NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 19, 2002

11:19 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.

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

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

ACTING PRESIDENT MEIER: Good job up in the gallery there. Thank you.

In the absence of clergy, may we all please 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, Tuesday, June 18, the Senate met pursuant to adjournment. The Journal of Monday, June 17, 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.

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nominations.

As a justice of the Supreme Court of the 12th Judicial District, Edward M. Davidowitz, of White Plains.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President. I rise to move the nomination of Edward M. Davidowitz, of White Plains, as a justice of the Supreme Court of the 12th Judicial District.

It's a real pleasure this morning to stand up to be able to move this nomination. For those of you who try to keep track of those things, two weeks ago, at approximately the same time, Judge Davidowitz appeared here to get reconfirmed as a judge of the Court of Claims. Unfortunately -- or

fortunately for him, depending on how you want to look at it -- he is reaching the mandatory term of retirement in the Court of Claims. So therefore, after 16 years, he'd have to stand down from the bench at the end of this year.

Even more fortunately, thanks to Senator Guy Velella, who can always teach anybody in this chamber something new, several years ago he taught us a new word that has gone into the lexicon on how to "jamboy" a judge who is not a Supreme Court justice into a situation that would allow that judge to get certificated for an additional six years.

In addition, Senator Velella also happened to have a vacancy in the 12th Judicial District, which is the County of the Bronx, and which he very nicely consented to the fact that there should be an appointee named Edward M. Davidowitz sitting in that vacancy which would allow him to be jamboyed, as we now call it, and serve an additional six years and not go into mandatory retirement.

Seriously for a moment, it does point out an inconsistency we have in our statutory and constitutional law in this state

which allows only sitting Supreme Court judges to get certificated beyond the age of 70, and all other judges have to retire at the mandatory retirement age of 70.

And when you have judges, quite frankly, like Judge Davidowitz, who are highly competent, highly thought of, to force them to leave the bench at that age is absolutely ludicrous.

And while I'm on that subject, I should say that for those of you who don't know, the process that we go through in the Judiciary Committee, particularly with a sitting judge who is up for reconfirmation by the Senate, is to call those who work with him -- his peers, administrative judges, those who appear before him -- and get their comments.

And I must say when it comes to Judge Davidowitz, my staff were more than pleasantly surprised. They spoke in several cases to both prosecutors and defense counsel, sometimes in the same case, both of whom at all times had only high praise for the judge. We received phone calls from administrative

judges saying can't there be a way or shouldn't there be a way in which this judge could continue to sit on the bench.

Well, again, thanks to Senator Velella, that is the point of why I'm standing here this morning, just for that reason, to move the nomination of Judge Davidowitz for confirmation as a justice of the Supreme Court in the 12th Judicial District, which will allow him to get certificated to sit until his 76th birthday.

And I will take bets for any amount that on his 76th birthday Judge Davidowitz will be looking for a new system to continue well beyond that age.

So, Judge, my congratulations to you. And congratulations, quite frankly, that yes, we can do something to move even a system that should be operating differently, this time, fortunately for your sake, for the better. So congratulations to you. And I'm quite happy to move.

And I will yield, I think, to Senator Velella, who would probably like to make some comments.

ACTING PRESIDENT MEIER: Senator Velella.

SENATOR VELELLA: Thank you, Senator Lack.

I rise obviously not only to support the candidate, but his credentials speak for themselves, in the fact that he will be an excellent judge and an additional six years of his services to the people of this state will be a big asset to those of us in Bronx County and in the 12th Judicial District.

But I also rise to point out the fact that what judge -- judge. I'm sorry, Senator Lack -- what Senator Lack said is very true. And every member of this house ought to be aware of the fact that we take the most competent, the most experienced, the highly qualified judges and say they cannot serve because of their age in the courts of the Court of Claims, a court that is a state court that is important to the people of this state.

I think it's ridiculous that we ought to set this arbitrary age bracket and elimination of judges at 70 years in the Court

of Claims when they can, in fact, function in the Supreme Court and often are the most productive judges, between 70 and 76 years old.

I think this body ought to seriously address that, and I hope in the near future we will be able to say we don't have to jamboy judges, we can just let them do their job as long as they're able to do it well.

Judge, congratulations. And I look forward to another six years of your service to the people of this state.

ACTING PRESIDENT MEIER: The question, then, is on the confirmation of Edward M. Davidowitz, of White Plains, as a justice of the Supreme Court. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Justice Davidowitz is with us today in the gallery. He's accompanied by his wife,

Jane.

Congratulations, Your Honor, and good luck with your duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Gregory Carro, of New York.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President. I rise to move the nomination of Gregory Carro, of New York, as a judge of the Court of Claims.

We've examined Judge Carro's credentials. They were found to be excellent. He appeared earlier this morning before the committee, was unanimously moved to the floor for confirmation at this time. And I yield for purposes of a second to Senator Krueger.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. Thank you, Senator Lack, for allowing me to rise to be second to nominate

Judge Gregory Carro to the Court of Claims.

And in reference to the previous judge, we have a long time before we have to worry about Judge Carro having an issue of being able to remain on the Court of Claims, if he so chooses, from an age perspective.

The loss is that we will no longer have him as a judge of the Criminal Court for the City of New York in my district in Manhattan.

He has a long history, a respected history working in criminal law, having been an assistant district attorney working on homicide investigations, particularly complex, drug-related gang issues; having served in the Trial Bureau; having served as assistant special narcotics prosecutor for the Office of the City of New York.

And I'm delighted that he comes from the great community in my district of Stuyvesant Town.

And I would like to congratulate him and his father, John Carro, who I understand is here with him today, who must be extremely proud of his son.

So thank you very much, and congratulations.

ACTING PRESIDENT MEIER: The question is on the confirmation of Gregory Carro as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Carro is with us today in the gallery, and he is accompanied by his father, John Carro.

Your Honor, congratulations and best wishes with your duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Robert J. Collini, of Staten Island.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of Robert J. Collini, of Staten Island, as a judge of the Court of Claims. Again, another one of the nominations we received this week from the Governor of an excellent person to serve on the Court of Claims.

We examined the credentials of the candidate. They were found to be exemplary. He appeared earlier this morning before us, was unanimously moved to the floor for consideration at this time.

And I most respectfully yield to Senator Marchi for purposes of a second.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Mr. President, it's really edifying when we meet each of these nominees by the Governor, and it only exemplifies and iterates the care with which they were selected and what they have to contribute as we proceed to consider their confirmation.

Mr. Collini was born in Vicenza,

Italy. And I've had the pleasure of exchanging some of our colloquy and interrogation in Italian, and he does it very well. And very few of them do it in this country.

But he's got a very superb background. And it's not narrow-gauged. He's done well in a number of areas, which indicates that he has a broad comprehension of the responsibilities that he carries and that they do not exclude a variety of experiences.

U.S. Army War College. He's been an arbitrator in both Richard and Kings County, on several counts. Civil and military affairs detachment. In area after area -- Fordham University, bachelor of arts, Phi Beta Kappa. So this is academic excellence. Excellence in various fields, civic and civil and military, and each one rendering a distinguished account of his activities.

He's had experience as a litigator and all of the wide breadth of experiences that one could possibly desire. So I'm not going to belabor the obvious, because there are multiple allusions and references to

credible service.

But I'm very proud to stand here and urge this body to give their unanimous consent, as I'm sure they will, because the past is prologue. We've had good people. Here's a very excellent person who has given a good account of himself with the public, with his peers, and in distinguished service, which indicates what he brings to the office that he seeks.

So again, Mr. President, I urge unanimous consideration of this nomination.

ACTING PRESIDENT MEIER: The question is on the confirmation of Robert J. Collini as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Collini is with us today in the gallery. He's accompanied by his parents, Dr. and Mrs. Francis Collini, and by a family

friend, John Stella.

Judge Collini, congratulations and best wishes with your duties.

(Applause.)

ACTING PRESIDENT MEIER: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. On behalf of Senator Maziarz, I wish to place a sponsor's star on Calendar Number 829.

ACTING PRESIDENT MEIER: So ordered.

SENATOR FARLEY: On behalf of Senator Volker, Mr. President, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: That's Senate 3510.

ACTING PRESIDENT MEIER: So ordered.

With regard to Calendar 829, the

sponsor's star will be removed.

SENATOR FARLEY: Did I do that wrong? Here, let me correct that for the record.

On behalf of Senator Maziarz, please remove the sponsor's star on 829. Thank you.

ACTING PRESIDENT MEIER: The chair thanks you, and Senator Maziarz thanks you.

So ordered. Thank you, Senator Farley.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are substitutions at the desk. If we could make them at this time.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 54, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11460A and substitute it for the identical Senate Bill Number 7448A, Third Reading Calendar 1300.

On page 56, Senator LaValle moves

to discharge, from the Committee on Rules, Assembly Bill Number 6502 and substitute it for the identical Senate Bill Number 3259, Third Reading Calendar 1443.

On page 56, Senator Volker moves to discharge, from the Committee on Education, Assembly Bill Number 6597 and substitute it for the identical Senate Bill Number 3309, Third Reading Calendar 1444.

On page 58, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11602A and substitute it for the identical Senate Bill Number 7632, Third Reading Calendar 1461.

And on page 58, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 11269 and substitute it for the identical Senate Bill Number 7637, Third Reading Calendar 1462.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial calendar.

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

THE SECRETARY: Calendar Number 82, by Senator Volker, Senate Print 5653A, an act to amend the Penal Law and others, in relation to changing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 72. 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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 113, by Member of the Assembly Abbate, Assembly Print Number 10239, an act to amend the Civil Service Law, in relation to reassignment.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 209, by Senator LaValle, Senate Print 1430, an act to amend the Town Law, in relation to permitting fire districts.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 365, by Senator Fuschillo, Senate Print 1070, an act to amend the Vehicle and Traffic Law, in relation to increasing fines.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR ONORATO: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 366, by Senator McGee, Senate Print 1168, an act to amend the Vehicle and Traffic Law, in relation to requiring suspension and revocation.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 367, by Senator Maziarz, Senate Print 1897, an act to amend the Vehicle and Traffic Law, in relation to increasing penalties.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 473, by Senator Velella, Senate Print 6426, an

act to amend the Labor Law, in relation to imposing liability.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 570, by Senator Wright, Senate Print 6136A, an act in relation to fire protection.

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

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 573, by Member of the Assembly Schimminger, Assembly Print Number 2149A, an act to amend

the Local Finance Law, in relation to the sale of bonds and notes.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 885, by Senator Saland, Senate Print 7126 --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 969, by Member of the Assembly Cahill, Assembly Print Number 7907B, an act to amend the General Business Law, in relation to implementing.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 973, by Senator Alesi, Senate Print 1128, an act to amend the Vehicle and Traffic Law, in relation to extending.

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

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1004, by the Assembly Committee on Rules, Assembly Print Number 9002A, an act to amend the Labor Law, in relation to including services.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1066, by Senator Morahan, Senate Print 4735A, an act to amend the State Finance Law, in relation to authorizing a preference.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1083, by Senator Marchi, Senate Print 2546A, an act to amend the Not-For-Profit Corporation Law, in relation to reacquisition.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1093, by the Assembly --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1094, by Senator --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1106, by Senator DeFrancisco, Senate Print 6165A, an act to amend the Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45. Nays, 1. Senator Padavan recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1162, by Senator Hoffmann, Senate Print 7270A, an act to establish a full-time police department in the Town of Cicero.

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

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1279, by Member of the Assembly Lentol, Assembly Print Number 5750D, an act to amend the Retirement and Social Security Law and the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Thank you, Mr. President.

