTA facilities for years has been way too much. And so that must be as a consequence of their fiscal planning. So I don't know if I take their negotiations with the union as being a sign of fiscal prudence on their part.

But let me ask you one other question. And I may wind up supporting this legislation.

I'm concerned that we will just continue to extend this when this -- the latest provisions of this bill on December 31, 2004, expire. Is there a limit to -- I mean, why wasn't this done initially when the legislation was first enacted in 1988 and '89?

Why was it not determined as sufficient to provide the benefit for that period of time? Why are we now going back and allowing, you know, additional costs to be attributed to the TBTA for these employees?

SENATOR MALTESE: Mr. President, I don't believe it was my bill in 1988. But I have to believe that at the time they presumed that the working conditions would be improved so that the passage of this bill would no

longer be necessary.

The reason that this bill has been in effect since 1988 is that the incidence of cancer, lung disease, emphysema, and other diseases that the TBTA maintainers and laborers have encountered, instead of remaining static, has indeed increased. So they feel there's still a need for it at this point in time for the next two years.

Hopefully, after the two-year period, there may very well be some improvement in the working conditions or an improvement in the exhaust fumes of the requirements, the environmental requirements, as far as automobiles are concerned.

So I think as a matter of fact it is a sign of fiscal prudence that we're only extending it for two years rather than permanently.

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

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

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR HEVESI: Finally, Senator Maltese, I'd just like to get your reaction.

The City of New York opposed the initial enactment of this legislation in 1988 and 1989. They oppose it again today for a variety of reasons, not the least of which is that the city's position is -- and I find this somewhat compelling -- that doing this reduces the cost savings for non-Tier 1 members of the retirement system and that this puts fiscal pressure on the TBTA.

I'd just like to get your reaction. Obviously you disagree with the City of New York's position on this. I just like to get your reaction to why it is that you disagree with the city and believe that this legislation is prudent and a wise thing to do.

SENATOR MALTESE: Mr. President, I understand the Mayor and the City of New York's position in that they, in the main, oppose many of the pension and other retirement benefits that we propose in this house. And I understand they want to do it at

the bargaining table.

At the same time, this is one instance that I think they're ill-advised to oppose this legislation, because in this particular instance, as is not usually the case, the TBTA has indicated to us that this is an agreed-upon bill. They are the negotiators with D.C. 37 for these members. And as a result, this is a somewhat unique situation and the city, though, is still maintaining their present position of opposition.

But I believe, and that's why I'm the sponsor of this bill, that they should rely on their negotiators in the TBTA and rely on their opinion that they can in fact afford this increment.

And by the way, certainly these employees have indicated they merit such a - the passage of such a bill, because of the adverse working conditions they have. They have a high turnover, they have one of the highest turnovers. And I daresay no one within the hearing of my voice would appreciate working under the circumstances and

conditions that they work under in the tunnels of the -- under the -- in the City of New York.

SENATOR HEVESI: Thank you. Mr. President, would the sponsor yield to what I promise will be the final question?

ACTING PRESIDENT MEIER: Senator Maltese, do you yield?

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you. Through you, Mr. President. Are you aware of any other employees whose work puts them in a precarious situation healthwise, such as the TBTA employees, who do not, under current law, have the benefit that we will be affording these TBTA employees?

ACTING PRESIDENT MEIER: Mr. President, I do not have that at the tip of my tongue. But I would be prepared to try to supply that information to Senator Hevesi at the earliest date possible.

SENATOR HEVESI: Thank you, Mr.

President. I thank the sponsor for his patience.

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

The debate is closed.

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1249, by Member of the Assembly Bacalles, Assembly Print Number 10533, an act to amend the Alcoholic Beverage Control Law, in relation to exemption.

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1259, substituted earlier today by Member of the Assembly Smith, Assembly Print Number 1473, an act to amend the Alcoholic Beverage Control Law, in relation to police officers.

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: Explanation, please.

SENATOR VOLKER: Mr. President, this is a kind of an interesting bill in one way, because police officers have participated in directing traffic and in providing security at bingo and volunteer firemen picnics and so forth, dating all the way back to the time that I was a police officer. Except in my day, all you had to do was make sure the chief

said it was okay.

In 1978, I believe it was Louie Lefkowitz, in one of his dumber opinions, if you'll excuse me -- and I knew Louie. He was a very nice fellow. But I think what happened was that somebody said that maybe someplace down in Long Island or someplace some cop did something wrong or something. And therefore he ruled, I think with virtually no particular evidence to back it up, that police officers were not, under the law, able to act as security guards or direct traffic.

