NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 13, 2002

11:09 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

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

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

ACTING PRESIDENT MEIER: In the absence of clergy, may we each bow our heads in a moment of silence.

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 12, the Senate met pursuant to adjournment. The Journal of Tuesday, June 11, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President. On behalf of Senator Morahan, I wish to call up Senate Print Number 7322, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1053, by Senator Morahan, Senate Print 7322, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, 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, 37.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, 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 Volker, I wish to call up Senate Print Number 3781, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 131, by Senator Volker, Senate Print 3781, an act to amend the Civil Rights Law.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, 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, 37.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, 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 move to amend Senate Bill Number 6594B by striking out the amendments made on May 6th and restoring it to its previous print number, 6954A.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the previous print number restored.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Kuhl, I wish to call up Senate Print Number 3947A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 260, by Senator Kuhl, Senate Print 3947A, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, 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, 37.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator McGee.

SENATOR McGEE: Mr. President, amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Stafford, page 33, Calendar Number 814, Senate Print 3820C;

Sponsored by Senator Velella, page 45, Calendar Number 1005, Senate Print 6863;

Sponsored by Senator Wright, page 58, Calendar Number 1320, Senate Print 7451;

And sponsored by Senator Stafford, page 56, Calendar Number 1231, Senate Print 7001A.

Mr. President, I now move that these bills retain their place on the order of third reading.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the bills will retain their place on the order of third reading.

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

On page 52, I offer the following amendments to Calendar Number 1134, Senate Print Number 4820A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the

bill will retain its place on the Third Reading Calendar.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Mr. President, are there any substitutions at the desk? If there are, I'd ask that we make those at the present time.

ACTING PRESIDENT MEIER: Yes, we do have some.

The Secretary will read the substitutions.

THE SECRETARY: On page 18, Senator Balboni moves to discharge, from the Committee on Water Resources, Assembly Bill Number 10155A and substitute it for the identical Senate Bill Number 6594A, Third Reading Calendar 467.

On page 19, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 7911 and substitute it for the identical Senate Bill Number 2695, Third Reading Calendar 503.

On page 30, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 6401 and substitute it for the identical Senate Bill Number 3274, Third Reading Calendar 751.

On page 59, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 11194 and substitute it for the identical Senate Bill Number 3489, Third Reading Calendar 1352.

On page 59, Senator Saland moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 9242A and substitute it for the identical Senate Bill Number 5063B, Third Reading Calendar 1353.

And on page 59, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 9952 and substitute it for the identical Senate Bill Number 6342, Third Reading Calendar 1354.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr.

President. I understand that there's a privileged resolution by Senator Liz Krueger at the desk. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title.

THE SECRETARY: By Senator Krueger, Legislative Resolution Number 6093, commending Principal Anna Marie Carrillo, upon the occasion of celebrating her 10th Anniversary at P.S. 116, The Mary Lindley Murray School.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Kuhl.

SENATOR KUHL: May we now have the noncontroversial reading of the calendar, Mr. President.

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

THE SECRETARY: Calendar Number 37, by Senator LaValle, Senate Print 4889A, an act to amend the Education Law, the Civil Service Law, and Chapter 363 of the Laws of 1998.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 67, by Member of the Assembly Glick, Assembly Print Number 7347, an act to amend the Domestic Relations Law and the Family Court Act, in relation to child support.

SENATOR KUHL: Lay that bill aside for the day, please.

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

THE SECRETARY: Calendar Number 266, by Senator Johnson, Senate Print 743, an act to amend the Environmental Conservation Law, in relation to possession of bay

scallops.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 305, by Member of the Assembly Eve, Assembly Print Number 9740, an act to amend the State Finance Law, in relation to payment.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 393, by Senator Saland, Senate Print 5067A, an act to amend the General Municipal Law, in relation to establishing.

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, 34. Nays, 3. Senators Duane, L. Krueger, and Stachowski recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 556, by Senator LaValle, Senate Print 1880, an act to amend the General Municipal Law, in relation to creating the Town of Southampton Industrial Development Agency.

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, 35. Nays, 2. Senators L. Krueger and Stachowski recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 667, by Senator Stafford, Senate Print 7163A, an act to authorize certain health care professionals.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 21.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 677, by Member of the Assembly Ortiz, Assembly Print Number 6038, an act to amend the Administrative Code of the City of New York, in relation to the custody.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 807, by Senator Kuhl, Senate Print 1401, an act to amend the Alcoholic Beverage Control Law and the Vehicle and Traffic Law, in relation to imposition.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 937, by Senator Farley, Senate Print 7179, an act to amend the Banking Law, in relation to establishing book and record preservation.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 4. This act shall take effect September 1.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 36. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 942, by the Assembly Committee on Rules, Assembly Print Number 11171, an act to amend the Insurance Law, in relation to medical practice insurance coverage.