I just want to note for the record that I do believe that sometimes presumptions make sense, and this is one of those cases. I'll be voting yes, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1403, by Senator Maziarz, Senate Print 7390B, an act to amend the Tax Law, in relation to hotel and motel taxes.

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, 46.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1443, substituted earlier today by Member of the Assembly Thiele, Assembly Print Number 6502 --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1444, substituted earlier today by Member of the Assembly Eve, Assembly Print Number 6597, an act to amend the Education Law, in relation to authorizing.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1445, by Senator Maltese, Senate Print 3890, an act to amend the Election Law, in relation to military voting.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1446, by Senator Volker, Senate Print 4950B, an act to amend the Retirement and Social Security Law, in relation to including.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first day of September.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1447, by Senator Lack, Senate Print --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1448, by Senator Breslin, Senate Print 6266, an act to authorize payment of transportation aid.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1449, by Senator Fuschillo, Senate Print

6371A, an act to amend the Insurance Law, in relation to requiring a report.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1450, by Senator Stachowski, Senate Print 6600A, an act authorizing the Town of West Seneca, Erie County, to sell certain parklands.

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

Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1451, by Senator Wright, Senate Print 6868B, an act authorizing the City of Fulton, County of Oswego, to discontinue certain parklands.

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

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1452, by Senator Rath, Senate Print --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number

1453, by Senator Balboni --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1455, by Senator Balboni --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1456, by Senator Spano, Senate Print 7607, an act to amend the Tax Law, the Administrative Code of the City of New York, and the Code of Ordinances in the City of Yonkers.

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, 46.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1457, by Senator Balboni, Senate Print 7617, an act authorizing the governing board of the Great Neck Park District.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1458, by Senator Farley, Senate Print 7626, an act to amend the Public Authorities Law, in relation to contracts.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1459, by Senator Meier, Senate Print 7628, an act to amend the Social Services Law, in relation to availability.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. 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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1460, by Senator Bruno, Senate Print 7629, an act to amend the Highway Law, in relation to designating.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1461, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11602A, an act authorizing a certain housing authority.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President,

there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

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

Senator Paterson.

SENATOR PATERSON: Mr. President, I withdraw my objection to Calendar 1446, if you'd like to bring it back.

ACTING PRESIDENT MEIER: Senator Skelos, should we go directly to Calendar 1446?

SENATOR SKELOS: Please call up Calendar Number 1446.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1446.

THE SECRETARY: Calendar Number 1446, by Senator Volker, Senate Print 4950B, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first day of

September.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will resume reading in regular order.

THE SECRETARY: Calendar Number 1462, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11269, concurrent resolution of the Senate and Assembly proposing an amendment.

ACTING PRESIDENT MEIER: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The resolution is adopted.

THE SECRETARY: Calendar Number 1463, by Senator Stafford, Senate Print 7640, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1464, by Senator Lack, Senate Print 7641 --

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1465, by Senator Kuhl, Senate Print 7644, an act to amend Chapter 667 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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1466, by Senator LaValle, Senate Print 7667, an act to amend the Environmental Conservation Law, in relation to defining.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1467, by the Senate Committee on Rules, Senate Print Number 7669, an act to amend Chapter 596 of the Laws of 1994 amending the Labor Law.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1468, by Senator Velella, Senate Print 7670, an act to amend Chapter 824 of the Laws of 1987 relating to the New York City Transit Corps.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1469, by the Senate Committee on Rules, Senate Print Number 7671, an act to amend Chapter 831 of the Laws of 1981, amending the Labor Law.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1471, by Senator Fuschillo, Senate Print 7532A, an act to amend the Real Property Tax Law, in relation to --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

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 6, Calendar Number 113, by Member of the Assembly Abbate, Assembly Print Number 10239, an act to amend the Civil Service Law, in relation to the reassignment.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT MEIER: Senator Leibell, an explanation has been requested by Senator Hevesi.

SENATOR LEIBELL: This bill would amend the Civil Service Law to add a new section, 81C, to provide that the reassignment of employees upon transfer of function or office shall be made upon the basis of seniority.

The bill would guarantee that if the State of New York determines that the reassignment of employees is necessary for the benefit of the state, that such reassignment will be completed in the inverse order of seniority, as set forth in Section 80 of the Civil Service Law.

We seek to mitigate the great impact on employees when they are forced to

relocate, and to take into account the seniority of an employee who, through their employment, has provided long-term, dedicated service to the state.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

ACTING PRESIDENT MEIER: Senator Leibell, do you yield?

SENATOR LEIBELL: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I'm concerned about the Section 80 which is referenced in this bill, which obviously refers to some seniority rules imposed for some other purpose. Could you just elaborate on what Section 80, as it currently exists in law, does?

SENATOR LEIBELL: Section 80 is a listing of the seniority rules that are

provided for by the Civil Service Law.

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

ACTING PRESIDENT MEIER: Senator Leibell, would you continue to yield?

SENATOR LEIBELL: Yes, I'll yield.

ACTING PRESIDENT MEIER: He yields.

SENATOR HEVESI: Thank you, Mr. President.

Let me just see if I understand this bill. If the state needs to close down an office somewhere in the state and workers are relocated, if this bill becomes law, am I to understand that the only consideration that a manager working for the state can use if it's necessary to transfer an employee is their level of seniority?

SENATOR LEIBELL: Yeah, it's not -- I can't say it's the only criteria. But it would establish seniority as a criteria.

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

SENATOR LEIBELL: Yes.

SENATOR HEVESI: I'm okay with seniority being one of the considerations, but not the exclusive consideration. And my concern is the language in this bill, which says that "in the event that the state determines that such a reassignment is necessary, then the selection of an employee for reassignment shall be made in the inverse order of seniority in the same manner as set forth in Section 80 of this title."

It doesn't seem to me to lend itself to other considerations becoming a part of the process. In other words, that if this bill became law, a manager would be forced to hire somebody pursuant to a relocation that was maybe not the best employee or the smartest employee or the hardest-working employee but simply somebody who was the most senior.

And I'm concerned about that. Could you possibly respond to that?

SENATOR LEIBELL: Senator, I think what your -- your point there, we're trying to avoid those subjective criteria.

You said if someone is smarter than someone else. Well, that was a very subjective test that could be applied there. We're trying to say that it wouldn't be based on that, because you and I may very well disagree, if we were the managers, as to who would be smarter.

We're saying here -- it's pretty straightforward. What we're saying here is that the seniority would be the component that we would look to in making these determinations as to transfers.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Would the sponsor yield to a final question, please?

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Just as I'm deciding how to vote on this, I would like to be consistent with other provisions of law. Is it generally the policy amongst the rank

and file of the civil service in New York State that seniority is -- in work assignments, in transfers and what have you, is seniority the exclusive component through which a manager would base personnel decision under current law?

SENATOR LEIBELL: For nonmanagement contract employees, that would be true.

SENATOR HEVESI: Okay. Thank you.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Mr. President, I understand what this bill seeks to do. But I think it's heading in a direction that I don't want to head in.

And I know we have for years and years in this state had a mind-set that at one point might have really been a good idea, where we make management decisions based on seniority. If management decisions are based only on seniority, I have a real problem with that.

Because as Senator Leibell points out, while some other criteria may be subjective, as to whether somebody is smarter than somebody else, whether somebody is harder-working than somebody else, whether somebody has better ideas than somebody else, I believe -- and this is the trend I think we should go in in government; certainly it's the trend in the private sector -- that a manager gets to make those subjective evaluations as they pertain to their subordinates. And the inability for a manager to make those decisions damages efficiency.

In fact, I oppose certain provisions of the New York City teachers contract, which prevents teachers from being transferred simply because they're senior. So you can have an inconsistency in how you approach education, which we now have, which is we did away with tenure for principals in New York City pursuant to a contract where principals and other supervisors got up to a 30 percent raise.

So we're now holding principals accountable, where they can be fired by the

superintendents, yet we have contract rules that prevent administrators, principals from moving teachers around -- even though a teacher may not be producing, even though a teacher may be a problem in terms of coming in line with the management or the philosophy of the supervisor -- and we are holding the principal accountable when their subordinates are locked into their place in the work structure because of seniority rules.

Now, I understand the need and the compulsion to in some way consider seniority. In fact, in Albany here we consider seniority to a great extent. Much too great an extent, in my opinion. But when you have a situation where you can potentially say to a manager: "Can't use the best person, can't transfer somebody around just because one person is more senior than another," that's a bad idea.

And so I will oppose this even with the understanding, as Senator Leibell has pointed out, that generally New York State law does consider seniority either exclusively or primarily in making these decisions. I don't like the direction that this goes in. I want

managers to have the greatest flexibility possible. Seniority can be a factor, but we should use other criteria -- subjective criteria, sure. Subjective criteria. We should use other criteria in deciding whether or not we can transfer somebody.

Because if you had a slew of people who were the most senior and the most incompetent, you would be locked into utilizing those people. And more junior people who were more talented, who would produce a better product or a better service for the people of the State of New York, would be denied, simply based on the fact that they are younger or newer to the work force, from helping out everybody else.

So I'm going to oppose this bill, even though I understand why Senator Leibell is bringing it.

Thank you, Mr. President.

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

The debate is closed, then.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Ayes, 47. Nays, 2. Senators Hassell-Thompson and Hevesi recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 365, by Senator Fuschillo, Senate Print 1070, an act to amend the Vehicle and Traffic Law, in relation to increasing fines.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 366, by Senator McGee, Senate Print 1168, an act to amend the Vehicle and Traffic Law, in relation to requiring suspension and revocation.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 367, by Senator Maziarz, Senate Print 1897, an act to amend the Vehicle and Traffic Law, in relation to increasing penalties.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT MEIER: Senator

Maziarz, Senator Hevesi has requested an explanation with regard to Calendar 367.

SENATOR MAZIARZ: Thank you very much, Mr. President.

This bill amends the Vehicle and Traffic Law in order to increase penalties for certain alcohol-related driving convictions. This bill would make it a Class E felony offense if you are convicted of a fourth DWI within ten years in the State of New York. It would also increase the fines to a minimum of 1,000, a maximum of $5,000, and it would require a one-year license revocation.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR HEVESI: Thank you, Mr.

President. I have voted for this bill two years ago in a row --

SENATOR MAZIARZ: I know you have.

SENATOR HEVESI: -- and the bill has passed unanimously. I don't recall whether I've asked you this before, but since it's a new year and the Assembly hasn't passed this, two questions.

The first is, is the Assembly going to pass this, or do you know what their objections are? Let me ask that question first as a stand-alone.

SENATOR MAZIARZ: Well, I really do not know what their objections are, Senator Hevesi. I can only speculate that what they're waiting for is a larger, comprehensive DWI package of bills.

That's just speculation on my part. Far be it from me to know what they're thinking over there.

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

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

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you. My other concern with this bill -- I don't love this bill. And the reason is I think this bill is too weak.

In other words, if I'm reading it correctly, you would only be eligible for felony-level penalties the fourth time you are convicted of a DWAI, which seems very much excessive to me. I don't know why we aren't raising felony-level penalties upon certainly the third, possibly the second DWAI conviction.

Could you respond to that, please?

SENATOR MAZIARZ: I actually agree with you, Senator Hevesi. I'd like to see it much stronger than that. But I think we have to, you know, the proverbial crawl before we walk, walk before we run. And I would like to see it much stiffer than this.

SENATOR HEVESI: Okay. Thank you. Briefly on the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Mr. President.

I support this bill. I support Senator Fuschillo's bill before it, Senator McGee's bill. And there are other DWI/DWAI bills on the calendar.

I've only got two days left in session, Mr. President. And I have seen these bills come before the floor many times in the past couple of years. They don't become law. And I don't know what the problem is. These bills, in my opinion, not only are they common sense, they're too weak, many of them. They don't adequately punish recalcitrant individuals in terms of DWI and DWAI offenses.