So -- nobody paid much attention to it until suddenly there were some stories in the paper. So I put in legislation. In the meantime, everybody was doing it anyways. So I put in legislation to technically legalize it. In fact, the memo, this old memo that I have here I believe is the original memo.

So in 1982, just before Hugh Carey left, he vetoed it saying, well, police officers -- he didn't know if they had the authority. And in '84 and '85 -- and I told Mario Cuomo at the time, I said: "Mario, this is ridiculous. These people are -- all they

do is direct traffic."

And in fact, this bill provides more than they're doing at the present time, because it says they have to have written permission from the police authorities. What's happening at the present time, then and now, is that they just asked if it was okay and as long as the chief agreed, they went ahead and did it.

Well, I think the silly part of it is to this day, even though this bill has been vetoed, police continue to provide security at various picnics and volunteer fire events and so forth. They always have and they probably always will. But technically, under that opinion of the attorney general back in 1978 -- with very little, by the way, backup of any kind -- they probably shouldn't.

Of course, I'm not exactly sure what the penalty is for violating an attorney general's opinion. I know it's not a misdemeanor. And it's certainly not a felony.

In any case, what we're really trying to do here is provide legalization of something that everyone is doing, which makes

a lot of sense.

The thing I think you should remember is that police officers don't run picnics; they can't. They can't have permits for beer and liquor and all that sort of stuff. But directing traffic is what they do on a normal basis. And making sure that the people don't create problems at picnics and at various parties and so forth. Because if you don't have them there, then when trouble comes, then they've got to go there and arrest people and all sorts of other things.

So if you really think of this, this is not a complicated bill. It just says that -- it gives authority to people who are already doing what they're doing anyways, the technical authority to participate in these lawn fetes and so forth. Which they're already doing now. And they're doing it in the city of New York, they're doing it everywhere.

And for a while, by the way, if somebody complained, they would get -- the police from the next jurisdiction would come in. Because they weren't part of that other

jurisdiction, and they said, well, this would make it more legal. But everyone stopped doing that years ago.

So what this bill really is is to legalize something that's been going on for about 60 or 70 years and to say that you have to get the written permission of the local police commissioner or chief. And that's really what this bill does, when you come right down to it.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, will the sponsor yield for a question?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Senator Volker, I think this is a very decent bill.

I do have one concern. If the police officer is given permission, then, to work in the capacity that you just mentioned, what about the liability of the police department itself in the event something happens where the police officer, working not

for the City of New York or whatever municipality, is involved in something that may have a cause of action for a libel suit of some sort? Who would be responsible?

SENATOR VOLKER: The prime liability would be the people who -- where he is working.

But you should understand that a police officer provides liability for any municipality at any time, even if he's walking down the street.

But the prime liability in this case would be the people who are running the picnic or whatever, because he is in effect working for them.

Actually, as I say, it doesn't give any additional liability, really, to the town or village or whoever it is, because he is a police officer. Which, by the way, is one of the differences between a police officer and a peace officer. Which makes quite a big difference. It's why we don't make peace officers police officers, unless they're all thoroughly trained and that sort of thing.

But the truth is it really doesn't

have a major impact on -- if they're going to sue somebody, they're going to sue the people that are running the affair anyways. And as you and I know, you've got to have bonds and all that stuff to do this stuff today anyways.

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

Senator Paterson.

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

SENATOR VOLKER: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: So, Senator, from your answer to Senator Onorato -- and that was exactly the pointed question I think that needed to be asked here -- you don't see a distinction between the police officer who is considered an officer at all times and the police officer who, rather than being in a private situation off the job, even though he or she is still a police officer, is now acting in a capacity where they are theoretically taking direction or having some kind of subordinate work, that it would affect

any kind of action taken against the municipality?

I think that's why the New York City Mayor's office and NYCOM have some concerns on this bill. They're worried about the liability, as Senator Onorato pointed out, that would incur if there were any kind of an incident.

But what you're saying, if I understand you correctly, is that there's really no difference between the officer's status when the officer is not working as a member of the New York City Police Department or any other police department.

SENATOR VOLKER: First of all, I didn't know that there was any concern by anybody. Has somebody put out a message against this bill?

Unfortunately, I guess NYCOM. I'm glad to know that. Of course, we weren't notified of that. But that's not unusual.

I think that they ought to look at the standards for police officers and at the fact that if something happens at a volunteer firemen's affair or something and the police

officer from the very village or town comes to take care of it and this lawsuit ensues because of that, they can sue the town anyways, and the village.