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, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1014, by Senator Larkin, Senate Print 6221A, an act to amend the Real Property Tax Law, in relation to alternative.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1017, by Senator Kuhl, Senate Print 6520A, an act to amend the Real Property Tax Law, in relation to increasing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1085, by Senator Larkin, Senate Print 5325A, 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, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1113, by Senator Maltese, Senate Print 7103, an act to amend the Public Officers Law, in relation to the residence.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 1140, by Member of the Assembly Abbate, Assembly Print Number 10494, an act to amend the Education Law, in relation to the reserve for increased take-home pay transferred.

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, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1159, by Senator Stafford, Senate Print 7154, an act authorizing the payment of ordinary disability retirement benefits.

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, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1323, by Senator Marchi, Senate Print 6155A, an act to amend the General Municipal Law and the Retirement and Social Security Law.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1351, by Senator Stafford, Senate Print 3479, an act to amend the State Finance Law, in relation to the payment of monies.

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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1352, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11194, an act to amend the Criminal Procedure Law, in relation to verdict sheets.

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1354, substituted earlier today by Member of the Assembly Stringer, Assembly Print Number 9952, an act to amend the Real Property Tax Law, in relation to extending.

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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1356, by Senator Oppenheimer, Senate Print 7032, an act to amend Chapter 711 of the Laws of 1907.

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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1358, by Senator Padavan --

SENATOR PADAVAN: Hold that bill, Mr. President, for an amendment.

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

THE SECRETARY: Calendar Number 1359, by Senator Rath, Senate Print 7373, an act to amend the Local Finance Law, in relation to the sale of bonds.

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, 39.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1363, by Senator Maziarz, Senate Print 7551, an act to amend the Public Authorities Law, in relation to the creation of the Niagara Falls Water Board.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2002.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1364, by Senator McGee, Senate Print 7556, an act to amend Chapter 402 of the Laws of 1994.

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, 39.

ACTING PRESIDENT MEIER: The bill is passed.

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

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Can we have the controversial reading of the calendar now, please.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 37, by Senator LaValle, Senate Print 4889A, an act to amend the Education Law, the Civil Service Law, and Chapter 363 of the Laws of 1998.

SENATOR PATERSON: Explanation.

SENATOR KUHL: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 677, by Member of the Assembly Ortiz, Assembly Print Number 6038, an act to amend the Administrative Code of the City of New York.

SENATOR HEVESI: Explanation, please.

SENATOR KUHL: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the

bill aside for the day.

THE SECRETARY: Calendar Number 807, by Senator Kuhl, Senate Print 1401, an act to amend the Alcoholic Beverage Control Law and the Vehicle and Traffic Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Kuhl, Senator Paterson has requested an explanation of Calendar 807.

SENATOR KUHL: You know, Senator Paterson, I'm happy that you asked for that explanation, because it's been a year since I've been able to explain this bill to you. Last year you may remember we had a terrific debate on this bill, and the bill passed 59 to 1.

But in any case, this is a bill that is meant to provide some teeth for local justices of the peace. We find that in our area of the state that oftentimes young people are cited for a violation of possession of alcoholic beverages, they plead guilty to the violation, a fine is put in place or some kind of community involvement is put into place or some sort of an alcohol awareness training

program is required by them, and they don't complete the actual fine.

So what happens is absolutely nothing, because the justices of the peace have no means of enforcing that actual sentence.

So what this bill is meant to do is to give them some teeth so that, in fact, if the young people who violate these provisions of the law don't comply with the sentence, then the justice can in fact suspend their license until there is completion of the sentence.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I too remember that terrific exchange I had with Senator Kuhl. Actually, it was two years ago. Last year the bill died in committee.

But if my memory serves me correctly, Senator Kuhl prevailed upon me that this was a good bill. There was a negative vote. I don't have a record of who it was, but I don't think it was me.

In any event, I guess you can read

the last section, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will Senator Kuhl just yield to one question?

ACTING PRESIDENT MEIER: Senator Kuhl, will you yield for one question?