And so why it is that we never see an agreement with the Assembly, I don't know. And I don't want to cast aspersions on the Assembly. This could simply be a negative manifestation of the process up here where we don't have automatic conference committees, so nobody is talking to each other. I mean, that really could be the case.

But this is so important, as are a slew of other issues that we've already discussed here -- clergy notification, SONDA, mental health parity, a number of issues where there have been bills passed, similar bills by both houses, and we don't have any agreement.

Session is winding down, and I'm just afraid we're not going to afford protection in this area with victims and potential victims of drunk drivers, and in so many other areas, because nobody is talking to each other.

If there are substantive differences on these bills, that's a different story. And then in that case I would urge the Assembly to please take an action on this, take an action on eliminating the statute of limitations on felony offenses, doing some other things. But if the problem, Mr. President, is just nobody is talking to each other, we need to remedy that.

So I'll be voting yes on this. I commend Senator Maziarz, Senator Fuschillo, Senator McGee and everybody else in the Majority who has brought DWI/DWAI bills.

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

The debate is closed, then.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 473, by Senator Velella, Senate Print 6426, an act to amend the Labor Law, in relation to imposing liability.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 885, by Senator Saland, Senate Print 7126, an act to amend the Domestic Relations Law, in relation to factors.

SENATOR PATERSON: Explanation.

SENATOR ESPADA: Lay it aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1093, by the Assembly Committee on Rules, Assembly Print Number 11111A, an act --

SENATOR ESPADA: Lay that bill aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1094, by Senator Skelos, Senate Print 6635A, an act to amend the Public Authorities Law, in relation to authorizing.

SENATOR ESPADA: Lay that bill aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the

bill aside temporarily.

THE SECRETARY: Calendar Number 1443, which was substituted earlier today by Member of the Assembly Thiele, Assembly Print Number 6502, an act to amend the Criminal Procedure Law.

SENATOR PATERSON: Explanation.

SENATOR ESPADA: Lay it aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1447, by Senator Lack, Senate Print 6100, an act to amend the Public Authorities Law and the Education Law, in relation to financing.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: I have some questions for the sponsor.

SENATOR ESPADA: Lay that bill aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1452, by Senator Rath, Senate Print 7458, an

act to amend the Criminal Procedure Law, in relation to designating as peace officers.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Rath, Senator Paterson has requested an explanation of Calendar 1452.

SENATOR RATH: The bill before us at the moment is a simple addition of enforcement powers for the dog control officer in the Town of Clarence, expanding the opportunity for this particular officer to cite people who have been cruel to animals. Right now they don't have that power to go after someone who has gone into a cruelty activity with animals.

ACTING PRESIDENT MEIER: Senator Paterson.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, is

there any training that's necessary to be able to distinguish what cruelty to animals is?

SENATOR RATH: Dog control officers have fairly extensive training before they become dog control officers.

The role that I'm speaking about right now is one that has to be brought in by a police officer. And the town has requested this. It's sort of a semirural town and the -- there was an incident with some horses recently, and the dog control officer was not able to go in and do this.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Rath would yield for another question.

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, we know that police are trained in this kind of area and can discharge that duty with -- as a function.

But my question is, what training

have peace officers that would make them similarly able to make that distinction?

SENATOR RATH: The bill has to do with the issuance of appearance tickets. And so the kind of training that you might expect if there was some sort of -- some other kinds of circumstances that I think you may be imagining, this is just simply for the issuance of the appearance tickets.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I have one last question for Senator Rath.

ACTING PRESIDENT MEIER: Senator Rath, do you yield?

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: So what I understand, Mr. President, is that this is more of a process-serving in this case rather than a decision that would actually be made on-site.

SENATOR RATH: That's correct.

SENATOR PATERSON: Thank you.

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

Debate is closed, then.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Senator Balboni, Senate Print 7547A, an act in relation to allowing the Great Neck Synagogue.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Balboni, Senator Paterson has requested an explanation of Calendar 1453.

SENATOR BALBONI: The Dollinger surrogate is here today asking for this bill?

This is going to be cutting-edge legislation. The Great Neck synagogue is a terrific, terrific institution. They

purchased property in the Village of Great Neck, in the Town of North Hempstead, at 25 Wooleys Lane in Great Neck. And this was the -- this is the rabbi's residence.

The property, since it is used for religious purposes, is tax-exempt. But under current law, the status cannot be made effective for the year in which the property was purchased because the taxable date had closed, the rolls were closed.

This bill would remedy an $1,800 hardship on behalf of the synagogue, which provides an essential service to the community I am privileged to represent.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Once again, the tax assessor's virus raises its ugly head. It started out, as you know, in Suffolk County. It went to Nassau County, to Brooklyn. Yesterday we saw an example of it going to Westchester County. It's been all the way up to Buffalo. And I stand alone in this chamber fighting it time and time again.

(Laughter.)

SENATOR PATERSON: Well, Senator Balboni, once again your tax assessor's office leads the state, the country, and who knows, perhaps the free world, in giving these benefits. I want a statewide bill, and I'm not going to say it any further.

Thank you.

(Laughter.)

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Will Senator Dollinger yield for a question?

(Laughter.)

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

Thank God. Read the last section.

(Laughter.)

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1455, by Senator Balboni, Senate Print 7595, an act in relation to allowing.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Paterson, before he gives the explanation, who are you now?

(Laughter.)

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

SENATOR BALBONI: Mr. President, I just have to comment at this point in time that it is such a wonderful opportunity to talk about the wonderful institutions in the district that I represent. And so I'd like to thank Senator whoever-you-are for allowing me to discuss this.

The Chabad of Roslyn, which has annual estimated taxes assessed against the parcels of approximately $39,000 -- yeah, this is kind of the same bill we've done before. They purchased on April 6, 2001, the property located at 75 Powerhouse Road to serve as a house of worship. The property is eligible to

receive and has received tax-exempt status, but under current law the status cannot be made effective for the tax year in which the property was purchased because the tax rolls had already been closed.

An identical situation with a little bit of different hardship on this wonderful institution. The tax liability against the Chabad property is $7,592.88.

And therefore, this bill would allow them to get what is appropriately theirs because they are a religious institution; namely, the ability to get relief for the $7,500 that they paid in assessments.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Senator Krueger, did you want to be heard on the bill?

SENATOR LIZ KRUEGER: I had a question for the sponsor.

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

SENATOR BALBONI: Yes. Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: I'll be Senator Krueger today, Senator Balboni.

So I've listened to this debate now on any number of bills, and I am left with the question, can't we address this for all of the not-for-profits who buy property either in your county or any other county through some form of legislation that doesn't require you to have to go through this piece by piece? What am I missing?

Is there some mechanism we could apply that would allow a not-for-profit that buys midyear, after the tax rolls are closed, to have that done just on a local level without having to bring this to the Legislature?

SENATOR BALBONI: Mr. President, through you, some of the different complications that arise in this issue is the fact -- or stem from the fact that in Nassau County it is a countywide assessment system,

which is unique. And so therefore the ability to do the tax rolls and to close as to the tax date changes. It would be very difficult for the county assessor's office to put into -- to administer.

So they believe that one of the ways that this is done appropriately is to recognize, when you can't close by the taxable date, that you go and you seek relief through the Legislature.

Now, I know that Senator Dollinger in particular has raised this issue as to why we have to do it in a separate bill. But when you consider the whole host of different things that we do in this Legislature -- for example, the alienation of park property. In order to use a piece of park property for any other purpose than a park purpose, you have to do a separate piece of legislation, no matter what the size of the parcel. And that's been done time and time again.

In addition to which, there are a whole host of other bills to provide for individual relief on a whole slew of other issues.

So this is -- the process by which we do this is not really that unique. I understand the call for a system that would work for the entire situation. But I also understand there are some technical difficulties relating to that proposal that is not before us today that have caused it not to go forward.

SENATOR LIZ KRUEGER: Mr. President, if the sponsor would continue top yield, through you.

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

SENATOR BALBONI: Yes, Mr. President, I do yield.

SENATOR LIZ KRUEGER: Thank you, Senator.

I don't quite see the parallel with parks, because I would argue that to give up parkland -- because in my district, open space is so rare and so valuable you would not want to do an across-the-board if somebody -- if a locality wants to sell parkland, that they should be allowed to do so without speaking to the Legislature, or to trade it off. But you

used the analogy.

Is there any example where we said no to a not-for-profit who, through a county, asked for a retroactive tax exemption for the year that they paid them in? Is there a specific reason why we would actually say no in any of these circumstances?

SENATOR BALBONI: Not that I know of, except -- I'm sorry, Mr. President, through you. By way of an answer, all I know is that sometimes these bills don't make it through. You know, the stamp of approval are the votes in agreement on a particular measure.

So if a bill doesn't come to the floor or if it's not voted on, then of course the approval is not given. And you could say that that is a -- de facto, that is a statement of objection or at least no concurrence with the particular proposal.

Again, you know, the issue or my analogy with the park property is really one of process. I assure you that the alienation of a piece of park property is very, very important, and I agree that it should be

handled in this way. But that's any size park property. So if you're talking about the introduction of a bill and the passage of a bill that would affect things that you might consider de minimis against the entire legislative agenda, I would argue that this is the same type of bill.

But nonetheless, for the people who run the Chabad of Roslyn, for the people who run the Great Neck Synagogue, it's an important change in the technical correction.

SENATOR LIZ KRUEGER: Mr. President, through you, if the sponsor would continue to yield.

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

SENATOR BALBONI: I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you. You're helping -- you're educating me.

So you're saying that we actually do have bills that come up for specific not-for-profit corporations where they don't

come to the floor and therefore they don't get addressed?

SENATOR BALBONI: Sometimes. When I was in the Assembly -- I'm sorry, Mr. President, through you. When I was in the Assembly, that would happen, on occasion, that I knew some of my bills did not get through. Now, eventually they may have gotten there, but there were technical questions that were asked as to the process by which the closing occurred, when -- what was the calculations on behalf of the attorney. On much of what Senator Dollinger raises.

You know, I mean, the scrutiny is given to these proposals. And I'd just like to point out that I don't believe any bill that's ever been passed here has been passed by any other vote than, you know, 59 to 1. It's near unanimity in terms of the consent.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I want to thank Senator Balboni for

the clarification, although I still find myself confused about why we can't address the technicalities and get this done statewide.

But in order to assure that the vote remains something-to-1, I will vote no on this today. Thank you.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Most of my questions were asked by Senator Krueger. But I'm concerned about the -- if the Senator will yield for a couple of questions.

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

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: I'm concerned about those institutions which don't have the political muscle to get the measures passed. Does that happen?

SENATOR BALBONI: Not in my district.

SENATOR STAVISKY: I know, you

have considerable political acumen as well as --

SENATOR BALBONI: I don't mean to be flip. I'm sorry, Mr. President.

By way of saying -- I meant to say I don't know of any, because the ones in my district have been pretty good at contacting my office and working through the process. And so therefore I don't know of any that have not had the chance to get the relief.

SENATOR STAVISKY: My other question really concerns the whole assessment process in Nassau County. And it's my understanding that there's been some criticism of the assessment situation in Nassau County.

Do you anticipate any changes where we might avoid some of these special measures?

SENATOR BALBONI: Well, in the broader question of whether or not the assessment system is fair, as you may well be aware of, the County of Nassau is going through a reevaluation --

SENATOR STAVISKY: That's why I asked the question.

SENATOR BALBONI: -- and a

reassessment at the same time. And it is hoped that that effort will result in a much fairer levy.