I mean, the problem is if you're a police officer, you're a police officer. So my attitude on that is I don't see where you're extending the liability a great deal.

Personally, I think that that's the kind of silliness that I think some of our municipalities get into today. And I guess you should ask NYCOM how many of their municipalities are allowing this to happen. And the answer is practically just about every one, I think.

So I really don't think that it has any momentous impact on liability.

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

The 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: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1263, by Senator Spano, Senate Print 7353, an act to amend the Labor Law, in relation to making a technical correction.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Spano, Senator Paterson has requested an explanation of Calendar 1263.

SENATOR SPANO: Mr. President, a couple of years ago the Secretary of State had gone through a process of evaluating the use of plastic pipes in New York State as a part of the codes in New York State.

What we did last year was pass a bill, that was basically referred to as the Plastic Pipes Bill, that restored the statute back to prior to when the regulations were passed.

What we found out after we passed that bill was that the City of New York had

passed its own regulations that were more restrictive than the state code. What we did with this bill was make the City of New York basically the same code as it was before the passage of their regulations.

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

Being that New York City, particularly the Borough of Manhattan, has unusually high skyscrapers and there were some concerns about testing and the viability of plastic piping, they were interested in having an exemption. In this case they were accommodated by Senator Spano.

And therefore, this debate is closed. You might want to read the last section.

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino, that completes the calendar.

SENATOR MARCELLINO: Mr. President, do you have a substitution at this desk?

ACTING PRESIDENT MEIER: Yes, we do.

The Secretary will read the substitutions.

THE SECRETARY: On page 5, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 7347 and substitute it for the identical Senate Bill Number 3434, Third Reading Calendar 67.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Marcellino.

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

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in

the Majority Conference Room.

SENATOR MARCELLINO: The Senate will stand at ease pending the Rules Committee report.

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

(Whereupon, the Senate stood at ease at 4:24 p.m.)

(Whereupon, the Senate reconvened at 5:49 p.m.)

ACTING PRESIDENT MEIER: Senator Marcellino.

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

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

SENATOR MARCELLINO: The Senate will stand at ease.

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

(Whereupon, the Senate stood at ease at 5:50 p.m.)

(Whereupon, the Senate reconvened at 6:11 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, there's a report of the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

Senate Print 1353, by Senator Trunzo, an act to amend the Workers' Compensation Law;

5769A, by Senator Saland, an act to amend the State Finance Law;

6089, by Senator Wright, an act in relation to legalizing;

6818, by Senator DeFrancisco, an act to amend the Agriculture and Markets Law;

7218, by Senator Maziarz, an act to amend the Real Property Tax Law;

7365, by Senator Balboni, an act to amend the Civil Rights Law;

7400A, by Senator Skelos, an act to amend the Criminal Procedure Law;

7408, by Senator Stafford, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

7441, by Senator Leibell, an act to amend the Retirement and Social Security Law;

7453, by Senator Volker, an act to amend the Civil Practice Law and Rules;

7456A, by Senator Velella, an act to amend the Education Law and others;

7459, by Senator Rath, an act to ratify, legalize and validate;

7506, by the Senate Committee on Rules, an act to amend Chapter 69 of the Laws of 2002;

And Senate Print 7513, by the Senate Committee on Rules, an act to amend the Election Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee, Mr. President.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1269.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1269.

THE SECRETARY: In relation to Calendar Number 1269, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11541 and substitute it

for the identical Senate Bill Number 7506, Third Reading Calendar 1269.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1269, by the Assembly Committee on Rules, Assembly Print Number 11541, an act to amend Chapter 69 of the Laws of 2002.

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

ACTING PRESIDENT MEIER: Yes, there is a message at the desk.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1282.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1282.

THE SECRETARY: Calendar Number 1282, by the Senate Committee on Rules, Senate Print Number 7513, an act to amend the Election Law, in relation to making special provisions.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT MEIER: No

housekeeping, Senator.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, June 4th, at 11:00 a.m.

And there will be a conference of the Majority at 10:30 a.m. on June 4th.

ACTING PRESIDENT MEIER: Conference of the Majority, 10:30 a.m. tomorrow.

Senator Paterson.

SENATOR PATERSON: Mr. President, with your permission, I would like to remind the members of the Minority that there will be a conference of the Minority at 10:30 a.m. tomorrow morning.

ACTING PRESIDENT MEIER: Conference of the Minority, 10:30 a.m. tomorrow morning.

On motion, the Senate stands adjourned until Tuesday, June 4th, at 11:00 a.m.

(Whereupon, at 6:15 p.m., the Senate adjourned.)