SENATOR KUHL: Yes, I will be happy to yield to one question from Senator Dollinger.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator Kuhl, we did a bill, I think, earlier in this session that applied to marijuana penalties; is that correct? It also originated from the Steuben County Magistrates Association.

This bill extends it to driving-while-intoxicated violations; is that correct? That's -- it's the same bill? Or my memory may be faulty.

SENATOR KUHL: We did a bill that dealt with a violation of possession of

substances, that's correct, Senator. It's the same request coming from the Magistrates Association of Steuben County.

They have the same problem with violations in that particular case as they do with the case of violations of possession of alcoholic beverages.

SENATOR DOLLINGER: Through you, Mr. President, I'm going to vote in favor of this bill, as I voted in favor of the last one. I actually think this is a great idea for magistrate courts around the state.

And I think any time someone has to pay a violation, whether it's trespass, disorderly conduct, I mean, the magistrate's courts are jammed with these kinds of criminal applications. And oftentimes they result in ACDs or they result in other dismissals, conditional discharges, which require the payment of a fine. They get the benefit of a break from the courts and they never pay the fine.

I think suspending their driver's license in exchange for that is not a bad idea.

And I would support, Senator Kuhl, extending this not just to possession of alcoholic beverages and not just to possession of small amounts of marijuana, but, quite frankly, to any small infraction. If they fail to pay the fine after a certain period of time, for heaven's sakes, let's suspend their driver's license. It usually will get younger individuals back to the courts relatively quickly to pay the fines.

It's a great policing tool. We ought to make it widespread and have it apply to all minor infractions in the justice courts.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. 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, 41. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1113, by Senator Maltese, Senate Print 7103, an act to amend the Public Officers Law, in relation to the residence.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT MEIER: Senator Maltese, Senator Hevesi has requested an explanation of Calendar 1113.

SENATOR MALTESE: Yes, Mr. President.

This is an act to amend the Public Officers Law in relation to the residence of fire alarm dispatchers employed in the paid fire department of any city over a million, New York City. The purpose is to exempt fire department dispatchers in New York City from being a resident of the political subdivision in which they are employed.

Approximately a year ago, pursuant to legislative enactment by the City Council, fire alarm dispatchers and their supervisors became members of the uniformed force of the New York City Fire Department.

Currently, firefighters, fire officers, fire marshals, marine division personnel and emergency medical service personnel are not required to live within the confines of the City of New York. These uniformed members of the department are permitted to reside in several counties, as spelled out in paragraph 9, Section III of the Public Officers Law, which is the law that indicates that not only would they be permitted to live in the city but also in the counties contiguous to the City of New York or in counties that would be contiguous to the county that would comprise the City of New York.

The current residency requirement is out of step with other parts of the uniformed force of the fire department and hampers the Bureau of Fire Communications in its recruitment and retention efforts. The Fire Alarm Dispatchers Benevolent Association is asking to be treated similarly as the other uniformed members of the fire department.

In addition, the -- this change would give highly qualified counties from

counties immediately surrounding New York City job opportunities without the disadvantage of having to uproot their families in order to satisfy the residency requirement. And, as I indicated earlier, this is the only uniformed force in the fire department that still has a residency requirement.

And I'd like to indicate that 50 percent of the workforce in this particular job are women or minorities.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

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

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you.

Mr. President, could the sponsor please tell us how many fire alarm dispatchers there are currently employed in New York City?

SENATOR MALTESE: I'm afraid I don't have that number.

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.

Presumably, though, every single one of these individuals currently lives in the City of New York in order to be in compliance with current law; is that correct?

SENATOR MALTESE: No, I -- Mr. President, since they were only a year ago made part of the uniformed personnel, I don't believe that they currently are required to live within the City of New York. I can get that information to Senator Hevesi subsequent to this debate.

But as I indicated in the beginning of the explanation, they were only approximately a year ago made part of the

uniformed fire department force.

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.

I need to get a handle on how many current fire alarm dispatchers don't live in New York City. I guess let me just ask the question, though I'm not sure you would have that answer, since you don't have the information available as to how many are currently employed in New York City.

But let me ask the question. Do you know how many currently don't live in the city or what percentage of the total fire alarm dispatcher workforce that is?

SENATOR MALTESE: No, Mr. President, the only number I had requested and was given from the union was that 50 percent of the workforce in this particular position

are women and minorities.

But as to how many presently reside within the City of New York, I don't have that number.

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, if the sponsor could tell us what the City of New York's position is on this issue. Have we received a home-rule message? Did we need a home-rule message on this?