However, if you are a not-for-profit -- and this is a point that I made with Senator Dollinger. If you are a not-for-profit, the level of sophistication and appreciation for how government works varies. You know, if you are a synagogue that is well established and has perhaps a sophisticated and -- perhaps has a lot of members who are of the legal profession, then the adherence to the criteria for applying for a tax-exempt status should be relatively easily done.

However, there are many religious institutions who perhaps are not very well established, and therefore their sophistication will not be as good as the well-established institutions.

Now, you could do the best assessment system in the world, but when it comes to the closing, if you don't do the closing by before the date the rolls close, you're going to be out of luck. And so

ultimately you're still probably going to have to come back to us.

However, we anticipate in this session perhaps considering legislation to address some of the inequities of the assessment system as we go forward.

SENATOR STAVISKY: Thank you.

Mr. President, I'm going to vote for this bill. But the reason I asked the question of Senator Balboni concerned the whole tax situation and the assessment situation in the County of Nassau. I believe there have been some court-imposed requirements or encouragement to reassess its whole assessment process.

I would hope that those smaller institutions -- because that's the reason I'm asking the question. I'm concerned not about the Great Neck Synagogue, because they have the background and the staff to properly prepare the legislation or to work on it. But what about the smaller institutions? I'm concerned about them.

And I think that obviously they need this measure, and I'm going to support

it. But I think we have to look at the larger picture of the whole assessment situation in Nassau County.

Thank you, Mr. President.

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

Debate is closed, then.

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, 52. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Espada.

SENATOR ESPADA: Mr. President, we'd like to announce an immediate meeting of the Rules Committee in the Majority Conference Room, please.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in

the Majority Conference Room.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1464, by Senator Lack, Senate Print 7641, an act in relation to validating.

SENATOR ESPADA: May we lay that bill aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Espada.

SENATOR ESPADA: Mr. President, may we call up Bill Number 885, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 885.

THE SECRETARY: Calendar Number 885, by Senator Saland, Senate Print 7126, an act to amend the Domestic Relations Law, in relation to factors.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Saland, Senator Paterson has requested an explanation of Calendar 885.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, as many of us in this chamber are aware, over the course of the past decade and perhaps going back even into the 1980s, the issue of shared or joint custody is one which has garnered ever more attention.

What this bill proposes to do is to deal with that issue in a fashion that's consistent with the same manner in which we dealt with the issue of custody here several years ago, by effectively recognizing what the courts have to date done, which is to recognize that there is a right to shared or joint custody and to enumerate those circumstances under which it's appropriate, without creating any presumption.

The law and the statute as it stands now prefaces the language that would be amending Section 240 of the Domestic Relations Law, and that language reads: "In all cases, there shall be no prima facie right to the custody of the child in either parent."

What this bill basically does is it says the court shall look to the totality of the circumstances, provides guidelines and

criteria for the court to consider in determining whether there shall be an award of joint custody, and enumerates what shall be considered. And those things are the demonstrated ability of the parents to communicate and cooperate in the rearing of their children.

The methods used are to be used by the parents for resolving disputes regarding major decisions concerning the life of child and whether it would be beneficial or detrimental to the child if one parent were to have sole authority over the child's upbringing.

These are factual determinations to be made on a case-by-case basis, the court effectively looking to the conduct of the parents with respect to child rearing prior to the circumstances which presented them to the court in the midst of a matrimonial situation.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator

Paterson, on the bill.

SENATOR PATERSON: Senator Saland, in his adroit way, as usual, of anticipating what my concerns would have been, has actually addressed it.

We just wanted to make sure that there's not a presumption of joint custody when we amend paragraph A of subdivision I of Section 240 of the Domestic Relations Law.

The issue of joint custody can be a workable and sensible solution to a divorce proceeding or a custody proceeding when there is a cooperation between the parents, when the parents have a plan as to how they will resolve disputes, particularly in terms of major decision-making, and when there's a history of the parents either cooperatively or individually being able to structure the arrangement such that they have that child-rearing experience with this particular child.

Many times the acrimony between the parties is such that the sitting judge has no other course but to find in favor of either of the actual parties.

I'm also happy that Senator Saland notes that they do take into consideration the issue of domestic violence, even though there is no presumption caused by that either.

So with that reassurance, I'm sure the bill will actually work very well and will finally put the issue of joint custody into the law where it wasn't before. And to be honest with you, Mr. President, I didn't know that it wasn't mentioned in the Domestic Relations Law before.

Thank you.

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

Debate is closed, then.

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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I'd like unanimous consent to be recorded in the negative on Calendar Number 1452.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 1452.

Senator Espada.

SENATOR ESPADA: Mr. President, if we could return to reports of standing committees, there's a Finance Committee report at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Finance Committee.

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

As a member of the New York State Energy Research and Development Authority, George Akel, Jr., of Binghamton.

As a member of the board of directors of the Great Lakes Protection Fund, Michael J. Elmendorf, II, of Latham.

As a banking member of the State Banking Board, Alan Shamoon, of Great Neck.

As a public member of the State Banking Board, Santa Albicocco, Esquire, of Oyster Bay, and Frederick N. Antalek, of Beacon.

As a member of the Administrative Review Board for Professional Medical Conduct, Therese G. Lynch, of Pittsford.

As a member of the Albany Pine Bush Preserve Commission, Aaron Mair, of Albany.

As a member of the Lake George Park Commission, Shauna M. Desantis, Esquire, of Glens Falls.

As commissioner of the Ohio River Valley Water Sanitation Commission, Thomas Lee Servatius, of Fredonia.

As members of the Medical Advisory Committee, David J. Cerniglia, D.C., of Schenectady; Leon F. Nadrowski, M.D., of Brooklyn; Robert A. Schwartz, M.D., of Manlius; and Gavin Setzen, M.D., of Slingerlands.

As members of the New York State Environmental Facilities Corporation, Victoria

S. Kennedy, of Fayetteville, and Lelia M. Wood-Smith, Esquire, of Rye.

As a member of the Advisory Council on Alcoholism and Substance Abuse Services, Dan J. Davis, of Potsdam.

As members of the Continuing Care Retirement Community Council, Robert M. Chur, of Clarence, and Edward Charles Weeks, of Buffalo.

As members of the Council on Human Blood and Transfusion Services, Gloria M. Rochester, of St. Albans, and David Lynn Wuest, M.D., of New York City.

As a member of the State Council on the Arts, Donald A. Capoccia, of New York City.

As a member of the State Hospital Review and Planning Council, Patricia Donnelly, of East Syracuse.

As members of the Board of Visitors of the Helen Hayes Hospital, Ann C. O'Sullivan, of Stony Point, and Martin C. Wortendyke, of Upper Nyack.

And as a member of the Board of Visitors of the Kingsboro Psychiatric Center,

Jose R. Carrillo, of Brooklyn.

ACTING PRESIDENT MEIER: Senator Espada.

SENATOR ESPADA: May we move the nominations, Mr. President.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. If it's appropriate, I would just like to make a comment on one of our appointees today.

ACTING PRESIDENT MEIER: Of course.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

We have before us today, for a member of the Board of Trustees of the City University Construction Fund, in the person of Philip A. Berry. Philip Berry is someone that I worked with many years ago when he was with the Urban League and I was doing community organizing.

For his many years in corporate America, particularly with Colgate-Palmolive, he has grown into quite a stature of an

individual. I am very excited about this appointment today, and I am very pleased that someone of such standing has been appointed by our Mayor.

And I know that he is going to do a tremendous job in that position. I am very grateful to support his and all of the other nominations before us this morning.

ACTING PRESIDENT MEIER: The question is on the confirmation of the nominees. All those --

SENATOR LACHMAN: All the nominees together?

ACTING PRESIDENT MEIER: No. The first four will be taken up separately. Those beginning on the sheet with members of the New York State Energy Research and Development Authority are taken as group.

The question is on the confirmation of the --

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: I have a question.

ACTING PRESIDENT MEIER: What's your question, Senator?

SENATOR STAVISKY: My question is this. I see we have a commissioner of the Ohio River Valley Water Sanitation Commission. And if my geography is correct, the Ohio River runs through Pittsburgh, Pennsylvania. And I was wondering why -- it's formed by the confluence of the Monongahela and the Susquehanna, I believe.

ACTING PRESIDENT MEIER: Senator, it's because the watershed of the Ohio River begins in the Allegheny Mountains, which are located in Senator McGee's district.

SENATOR STAVISKY: Ah. Thank you very much.

ACTING PRESIDENT MEIER: Not at all. And may I say my seventh-grade geography teacher would be so proud of me.

(Laughter.)

ACTING PRESIDENT MEIER: The question is on the nomination of the above-named nominees. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominees are confirmed.

Senator Espada.

SENATOR ESPADA: Mr. President, we move to go to the report of the Rules Committee that is at the desk.

ACTING PRESIDENT MEIER: Senator, I'm sorry, I see Senator Smith standing. May I recognize him first, and then we'll go to the report of the Rules Committee.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Mr. President. I just wanted to speak on the nomination of Gloria Rochester, who is a member of the Council on Human Blood and Transfusion Services.

ACTING PRESIDENT MEIER: We've completed that item. But if you wish to ask for unanimous consent, without objection, you're recognized for that purpose, yes.

SENATOR MALCOLM SMITH: Thank you very much. I would like that unanimous

consent.

And just on the nominee, Ms. Rochester. She is someone who lives within the district and one who is getting reappointed, has served very well in the past. I'm delighted that the Governor chose to reappoint her.

I myself have a Sickle Cell Advisory Group within my office, and her involvement with that is one that I look forward to.

Thank you very much.

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 3261, by Senator LaValle, an act to amend the Criminal Procedure Law;

3534B, by Senator Volker, an act to amend the Civil Practice Law and Rules;

5011B, by Senator LaValle, an act

to amend the Environmental Conservation Law;

5668A, by Senator Hassell-Thompson, an act to authorize;

6233C, by Senator Marcellino, an act to amend the Environmental Conservation Law;

6787, by Senator Wright, an act in relation;

6817, by Senator Volker, an act to amend the Civil Practice Law and Rules;

6995A, by Senator Hannon, an act to amend the Public Health Law;

7423A, by Senator Volker, an act to amend the Criminal Procedure Law;

7469, by Senator Spano, an act to amend the Election Law;

7507, by Senator Maltese, an act to amend the Retirement and Social Security Law;

7546, by Senator Wright, an act to amend the Alcoholic Beverage Control Law;

7580, by the Senate Committee on Rules, an act to amend the Civil Service Law;

7627, by Senator McGee, an act to amend Chapter 312 of the laws of 1994;

7635, by Senator Volker, an act to

amend the Public Authorities Law;

7643, by Senator Kuhl, an act to amend the Education Law;

7655, by Senator Saland, an act in relation;

7659, by Senator Bonacic, an act to amend the Transportation Law;

7695, by Senator Johnson, an act to amend the Environmental Conservation Law;

And Senate Print 7696, by Senator Meier, an act to amend the Social Services Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Espada.

SENATOR ESPADA: Mr. President, we move to accept the report of the Rules Committee, please.

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 Espada.

SENATOR ESPADA: Mr. President, are there any substitutions at this time?

ACTING PRESIDENT MEIER: Yes, we have some substitutions. Would you like us to do them now?

SENATOR ESPADA: We would love that.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 61, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 10731A and substitute it for the identical Senate Print Number 6721A, Third Reading Calendar 829.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I would request unanimous consent to be recorded in the negative on Calendar 973, Senate Print

1128.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative on Calendar 973.

Senator Espada.

SENATOR ESPADA: Mr. President, if we could have the noncontroversial reading of the Supplemental Calendar Number 54A at this time, please.

ACTING PRESIDENT MEIER: Supplemental Calendar 54A. The Secretary will read the noncontroversial calendar.