SENATOR MALTESE: Mr. President, my prep indicates that there are no fiscal implications. And I don't have the information as to whether or not a home-rule message is needed.

But my guess would be, since we didn't indicate it at the beginning of the

debate, that it is not necessary or required.

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

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

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thanks.

I'm just trying to get a handle on whether the city has a position on this or not. Are you aware if they oppose this legislation, support this legislation, have not commented on this?

SENATOR MALTESE: Mr. President, we are not aware that they oppose the legislation.

Quite frankly, in a post-9/11 era, I think the fire department is striving to increase personnel, attract and entice persons into the fire department. This would be a very essential part of the uniformed service of the fire department. And I believe that we and the Mayor would try to do our utmost to

attract personnel into this position.

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 guess I have to take some exception with that last statement, because only if you accept the premise that the New York City Fire Department must recruit from outside of the city is this legislation necessary to help in recruitment efforts.

So let me ask the question. Is it your belief, Senator Maltese, that the New York City Fire Department would be unable to recruit adequately from members within its ranks within the City of New York?

SENATOR MALTESE: Mr. President, I would respectfully ask Senator Hevesi to repeat the question.

But in the interim, I have been given the totals. There are 178 personnel in this category, and more than 50 percent live in the City of New York.

SENATOR HEVESI: Thank you, Mr. President. May I ask if the sponsor would continue to yield. I'll repeat the initial question.

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Here's the question. And I ask it because of the response you just gave me and because of two other factors. One is the sponsor's memo of support and, two, your comments and your explanation, specifically the following -- and I'm reading from your memo here.

"The current residency requirement is out of step with other parts of the uniformed force of the Fire Department" -- and that I agree with. No commentary on whether that's good policy or not -- "and hampers the Bureau of Fire Communications in its

recruitment and retention efforts." That section I take great exception to.

So my question is, do you believe that without this legislation the City of New York Fire Department would have grave difficulty in recruiting qualified fire alarm dispatchers from within the City of New York, as your memo says it would?

SENATOR MALTESE: Mr. President, I believe the facts in all these positions speak for themselves.

With the increased number of retirements, with the fact that the dangers of the job have been spelled out very dramatically and very drastically, I believe that the City of New York is striving to attract qualified personnel and that everything possible should be done to attract personnel to come into these job titles for uniformed firefighter.

And therefore, Mr. President, I believe -- again, as I said at the beginning -- that the facts speak for themselves. We should throw our net as wide as possible. We should encourage all

personnel from not only the city, but the contiguous counties and even beyond.

In many cases, I am advised that EMS dispatchers are not even required to live in the state of New York, enabling them to come from Jersey and Connecticut to work in the job title.

So I think if we're after the best in this position, we should encourage our neighbors, if you will, in adjoining counties, contiguous counties to work in the job.

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 respect the sponsor for bringing this legislation, because there is some measure of equity in saying to individuals who have become recently uniformed members of the

New York City Fire Department that they too should be afforded the same provisions of law, the same privileges as other members.

But I certainly take exception, Senator Maltese, to the suggestion that with 178 fire alarm dispatchers, half of whom, by your numbers, don't live in the city -- that's about 70 or 80, maybe 90 other individuals -- that New York City, with 8 million people residing within it, would not be able to find 70 or 80 or 90 fire alarm dispatchers.

And the suggestion also that you made in your last comments that it's difficult -- that we are grouping in the recruitment of fire alarm dispatchers with other uniformed personnel in the New York City Fire Department and need to cast this wide net because it's such a dangerous position, to my knowledge, no fire alarm dispatcher has ever been injured in the line of duty.

And it means them no disrespect, but I disagree with the entire policy and in fact support legislation, sponsor legislation in this legislation in this house to impose a residency requirement on New York City

firefighters.

So let me ask the following question. If New York City a year ago, the City Council, made fire alarm dispatchers a part of the uniformed force in the fire department, why wasn't, a year ago, this problem anticipated and a request put in by the City of New York to go ahead and pass this legislation?

SENATOR MALTESE: Mr. President --

SENATOR HEVESI: I'm troubled by that.

SENATOR MALTESE: I'm sorry, I thought you were finished.

Mr. President, I am advised that there was originally a legal interpretation, at the time that they were made part of the uniformed force, that they fell under the other categories and thus were not required to live in the City of New York. Thus this is the first opportunity to correct this oversight.

And in addition, I am further advised that this is an entry-level position

but a position that frequently changes as the personnel switch from one job title to another.

Therefore, while I believe that the good Senator's statement as to whether the entire population of the City of New York can adequately fill these numbers, the fact of the matter is that in any of these titles, protecting life and property and behaving in the manner that we have seen so splendidly displayed on September 11th and prior and subsequent, I think we want the best of the best.

And therefore, I think, again, that if we reach into contiguous counties, this improves the fire department force and inures to the benefit of all the citizens of the city of New York and the state.

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

sponsor yields.

SENATOR HEVESI: Thanks, Mr. President.

I'm actually impressed with Senator Maltese's concern for the residents of the surrounding counties of New York City. In fact, in your comments before you stated that this legislation would provide for -- and I'm quoting here -- job opportunities for people in surrounding counties so that they wouldn't have to uproot their families.

Let me ask the following question. Can you not make the argument that the money that pays or will pay for fire alarm dispatchers within the New York City Fire Department comes not from people in the surrounding counties of New York City but from the taxpayers of the City of New York, and therefore those jobs should justly, as long as you were able to find adequate individuals to fulfill those duties, that those jobs should go to New York City residents, because it's the taxpayers of the City of New York who are paying those salaries?

Don't you share that opinion,

Senator Maltese?

SENATOR MALTESE: Mr. President, as far as our economic beliefs or theories, I'm sure that my good colleague would not construct a wall around the City of New York to prevent all these contiguous counties and even adjoining states from coming into New York and enjoying the benefits of New York and spending their well-earned money in the confines of the City of New York and helping our tax structure.

We see daily on TV and in our media entreaties to others in adjoining states and counties -- and indeed, in other countries -- to come into New York and treat New York as America.

And to fail to pass legislation that would give people an opportunity to work within the confines of the City of New York and state, as has been just stated, that we should confine our economic benefits only to residents of New York is an isolationist theory that I believe ultimately, given our dependence on tourist dollars and being the financial capital of the world, would end up

resulting in severe detriment to the City of New York.

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.

That's interesting that you would support this bill as an economic benefit to the City of New York coming from residents of surrounding counties.

Yet as I seem to recall -- and correct me if I'm wrong -- did you not support the repeal of the commuter tax which eliminated $450 million of revenue, a one-half of 1 percent tax on non-New York City commuters coming into the city? Didn't that have a dramatically negative effect on the economy of New York City?

SENATOR MALTESE: Mr. President,

I feel we roam far afield at this time and place and would save that debate for another time and another place.

SENATOR HEVESI: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Mr. President. I very much appreciate Senator Maltese's patience and his responses.

There is one other concern I would have had, that I do have, that were this legislation crafted differently I might be inclined to support it, which would be that if this bill was prospective.

In other words, that for any current fire alarm dispatcher, that those individuals who don't live in the City of New York would be able to not live in the City of New York, but any newly hired fire alarm dispatcher would have to live in the city.

I'm going to vote against this bill, Mr. President. This bill is -- it is continuing a trend in New York City that I think is not the wise trend as a policy

matter.

And again, I sponsor residency requirement legislation that would enable the City of New York -- wouldn't mandate that it happens, but would give the city the option to impose a residency requirement on its uniformed services. And I would support the City of New York going ahead and doing that.

But to suggest that fire alarm dispatchers, even though they are now technically a part of the New York City Fire Department, should also be exempted because it is difficult -- and this is the key here -- because it is difficult to recruit qualified dispatchers from within the city is frankly little bit insulting.

It is similarly insulting to suggest that the City of New York cannot adequately recruit police officers or firefighters from within the City of New York.

You could even make some compelling arguments that you want to cast the widest net, as Senator Maltese has stated, for those uniformed services as the number of applicants to the uniformed services in New York City has

decreased over the past few years, though it is recently increased.

But I don't believe you can make the same argument for fire alarm dispatchers. We have 178 fire alarm dispatchers. You're telling me we can't find that number of people within New York City to be employed in those positions?

And again, this is an economic issue. New York City taxpayers paid the money for these positions. Unless it is absolutely essential that those positions have to go to individuals who are more qualified and happen to live in our jurisdictions outside the city, I don't know why we would move to do that.

And again, I would support this bill, Senator Maltese, if it was prospective, because I do share your sense of equity, which I think is the underpinning of this bill, that even though maybe it's not necessary to do this -- I know you didn't say that, but I'm saying it -- even though it may not be necessary, they should be afforded the same protections under the law as everybody else. If it was prospective, I'd agree with it.

It's not prospective.