THE SECRETARY: In relation to Calendar Number 1474, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 6504, and --

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Senator, we've got to get the substitution done.

Go ahead.

THE SECRETARY: -- and substitute it for the identical Senate Bill Number 3261, Third Reading Calendar 1474.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1474 --

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: The bill is laid aside.

THE SECRETARY: Calendar Number 1475, by Senator Volker, Senate Print 3534B, an act to amend the Civil Practice Law and Rules, in relation to evidence.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1476, by Senator LaValle, Senate Print 5011B, an act to amend the Environmental Conservation Law, in relation to enacting.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1477, Senator Hassell-Thompson moves to discharge, from the Committee on Local Government, Assembly Print Number 7128B and substitute it for the identical Senate Print Number 5668A, Third Reading Calendar 1477.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1477, by Member of the Assembly Pretlow, Assembly Print Number 7128B, an act to authorize Bethel Temple, Incorporated.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The chair is constrained to note that it's not only Senator Balboni who's got clout.

The bill is passed.

(Laughter.)

THE SECRETARY: Calendar Number 1478, by Senator Marcellino, Senate Print 6233C --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1479, by Senator Wright, Senate Print 6787, an act in relation to granting certain retirement benefits.

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

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1480, Senator Volker moves to discharge, from the Committee on Rules, Assembly Print Number 11567 and substitute it for the identical Senate Print Number 6817, Third Reading Calendar 1480.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1480, by the Assembly Committee on Rules, Assembly Print Number 11567, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1483, by Senator Spano, Senate Print 7469 --

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1484, by Senator Maltese, Senate Print 7507, an act to amend the Retirement and Social Security Law, in relation to clarifying.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1485, by Senator Wright, Senate Print 7546, an act to amend the Alcoholic Beverage Control Law, in relation to sale of alcoholic beverages.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1486, by the Senate Committee on Rules, Senate Print Number 7580, an act to amend the Civil Service Law, in relation to leaves of absence.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1487, Senator McGee moves to discharge, from the Committee on Rules, Assembly Print Number 11614 and substitute it for the identical Senate Print Number 7627, Third Reading Calendar 1487.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1487, by the Assembly Committee on Rules, Assembly Print Number 11614, an act to amend Chapter 312 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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1489, by Senator Kuhl, Senate Print 7643, an act to amend the Education Law, in relation to the provision of supplemental educational services.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Espada, that completes the noncontroversial reading of Supplemental Calendar 54A.

SENATOR ESPADA: Mr. President, may we now take up the controversial reading of Supplemental Calendar 54A, please.

ACTING PRESIDENT MEIER: The

Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 1474, substituted earlier today by Member of the Assembly Thiele, Assembly Print Number 6504, an act to amend the Criminal Procedure Law, in relation to peace officer status.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1478, by Senator Marcellino, Senate Print 6233C, an act to amend the Environmental Conservation Law, in relation to the use and recycling of elemental mercury.

SENATOR PATERSON: Explanation.

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

explanation of Calendar 1478.

SENATOR MARCELLINO: Thank you, Mr. President.

This bill requires a ban on elemental mercury in dental offices and requires the recycling of dental amalgam, of which 50 percent is mercury.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, would Senator Marcellino yield for a question?

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

SENATOR MARCELLINO: Yes. If you're sure that's Mr. Paterson.

ACTING PRESIDENT MEIER: I think so.

The sponsor yields.

SENATOR PATERSON: Senator, is there a burden that will be placed on dentists, or do any of the dental associations have a comment on this bill before you --

SENATOR MARCELLINO: Senator Paterson, this bill came to us from the Dental Association. And the members feel that this

is an important step and they're willing to take on whatever additional burden it may require.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I've always had a concern that mercury, by law, has to be kept separate from everything else in a dentist's office. It has its own place that it has to be kept in. So the only two places that it can be kept in are in that place and in your mouth.

So when you think about it, mercury is an extremely lethal substance at particular times. And the recognition of the Dental Society and Senator Marcellino that this is serious and there is a need to recycle it is very important.

There are those -- it's not the majority opinion, but there are those who believe that mercury, even contained in

fillings, often leaks and that that seepage causes a number of different reactions to the individual.

So whether or not that's true, the fact is that it is not nearly as safe as the consumer probably thinks. And the fact that it's relegated to that separate portion in a dentist's office really enhances the notion for which this bill was sponsored.

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

Debate is closed, then.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1483, by Senator Spano, Senate Print 7469, an act to amend the Election Law, in relation to receipt.

SENATOR PATERSON: Explanation.

SENATOR KUHL: Lay the bill aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Kuhl.

SENATOR KUHL: Can we return to the regular calendar, the first calendar. And would you call up Calendar Number 1443, by Senator LaValle.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1443.

THE SECRETARY: Calendar Number 1443, substituted earlier today by Member of the Assembly Thiele, Assembly Print Number 6502, an act to amend the Criminal Procedure Law, in relation to peace officer status.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. With unanimous consent, I would like the record to reflect that had I been in the chamber yesterday, when the following votes were taken, I would have voted in the negative on Calendar 930, Senate Print 1778; Calendar 1323, Senate Print 6155A; and Calendar 1372, Senate Print 2893C.

Thank you.

ACTING PRESIDENT MEIER: The record will so reflect.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I'd like unanimous consent to be recorded in the negative on Calendar Number 1474.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 1474.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. We now have senators to debate the bills.

Could we call up, on the regular calendar list, Calendar 1464, by Senator Lack.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1464.

THE SECRETARY: Calendar Number 1464, by Senator Lack, Senate Print 7641, an act in relation to validating certain marriages.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Explanation, please.

SENATOR KUHL: Lay that bill aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

SENATOR KUHL: And now, on the Supplemental Calendar 54A, could you call up Calendar 1483, by Senator Spano.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1483.

THE SECRETARY: Calendar Number

1483, by Senator Spano, Senate Print 7469, an act to amend the Election Law.

SENATOR LIZ KRUEGER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Spano, Senator Liz Krueger has requested an explanation.

SENATOR SPANO: Yes, Mr. President. This bill amends the Election Law. Under current law, a person can walk into the Board of Elections, request absentee ballots of the Board of Elections representative, and walk out with those absentee ballots.

What we're doing with this proposal is to require that an applicant walking in, taking delivery of those absentee ballots, would in fact have to provide identification to the Board of Elections and would have to a receipt acknowledging the fact that those absentee ballots were in fact delivered to that person.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If, through you, the sponsor

would yield.

ACTING PRESIDENT MEIER: Senator Spano, do you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Senator.

In your explanation you mention that they walk in to get absentee ballots. My understanding is you have to first file an application to receive an absentee ballot. So in which step of the process are people coming in on behalf of others to get absentee ballots?

SENATOR SPANO: We would not change the current provisions of the law with respect to the absentee ballot application. But what happens, there are times when a person might collect a series or a number of absentee ballot applications, walk in with those applications signed, walk into the Board of Elections and say: "Here are ten of them, I need ten of these ballots."

What then would happen under this

change would be the Board of Elections would require, of the person showing up with those absentee ballot applications, proper identification, and then they would have to sign a certification or a receipt acknowledging that they took them. That's the only change.

SENATOR LIZ KRUEGER: Mr. President, through you, if the sponsor would continue to yield.

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Senator Spano, is this change necessary based on something that's happened, or is this a proactive effort? Does it imply some kind of fraud in the past?

SENATOR SPANO: As a part of the Senate Task Force on Voter Fraud and as a part of the Governor's task force, which was a bipartisan task force, we conducted hearings across the state. There were a number of

recommendations that were made to the task force relative to tightening up provisions of the Election Law. This is just one of those recommendations that I happen to sponsor that we're dealing with today.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Senator.

Usually one voter is dealing with their own vote. So while they might choose to come in to get the ballot themselves after filing the application or because perhaps of timeliness -- they needed an absentee ballot because they were leaving the country on an airplane or they were homebound but asked someone in their family to go and get the ballot for them -- why would we find a circumstance where somebody would come in and

request groups of ballots? That certainly raises a red flag to me that somebody would be serving as agent for many voters.

SENATOR SPANO: There are -- normally -- you're correct, Senator. You have individuals walking in to pick up an absentee ballot because they're out of the country or out of the jurisdiction for that particular election.

But there are cases where -- and we have seen this in different areas of the state, where individuals have come in -- for instance, a public employee union may send a letter out to their employees saying "If you're going to be out of the jurisdiction on the date of election and you'd like to vote by absentee ballot, please send us this absentee ballot application, we'll pick them all up for you."

As a result of that action, now that representative walking in with those absentee ballot applications would have to show ID, just so that there is a recourse. If there is some question about those absentee ballots in the future, there is a record of

who picked up that absentee ballot, what type of ID have they shown, and showing a receipt of the fact that they have in fact picked it up.

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

ACTING PRESIDENT MEIER: Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. I appreciate the sponsor's clarification for me.

I think it's very important that we do everything we can to protect the -- I don't know, almost the religious right and security of every individual to be able to vote, to use the absentee ballot process, and also to protect against illegal use of absentee ballots, particularly the concern about fraud or bulk sending in of ballots on behalf of individuals.

So I'm glad to support this bill. I appreciate the clarification. And I hope that we don't find ourselves in situations in the future in New York State where we actually do have absentee ballot fraud issues. And

this might help to address or redress that problem.

I'll be voting yes. Thank you.

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

Debate is closed, then.

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, 56.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May we now return to the order of motions and resolutions. And I ask that the sponsor's star on Calendar 970 be removed.

ACTING PRESIDENT MEIER: Motions and resolutions.

And the sponsor's star will be removed from Calendar 970.

Senator Kuhl.

SENATOR KUHL: Yes. Now, Mr. President, can you call up Calendar Number 1464 on the regular calendar, Calendar 54, by Senator Lack.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1464 on the regular calendar.

THE SECRETARY: Calendar Number 1464, by Senator Lack, Senate Print 7641, an act in relation to validating certain marriages.

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, 56.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Now will you call up Calendar

Number 1447, again on Calendar 54, by Senator Lack.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1447 on the regular calendar.

THE SECRETARY: Calendar Number 1447, by Senator Lack, Senate Print 6100, an act to amend the Public Authorities Law and the Education Law, in relation to financing.

ACTING PRESIDENT MEIER: Senator Stavisky, are you asking to speak on the bill or do you have a question?

SENATOR STAVISKY: I have a couple of questions for the sponsor.

ACTING PRESIDENT MEIER: Senator Lack, do you yield for some questions from Senator Stavisky?

SENATOR LACK: Of course.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR STAVISKY: Through you, Mr. President. On page 1, the last four lines or so, they use the phrase "including but not limited to provisions relating to the maintenance and administration of the campus

recreation center."

Mr. President, I would like to know what that would entail. It's a rather elastic clause.

SENATOR LACK: Yes, Mr. President. That's a standard boilerplate that's in all such agreements in order to utilize the Dormitory Authority. It does not mean that it's going to be outside employment or anything else. It's just the standard language that's always used. And invariably it will be the same type of collective bargaining employment that always goes on.

The only exception I know of, Mr. President, when it comes to the Stony Brook campus was a facility that was built a couple of years ago in which there was some non-collective-bargain, shall we say, maintenance that took place. And I think, after they saw how the maintenance took place, is it became collectively bargained maintenance and it was part of the facility.

Stony Brook in particular, Mr. President, as a university, a little over a decade ago was the first campus in the state

university system -- and that was when I chaired the Senate Labor Committee, prior to my colleague sitting next to me, Senator Spano -- which enacted an agreement which later became known as project labor agreements that any work done on campus, whether it's internal work on a routine basis, such as maintenance or construction or anything else, be done in a unionized setting. And that has always worked well at Stony Brook.