Mr. President, let me take this opportunity also to implore this house to finally take up a residency requirement bill. And I know that there are real arguments against doing that. But we should certainly have a discussion about it.

The only time we've ever had a discussion about residency on the floor is when similar bills like this come up, or when I bring up motions to discharge -- which I really can no longer do because of the rules that were imposed by this house last year restricting the number of motions to discharge.

So I can't get this bill out of committee, and I can't bring up motions to discharge after a certain date or if I have already done a certain number of motions to discharge. And then if we even do get to bring it out on the floor, we get a negative vote, always -- always a party-line vote on a motion to discharge, with the idea that it is procedural motion. As if we weren't really voting on the substance of it. So it's just

wrong.

Let's bring it to a vote. My sense is if we brought it to a vote, it would be defeated. My bill would be defeated on this floor. Why don't we bring it to a vote? Why not? That's democracy. Let's bring it out. If it's defeated after a debate, then I'll be satisfied. But we have not had a proper airing of the residency requirement issue. We have not. And it's wrong.

And so I have to use this opportunity, on Senator Maltese's bill, to discuss the residency issue. And I don't like to do it in that forum.

But regardless, Mr. President, this bill has problems. It's not terrible, but it's not great. And it moves us in the opposite direction from that which I'd like us to move. So I'll be voting no on this legislation.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. To speak on the bill.

The dialogue was fascinating. I

will vote for this bill. I think that it is important that we recognize the dispatchers as having the same rights and equity with other members of the fire department. And the fact is they're a small union, but they're an important union who do difficult and stressful work.

But I have to say that Senator Hevesi's issues are also incredibly important to me. I think that it is way past time for the City of New York to have the debate and for the State Legislature to have the debate about how you look at residency requirements.

And since Senator Maltese, in his answers, raised some of those red-flag issues for me, I would argue that in fact from an economic development perspective for the City of New York, as I think each senator from their locality would argue for their own areas, it is to ensure that we have jobs for the people who live in the City of New York.

And frankly, at this point in time, we are desperate for jobs in the City of New York. Our unemployment rate in certain counties has gone double-digit, the Bronx

specifically. I think Brooklyn is close to that now.

And so when you're talking about city taxpayer dollars, ensuring that city taxpayer dollars are used effectively and efficiently to deliver services and also to generate opportunities for jobs for people who live in the City of New York, I have to agree it is time for the State of New York to allow the City of New York to make its own destiny and determination of that, as most of the other localities in the state make those determinations for themselves.

Again, this is a small bill for a small number of people. And I certainly wouldn't want to see a situation where people who had the rules change on them suddenly didn't have the right to keep their jobs. And it is a high-skill, high-stress job, in fact, particularly dealing with the new increased pressures on the fire department and the decreased numbers of workers in the uniformed firefighters for the City of New York.

So I want to vote for this bill, I will vote for this bill. I think their point

is important for equity and for assuring that people who have the rules change on them and their title within a department change on them should not lose their ability to keep their jobs.

But I think that the bigger picture here are the points that Senator Hevesi was making. Why don't we explore, in a proactive model, allowing New York City to move forward with residency requirements to ensure that we in the City of New York can both get our services delivered and maximize the number of jobs we have available in a bad economic situation for ourselves?

And that is something that I would urge this house to take up, perhaps after Senator Hevesi has left this house, since he will not be rejoining us. And I am sorry that he is not rejoining us next year.

But I urge that this is something that we can start a discussion on very early on in the next session. I will be voting yes.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1113 are Senators Hassell-Thompson, Hevesi, Montgomery, and Paterson. Ayes, 48. Nays, 4.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1113, also Senator A. Smith recorded in the negative. Ayes, 47. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1323, by Senator Marchi, Senate Print 6155A, an act to amend the General Municipal Law and the Retirement and Social Security Law.

SENATOR KUHL: Lay the bill aside for the day.

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

Senator Kuhl, that completes the calendar.

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

ACTING PRESIDENT MEIER: Yes, I believe we have a motion.

Senator Espada.

SENATOR ESPADA: Thank you, Mr. President. On page number 46 I offer the following amendments to Calendar Number 1032, Senate Print Number 7294, and ask that said bill will retain its place on Third Reading Calendar. We do this on behalf of Senator Balboni.

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

Senator Kuhl.

SENATOR KUHL: There being no further business, Mr. President, I move we adjourn until Monday, June 17th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, June 17th, at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 11:55 a.m., the Senate adjourned.)