Somewhat as an aside, Mr. President, I think part of that resulted when the then Stony Brook president had some construction done in his office and went to flush his toilet and the lights went on. And it was done by nonunionized help. It was not too difficult thereafter to get what now amounts to a project labor agreement.

SENATOR STAVISKY: Mr. President, pursuing the point that Senator Lack just made, if I may ask him, through you, Mr. President.

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

SENATOR LACK: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: Then wouldn't it be desirable to put that language into the bill?

SENATOR LACK: I'm sorry, Mr. President. What language?

SENATOR STAVISKY: The language you just said about a collectivized --

SENATOR LACK: I don't have any problem with it. But you can't do that and deal with the Dormitory Authority and do the type of funding that we want to do here and keep the mandatory student fee, which the students voted for that they would have. I mean, you would have to fund it outside the Dormitory Authority, and that would vastly increase the cost.

There is no practical difference, when it comes down to it. Nothing happened to Stony Brook that doesn't happen in the type of context, Mr. President, that both I and I think Senator Stavisky would certainly like to see.

SENATOR STAVISKY: Mr. President,

if the Senator would continue to yield.

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

SENATOR LACK: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: On page 2 of the bill, lines 7, 8 and 9, it talks about "notwithstanding the provisions of the Public Lands Law or any other law." Is this going to infect -- infect? I'm still listening to Balboni. Is this going to affect any zoning changes? I assume not, but any environmental changes?

SENATOR LACK: No, Mr. President. And, Senator, you're quite correct to point that out.

Again, it's another boilerplate requirement that has to do with the bidding process that's in there. It will affect absolutely no zoning change. It never has. It's been contained in all such language on all such bills that we've done in the 24 years that I've been in this legislative body, and I assume it will be in for the next however many

years that you and everybody else is here.

SENATOR STAVISKY: Mr. President, a couple more questions, if the Senator would yield.

SENATOR LACK: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR STAVISKY: On line 15 it talks about -- lines 15 and 16 it talks about the lack of public bids. It seems to me that the public bidding always has a good effect.

SENATOR LACK: Again, Mr. President, that is an agreement between two state agencies, and that's the way it's governed.

And once again, Mr. President, I wish I could say I'm the author of such language. I mean, all this language is taken from legislation that's been passed time and time again and signed into law by every governor in anybody's memory.

I wish we didn't have to do some of this. But if we didn't have to do some of this, we wouldn't be able to do what we'd like to do in order to get this rec center built.

You're quite right, Mr. President, the Senator is, in terms of having read this line by line and saying what do we have this for. This is why we have it. Could it be changed? Yeah. But then we couldn't utilize those resources of the state that's necessary to utilize to do the rec center.

SENATOR STAVISKY: And my last question.

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

SENATOR LACK: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: Are there any similar situations throughout the SUNY system -- or CUNY, for that matter -- that you can think of?

SENATOR LACK: No, Mr. President, this is a -- and why I don't mind going through this, Mr. President, this is a case of first impression for the State of New York to build this kind of rec center.

However, student-fee-supported recreation centers at public universities are

well known throughout the United States. Mr. President, just to give Senator Stavisky some examples, the University of Maryland, University of Miami, University of Florida, University of Houston, University of Tennessee, University of Michigan, University of Wisconsin, University of Connecticut are some of the major state universities in a list of over 35 or so, Mr. President, that I have here who have done identical situations to have student-fee-supported recreation centers.

And I should mention that this is here and I am discussing it as the elected state representative that includes the Stony Brook campus as a result of a plebiscite and a referendum that took place on the Stony Brook University campus in the year 2000 and which passed by an overwhelming majority of the students, who wanted the imposition of a mandatory $75 fee in order to bring this about.

So this is nothing whatsoever that I or any of my colleagues are trying to impose upon the state university, or that a university administrator thought, Hey, this is

a nice idea now to have on the campus. This came from the students. The students have been totally informed, are part of it, and are more than willing to participate in it. And we quite frankly are nothing more than the facilitation agents.

And I'm very happy to thank for all his good and very hard work the chair of the Senate Higher Education Committee, Senator LaValle, who has been trying for two years now to push this through and get it passed. And hopefully this will lead to fruition and it will be as much his accomplishment, certainly, as it is mine.

I'm just the sponsor because it's in my district. Actually, Senator LaValle lives closer to the proposed building than I do and I would think probably would be an eager participant in the resources that it would offer.

SENATOR STAVISKY: Mr. President, Senator Lack's response leads me to two other questions. Very briefly.

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

SENATOR LACK: Ah, mistakes I've made.

Go right ahead.

SENATOR STAVISKY: You mentioned the student fees. Is the facility going to be open to other people as well as students, such as either the community or retired people or those who may not be students, full-time students at the university. But would they be able to participate in some of the activities?

SENATOR LACK: I've asked that question of the university officials, Senator, and the answer is no, none of that is intended.

There would certainly -- it would certainly be open to the staff and the faculty at the university upon payment of fees. But to bring it out to the community, no. In effect, the university would be competing with private enterprise by doing so.

And it's not that type of facility. When you consider the size of Stony Brook, the size of this facility, add on staff, employees, and faculty, it's not that kind of facility that would open itself to the much

larger community. And in fact, Stony Brook has no intention whatsoever of going into private business.

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Through you, Mr. President, I recall a bill before the Higher Education Committee earlier this year which I believe dealt with Stony Brook and did not have provisions for public bidding in it. I believe we reported the bill out of committee. And I wonder whether this has anything to do with that legislation.

SENATOR LACK: That's the West Campus Village land lease bill. And no, this has nothing -- they're two different bills.

And while we had similar conversations, Mr. President, Senator Stavisky and I, they would have nothing whatsoever to do with each other. Other than the fact that they're both at Stony Brook.

SENATOR STAVISKY: Thank you. And I thank the Senator for his candid answers.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President. Very briefly on the bill.

First, I'd like to compliment Senator Lack for his diligence and hard working in bringing this forward because, as he has indicated, this will be legislation of first impression that I think will be replicated in other parts of the state.

And the reason for that, one of the central reasons is that places like Stony Brook -- it could be Albany, Buffalo, or Binghamton -- are universities that have peer institutions that they're in competition with, institutions across the country that do have and provide for their students rec centers. And so if any of our four university centers are to compete with peer institutions across the country, they must be competitive and provide for their students the kinds of things that other institutions are.

The last thing is -- and Senator Lack talked about this -- Stony Brook and the presidents and provosts and faculty have

always been union-sensitive to union needs. And things have been worked out constantly throughout as long as I can remember to accommodate and be sensitive to issues of prevailing wage, et cetera. And Senator Lack talked about that. And he's very knowledgeable, as being the former chair of the Labor Committee.

So I hope this body can enthusiastically support this legislation. And I believe it will help Stony Brook compete for some of those excellent students across the country that are trying to make a decision whether to attend Stony Brook or some other university in another part of our country.

Thank you, Mr. President.

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

Debate is closed, then.

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.)

ACTING PRESIDENT MEIER: Senator Stavisky, to explain her vote.

SENATOR STAVISKY: Mr. President, to explain my vote.

With Senator Lack and Senator LaValle's assurances that union commitments such as prevailing wage will be met, I'm delighted to support this bill. Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, with unanimous consent could you call up Calendar Number 970, on regular Calendar 54, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 970.

THE SECRETARY: Calendar Number 970, by Senator Kuhl, Senate Print 6332A, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Now may we return to the reports of standing committees. I believe there's a report from the Finance Committee at the desk. Could we ask the Secretary to read.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Finance Committee.

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

As a member of the Board of Trustees of the City University of New York, Valerie Lancaster Beal, of Park Slope.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Mr. President, I rise to move the nomination of Valerie Lancaster Beal.

Ms. Beal met with the Higher Education Committee, answered all the questions that the committee asked, later appeared before the Finance Committee.

I must say that she brings a very, very rich experience in finance to this position and I think will be a very, very rich resource to the CUNY board.

So I move the nomination, Mr. President.

ACTING PRESIDENT MEIER: The question is on the confirmation of Valerie Lancaster Beal as a member of the Board of Trustees of the City University of New York.

I'm sorry. Senator Lachman.

SENATOR LACHMAN: Yes, I just wanted to say a few words regarding the nomination of Valerie Lancaster Beal.

She's obviously a very outstanding individual, which was shown in both the Higher

Education and the Finance Committee. She has an excellent background. She is filling the shoes of a man who is retiring, John Morning, who in my opinion was one of the most outstanding members of the CUNY Board of Trustees, and also a gubernatorial appointment.

She's learning the mission of the university, and I just don't want her to forget the important thing about the university that helps students tremendously is a permanent faculty. And there is a faculty imbalance between full-time and part-time faculty at the CUNY campuses which is not only lower than the private colleges and universities but also lower than the State University of New York.

So I do hope that she'll concentrate on that area among other areas, along with the mission that Chancellor Goldstein has provided since he arrived at CUNY.

I will support this nominee.

ACTING PRESIDENT MEIER: Senator Andrews.

SENATOR ANDREWS: Yes, Mr. President.

I rise to support the nomination of Ms. Beal. Ms. Beal is eminently qualified for the position and also happens to be a constituent from my district. And I wish her much success in this new appointment.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Ms. Lancaster Beal is with us today in the gallery.

We congratulate you and wish you well.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of

the Board of Trustees of the City University of New York, Carol A. Robles-Roman, of the Bronx.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Mr. President, I rise to move the nomination of Carol Robles-Roman, who spoke very eloquently this morning before the Higher Education Committee, is an attorney, has rich experience in many aspects of municipal law, and showed a knowledge also through visitations of many of the campuses of the City University.

And I know she will also, in joining Ms. Beal, be a very rich and good addition to the CUNY board. I move the nomination.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, I rise not only in support of Valerie Lancaster Beal and Carol Robles-Roman but to comment on the quality of these appointments. I think that they show tremendous promise.

However, and despite the fact that

they both have very, very impressive backgrounds, I am troubled by the appointment of a deputy mayor to the CUNY board. And I am certainly not referring to this particular appointment, because I think she answered the question of accountability perfectly.

However, we may not always have a Mayor Bloomberg, and it seems to me we perhaps want to look at whether the mayor ought to be or have a representative of the mayor as an ex officio member of the CUNY board. Because I think there is the potential problem -- that certainly does not exist, in my judgment, with the current candidate, but this could be a problem for the future.

As I said, I think these are two very, very impressive appointees, and I'm delighted to support their nominations.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yes, I was also very much impressed by Carol Robles-Roman's resume as well as her past activities, working both for Democrats and Republicans -- probably

more Democrats than Republicans -- and also in the communal field. She appears to be one of the most outstanding nominees to come before the Finance Committee and the Higher Education Committee.

But I would like to echo something that Senator Stavisky just mentioned. I think that this appointee will not be influenced by anyone except what she thinks is correct and right, and I don't think that this mayor will in any way damage that integrity.

However, this mayor a week ago had passed in this chamber, with my support, a new educational governance bill. And in this new educational governance bill it reads "no board member may be an employee of the city or the board." Now, if this is good for the Board of Education, it should be equally good for the City University of New York.

And luckily, this bill sunsets in a few years. And perhaps we could also add a provision dealing with CUNY or a separate bill dealing with CUNY in the future where the mayor's basic philosophy that no board member, meaning Board of Education member, may be an

employee of the city or the board shall also impact upon appointees to the CUNY board of education -- board of higher education.

However, this is an outstanding appointment. It's a mayor who acts in a manner that makes me believe that he will not in any way influence this appointee. And this appointee should be doing an outstanding job as soon as possible.

Thank you.

ACTING PRESIDENT MEIER: The question is on the confirmation of Carol A. Robles-Roman as a member of the CUNY Board of Trustees. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Ms. Robles-Roman is with us today in the gallery.

We congratulate you and wish you well with your duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the City University Construction Fund, Philip A. Berry, of New York City.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Mr. President, I rise to move Philip A. Berry's nomination to the CUNY Construction Fund.

Mr. Berry has over 25 years of expertise in all areas of human resources. If you saw his vitae, it is quite impressive in terms of positions that he has held in dealing with corporations all over the globe.

It is that experience, I think, that will be very enriching to the Construction Fund board, and I am pleased to move the nomination, Mr. President.

ACTING PRESIDENT MEIER: The question, then, is on the confirmation of Philip A. Berry as a member of the Board of Trustees of the City University Construction

Fund. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Mr. Berry is with us today in the gallery.

And, Mr. Berry, congratulations and good wishes to you.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Lewis Thomas Howard, of Amityville.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Mr. President, I'm going to yield to Senator Johnson to move the nomination.

ACTING PRESIDENT MEIER: Senator

Johnson.

SENATOR STAFFORD: Excuse me, Mr. President. I know Senator Johnson won't mind.

As the nominees leave, I just want to say -- just want to say what a fine group of nominees appeared before the Senate Finance Committee today. And we certainly wish them all well, and we're fortunate to have them serving us.

Senator Johnson, you and I go back so far, I know you don't mind my mentioning that. And I yield to you with all of the humility within my command. Which sometimes isn't too much, but --

SENATOR JOHNSON: That's a wonderful expression of your appreciation for the work which your committee has done, Senator. Thank you.

Mr. President, I rise to move the nomination of Louis T. Howard as a trustee of the State University of New York to succeed himself. He's served five years so far in a very distinguished capacity.

He's an outstanding person I've known my entire life. He's been a public

school teacher, he's been a college professor, he's been a SUNY trustee now, he's been a newspaper publisher, an author of books. He's an aviator, he's done everything. And he's done an outstanding job.

In fact, when he was a football coach in high school he had the most winning team seven years in a row, taking championships, earning -- his record has never been surpassed.

And he knows an awful lot about higher education because he's been a part of it for so many years. I think the -- certainly the entire board of the SUNY trustees appreciate his expertise and the contributions made.

And I'm pleased to advance him for a term to succeed himself. Thank you.

ACTING PRESIDENT MEIER: The question is on the confirmation of Louis Thomas Howard as a member of the Board of Trustees of the State University of New York. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those

opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Are there some substitutions to be made at the desk?

ACTING PRESIDENT MEIER: Yes, there are. Should we do those now?

SENATOR KUHL: Could you make the substitutions at the present time.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 5, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 7426A and substitute it for the identical Senate Bill Number 439A, Third Reading Calendar 47.

On page 8, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 4945C and substitute it for the identical Senate Bill Number 2591C, Third Reading Calendar 160.

On page 10, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 8600 and substitute it for the identical Senate Bill Number 3764, Third Reading Calendar 225.

On page 12, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 2697 and substitute it for the identical Senate Bill Number 1508, Third Reading Calendar 296.

On page 16, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 8919 and substitute it for the identical Senate Bill Number 3292A, Third Reading Calendar 413.

On page 22, Senator Hoffmann moves to discharge, from the Committee on Rules, Assembly Bill Number 10266 and substitute it for the identical Senate Bill Number 6435, Third Reading Calendar 578.

On page 25, Senator Hoffmann moves to discharge, from the Committee on Rules, Assembly Bill Number 3948D and substitute it for the identical Senate Bill Number 4089C, Third Reading Calendar 659.

On page 28, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 9934A and substitute it for the identical Senate Bill Number 6324A, Third Reading Calendar 733.

On page 28, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 6122 and substitute it for the identical Senate Print Number 3062, Third Reading Calendar 747.

On page 53, Senator Stafford moves to discharge, from the Committee on Rules, Assembly Bill Number 11437 and substitute it for the identical Senate Bill Number 7407, Third Reading Calendar 1264.

And on page 54, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 10112A and substitute it for the identical Senate Print Number 7514, Third Reading Calendar 1343.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Would you now recognize Senator

Dollinger for the purpose of changing some votes.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I understand earlier Senator Paterson did an apt imitation of me. But here's the real thing.

I'd ask for unanimous consent to be recorded in the negative on Calendar 1403, 1453, 1455, and 1477. They're all part of the continuing contagion of late-filed property tax exemptions, Mr. President.

SENATOR KUHL: No objection.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendars 1403, 1453, 1455, and 1477.

Senator Kuhl.

SENATOR KUHL: Is there some housekeeping at the desk?

ACTING PRESIDENT MEIER: We have some motions to do, Senator.

SENATOR KUHL: Could we return to the order of motions and resolutions and take

up those motions at the current time.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: I might say, Mr. President, as a preface, we should bring back Senator Paterson.

(Laughter.)

SENATOR MARCELLINO: On behalf of Senator Kuhl, on page 56 I now offer the following amendments to Calendar Number 1432, Senate Print Number 7527A, 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 order of third reading.

SENATOR MARCELLINO: Mr. President, I wish to call up my bill, Print Number 6076, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number

359, by Senator Marcellino, Senate Print 6076, an act to amend the Public Health Law and the State Finance Law.

ACTING PRESIDENT MEIER: Senator Marcellino.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: Senator Marcellino.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you, sir.

ACTING PRESIDENT MEIER: Thank you, Senator.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. Speaker.

It seems that we've done most of the work on the regular calendar at this point that's on the active list and also that which is on the supplemental list. We're in the process of putting together another Rules calendar, certainly, and another active list, but that's going to take us a little time.

So to give ourselves time, and looking to try to conclude the session tomorrow -- and certainly we expect the members who have bills on the calendars to be in the chamber to debate those bills -- we will stand at ease until 3:00 p.m. this afternoon, when we will reconvene for the rest of the work to try to conclude tomorrow.

ACTING PRESIDENT MEIER: The Senate will stand at ease until 3:00 p.m. today.

(Whereupon, the Senate stood at ease at 2:02 p.m.)

(Whereupon, the Senate reconvened at 3:09 p.m.)

ACTING PRESIDENT MEIER: Members should be advised we're about ready to resume session, and those who have bills on the

calendar should come to the chamber.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could at this time go to Supplemental Active List 1, noncontroversial.

ACTING PRESIDENT MEIER: In regards to supplemental active list, the Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 55, by Senator McGee, Senate Print 1166, an act to amend the Alcoholic Beverage Control Law, in relation to mandatory license revocation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. 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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 99, by Member of the Assembly Destito, Assembly Print Number 3116E, an act to amend the Public Health Law, in relation to regulating home medical equipment.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of the calendar month next succeeding.

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 204, by Senator Hoffmann, Senate Print 4142A, an act to amend the Agriculture and Markets Law, in relation to New York State Cattle Health Assurance Program.

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 719, by Senator LaValle, Senate Print 6645, an act to authorize Christ Episcopal Church, Village of Sag Harbor.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator Stafford, Senate Print 3820D, an act to authorize the City of Glens Falls to

enter into agreements.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. 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 1032, by the Assembly Committee on Rules, Assembly Print Number 11163A, an act to amend Chapter 492 of the Laws of 1993.

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 1123, by the Assembly Committee on Rules, Assembly Print Number 8904B, an act to amend the Retirement and Social Security Law, in relation to the 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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1126, by Senator Leibell, Senate Print 3252A, an act to amend the Retirement and Social Security Law, in relation to the active service requirement.

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 1164, by Senator Maziarz, Senate Print 1040, an act to amend the Election Law, in relation to deadlines for military ballots.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1168, by Senator Maltese, Senate Print 3889, an act to amend the Election Law, in relation to voting list maintenance.

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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1247, by Senator Saland, Senate Print 6368B, an act to amend the Real Property Law, in relation to uniform forms.

ACTING PRESIDENT MEIER: Read the last section.

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

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 1353, by the Assembly Committee on Rules, Assembly Print Number 9242A, an act to amend the Public Officers Law, in relation to the residency of members.

ACTING PRESIDENT MEIER: Read the

last section.

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

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1357, by Senator Saland, Senate Print 7138, an act to amend the Executive Law and the County Law, in relation to the criminal history records.

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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1420, by Senator Stafford, Senate Print 3923, an act to amend the Public Officers Law, in

relation to permitting.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator Skelos, that completes the noncontroversial calendar for Supplemental Active List 1.

Senator Duane.

SENATOR DUANE: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1443 on Supplemental Calendar Number 1, and Calendar Number 970 from the regular active list.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendars 1443 and 970.

Senator Skelos.

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

And if you could call up Calendar Number 137, by Senator Marcellino.

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

The Secretary will read Calendar Number 137.

THE SECRETARY: Calendar Number 137, by Senator Marcellino, Senate Print 5551A, an act to amend the Environmental Conservation Law, in relation to natural heritage areas.

SENATOR SKELOS: Mr. President, 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 4. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Mr. President, will you please call up 1353, by Senator Saland.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1353.

THE SECRETARY: Calendar Number 1353, by the Assembly Committee on Rules, Assembly Print Number 9242A, an act to amend the Public Officers Law, in relation to the residency of members.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT MEIER: Senator Saland, Senator Hassell-Thompson has requested an explanation of Calendar 1353.

SENATOR SALAND: Thank you, Mr.

President.

Mr. President, this is a bill which has received a -- I believe a home rule from the City of Yonkers which would enable certain members of the City of Yonkers Police Department who currently do not reside within the County of Westchester and who reside elsewhere to continue to reside in those two counties, being the County of Dutchess and the County of Orange, north and west of Westchester County.

This is a bill which has been sought by the Yonkers PBA and which the city fathers and mothers of that elective body have agreed upon.

And the reason I am presenting this bill is that a goodly number of them, I believe there's somewhere between a dozen and 15, reside in Dutchess County and would otherwise be forced to sell their homes at what would amount to fire sales.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I really don't have a question, Senator Saland, but just a comment on the bill. Last year Yonkers had asked us to do this. And what I was -- I guess what I was trying to ascertain was were there specific officers, or are they beginning to waive residency requirements for all of the officers? Because there was a special list last year.

I remember this bill, the request for Yonkers to do the same thing.

SENATOR SALAND: This bill by its language applies to officers, police officers who are such as of the effective date of this bill. It's not intended to in effect invite others to do something similarly. It's confined to those who are currently members of the police force in Yonkers and who are residing in either Dutchess or Orange County.

And it basically treat that as if, for all intents and purposes, they were complying with a residency requirement.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Then I

do want to ask a specific question, then.

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HASSELL-THOMPSON: Thank you, Senator Saland.

So there is a specific number of officers who fall into that category. Can you give me a number as to how many officers?

SENATOR SALAND: If I had my file here, I might be able to. I think it's somewhere between a dozen and 15. At least I believe that's the number in Dutchess County.

SENATOR HASSELL-THOMPSON: Okay. And there was a home-rule message from Yonkers? Through you, Mr. President. You say there was a home-rule message?

SENATOR SALAND: There was a home rule, or else it was a local resolution that was passed tantamount to a home rule. There was action taken by the City of Yonkers to say that they approved of the passage of this legislation.

SENATOR HASSELL-THOMPSON: Okay. Thank you.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

ACTING PRESIDENT MEIER: Senator Saland, will you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I have only a vague recollection of last year's debate on this. But if you can clarify, Yonkers currently has a residency requirement for all police officers?

SENATOR SALAND: I believe it does. And I believe that's what necessitates this particular legislation.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: I'm not clear on the chronology that would have resulted in 15 or so officers currently not being in compliance with the law. How did that happen?

SENATOR SALAND: I can't provide you with all the particulars. I know in southern Dutchess County there are a number of municipal employees from New York City, from Westchester County. Over the course of the past couple of decades, they have moved into the southern part of Dutchess County, they live there, they work outside of the county. I can't tell you the particulars of how they arrived there.

I do know that this became an issue of great consequence to the City of Yonkers and, in turn, to the people who reside in my district who were confronted with the possibility of having to sell homes and finding themselves in a situation in which their principal asset, the thing of greatest

value that they own, their home, would be sold at a distressed or fire sale once the word was out that they had to relocate outside of Dutchess County.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

Would the officers for whom this law would bring them into compliance, were those officers members of the police department prior to Yonkers' enactment of a residency requirement?

SENATOR SALAND: I honestly don't know the answer to that question. I have no idea who was an officer when in this context.

This came to me as a request from residents in Dutchess County. And subsequently I and my office also spoke with

representatives of the PBA in Yonkers.

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

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

Can the sponsor tell us when Yonkers enacted its residency requirement?

SENATOR SALAND: If I knew, I'd be happy to tell you. It may well be in my file.

Unfortunately, I came down here not realizing that this bill -- I was in my office during our at-ease break, wandered down here rather casually and aimlessly, didn't hear the calling of the calendar, or I would have my file here. I simply don't have it.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President. I think the sponsor may be able to guess where I'm going with this, what my concern is.

If these officers who would be brought into compliance with current law were not members of the Yonkers Police Department prior to enactment of Yonkers' residency requirement, then logically we can conclude that Yonkers enacted a residency requirement and either these officers became members of the Yonkers Police Department while not residing in Yonkers, which would have been illegal, or they were police officers residing in Yonkers when Yonkers enacted its residency requirement and subsequently moved out, which would also have been illegal.

So my question is, does the sponsor agree with the assertion that either of the

two scenarios that I just laid out would be the exception that we're carving here --

SENATOR SALAND: Regardless of the characterization, the City of Yonkers has seen fit to say we recognize that there are some people who are not residing within whatever would be the appropriate residency requirement for municipal or police employees in the City of Yonkers, and they're saying we would like to correct this.

Which came first, the chicken or the egg, where fault lies, I can't begin to tell you. But I do know that all parties involved -- the employees, the city, the PBA -- are desirous of correcting this situation and in a fashion that doesn't leave the door open to others.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you.

Mr. President, I'm troubled by the precedent that this sets, because what purpose is it to have a residency requirement if you have it and then police officers are hired who don't live within the jurisdiction that they're currently required to live in, or they decide to move out, and then their state senator, doing what he believes is in the best interests of his constituents, votes an exception to the rule and brings that bill? Doesn't that cut the legs out from under the residency requirement?

ACTING PRESIDENT MEIER: Excuse me a minute, Senator Hevesi.

We have some bills that we want to get through. And I'd ask members, if you're going to be in the room, to extend courtesy to those senators debating the bill. Can we have quiet in the chamber, please.

Senator Hevesi.

SENATOR HEVESI: Mr. President, would the sponsor need me to repeat the question?

SENATOR SALAND: Yes, Mr.

President.

SENATOR HEVESI: Again, Mr. President, through you, my concern is that if you have a residency requirement and individuals who are subject to the residency requirement who currently work for the police department either move out of the city of Yonkers or wherever the jurisdiction is that has a residency requirement, or newly hired police officers who don't live in the jurisdiction where it's required come on board to that police department, you have essentially emasculated the law requiring people to live within a certain jurisdiction.

And while I can appreciate that the City of Yonkers may want it and certainly understand why the PBA would want it, what purpose is there to have a residency requirement if we're going to exempt or except people from it prospectively?

SENATOR SALAND: There is no prospective door through which anybody other than those who are currently serving will have the opportunity to seek to come under this legislation.

This impacts nobody prospectively, only those who are currently employed who may not be in strict compliance with the residency requirement for the City of Yonkers Police Department. It's not intended to, nor does it, by the clear language in the bill, enable others the same opportunity.

SENATOR HEVESI: Thank you.

Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

My fault; I should have been more precise with my language. What I meant was the precedent that we are setting with this legislation will lead to individuals reaching the conclusion, drawing the inference that they may be prospectively entitled to this, since they were not in compliance with the

law -- presumably, today, these officers are not in compliance with the law. We are going to make them in compliance with the law.

The message that I'm concerned that we are sending is that it's okay not to abide by Yonkers' residency requirement because we'll just exempt you in the future.

SENATOR SALAND: I don't think we're setting a precedent here. I think there have been other instances in which we have dealt with residency requirements.

We have done it in some instances in which there have not been town officials fitting a particular capacity that the town needed living in the town to fill a position that required town residency. We've done that on occasion. We've permitted town justices to be outside of the jurisdiction of a particular town.

If my memory serves me correctly, when I was in the Assembly in the 1980s we did something similarly for the City of New York. I believe there was a question of residency requirement for municipal employees. That may not have been pursuant to home-rule

resolution, but employees residing outside of the City of New York were permitted to do so.

This bill is not precedent-setting systemically. It may -- it may deal with a situation in the City of Yonkers, but it certainly would not be the first time that a municipal employee was permitted to reside outside of the boundaries of his or her place of employment.

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

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I don't want to split hairs here, and maybe I'm wrong. But I have supported the bills that you're talking about which exempt classes of people, usually for upstate counties, for a particular service. But always the rationale is -- and it includes

everybody into the future, everybody. And the rationale behind it is we don't have enough qualified individuals residing within this jurisdiction, we need to open it up to other people.

That's not what that legislation does. And I've supported those bills. But that's not what this does.

Correct me if I'm wrong, Senator Saland, this -- through you, Mr. President. This bill says if you are currently not in compliance with Yonkers' residency requirement, you will be brought into compliance. Nobody else in the future, just the people who are not compliance right now.

SENATOR SALAND: Correct.

SENATOR HEVESI: Okay. And that's very much different than the other types of bills.

So I'm concerned with the message that this sends. And I guess I'll stop here. I guess I'll put the question to the Senator. Is he not also concerned with the message that this sends?

SENATOR SALAND: No, I'm not the

slightest bit concerned. This is, in effect, a home-rule request. I've routinely done dozen of home-rule requests in my twenty-plus years serving in both houses of this Legislature.

I'm not responsible for whatever may be the will or wont of a local governing board. And this local governing board, the City of Yonkers, has determined, in agreement with its PBA, that this is what they would like to do. And inasmuch as it impacts a small group of people who live in my district, I'm more than happy to carry the legislation and try and give them the relief that they're seeking.

It's not that they're doing this or like they're doing this against the will of the local government. They're doing it in compliance with what has been worked out with their own local government.

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

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Mr.

President.

I am strongly opposed to this bill. This legislation sends a very dangerous message that when we pass a law and enact a residency requirement or any other kind of restriction or regulation on a municipality, that we may go and exempt some people if they deem themselves or if they decide that they don't want to be in compliance with it. And that's really what we're doing here.

And I mean no disrespect to the police officers in Yonkers, or with the municipality of Yonkers that has passed a home-rule message, or Senator Saland for acting on behalf of his constituents.

But we have a residency requirement for a reason. It's not as if these individuals were for some reason not required to have a residency requirement, then came the residency requirement and somebody didn't put in a grandfather clause so that put them out of compliance.

From what I can deduce here, the possibility exists -- in fact, more than exists, it's quite likely that you have a

situation here where the police officers in Yonkers moved out of Yonkers in direct violation of the law. Or the Yonkers Police Department illegally hired people who they shouldn't have hired because they don't live within Yonkers.

And so the remedy that we have here addresses a situation where people acted illegally. And I don't want to throw that term around lightly, because we are talking about police officers. But that's really what happened here.

Unless there's some situation that I haven't been privy to, these are people who are not currently in compliance with the law because they decided they weren't going to be. And whether or not Yonkers sanctioned that and then goes and a passes a home-rule message, that's irrelevant to me.

What is relevant is if we have a residency requirement and then you go and exempt 15 people who decided that they weren't going to be compliant, regardless of whether the City of Yonkers decided that this was a good thing or a bad thing, that Yonkers

decides it's okay for these people not to be in compliance with the law, that we are going to sanction or approve or condone the officers' behavior and the behavior of the City of Yonkers.

I'm really opposed to this. This sends a message to any future police officers who may want to move out of Yonkers, which has a residency requirement: Hey, the PBA will go to bat for us, or our representative in Yonkers will go to bat for us, or our state senator representing Yonkers will go to bat for us. We don't really have a residency requirement, it's not real.

I mean, think about it. That's what this does. It's not real. So I oppose this bill. This sets a dangerous precedent that the residency requirement is not real in Yonkers. That's the message.

And I particularly don't like this, Mr. President, because I have been vocal on this floor before about the need for New York City to enact a residency requirement. And I'm willing to bet that the New York State Council would give us a home-rule message to

enact my bill that would give the City of New York permission, if it chose to do so, to enact a residency requirement. But that home-rule message I'm sure would be ignored.

This one, which condones behavior in direct conflict with current law, this one is heeded. And so now we have this bill.

I am strongly opposed to this bill, Mr. President, and I strongly suggest that my colleagues oppose this bill too.

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 1353 are Senators Andrews, Duane, Hevesi, L. Krueger, and Montgomery. Ayes, 54. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr.

President. Could we please take up Calendar 1420, by Senator Stafford.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1420.

THE SECRETARY: Calendar Number 1420, by Senator Stafford, Senate Print 3923, an act to amend the Public Officers Law, in relation to permitting.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Stafford, Senator Dollinger has requested an explanation.

SENATOR STAFFORD: Thank you, Mr. President.

You know, whenever we're dealing with these issues, again, it's the people. And this legislation has been requested by the Ethics Commission, and Senator Dollinger has requested it. And you have to look, again, and have faith in the integrity of individuals.

Now, Senator Dollinger graduated from McQuaid Jesuit High School, and he graduated from St. Michael's College at the

University of Toronto. He graduated from Albany Law School cum laude; he was notes and case editor of the Law Review. And again, you look to the individual.

Now, the Ethics Commission has explained that very often you need people with certain expertise. And if you do, then the agency should be able to hire them. These former employers have a tremendous amount of institutional memory.

I had no idea people would be so interested. I appreciate it. I appreciate it.

Now, currently the Office of the Attorney General is able to do just exactly what this bill would do. And it has been successful, and it's had no abuses.

We would have to make sure that there was certification in writing to the Ethics Commission that this expertise was needed. And if we found that was not done, then obviously there would have to be appropriate actions taken.

Any contracts exceeding $10,000 would be reviewed by the Comptroller, pursuant

to Section 112 of the State Finance Law.

Mr. President, after conferring, working with the Ethics Commission and after really thinking and working in this field in depth, I would suggest that this bill makes a great deal of sense and should prevail.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. Just on the bill briefly.

This is one of the reasons why I in particular will miss the chairman of the Senate Finance Committee when he retreats to Plattsburgh or the North Country. He always seems to have an illuminating perspective, if not on the subject matter of my questions, perhaps on the subject matter of the questioner. And I appreciate that, and I'll miss him.

But with respect to this bill, Mr. President, I'm going to vote in the negative and encourage people to vote that way. Because when we open the door for people who have left government service, people who have relationships, people who have personal ties

to state agencies and state agency heads, we have adopted a very bold, in my opinion, black-letter rule with respect to the revolving door.

And that is that we should not encourage those people who leave state service to use their ties to serve as consultants or as particular appointees or, for that matter, go into the private sector and immediately contract with the state agency for the same services.

What this bill does, this bill vests in agency heads the discretion to make a certification of only two things. One is that the former officer or employee has knowledge, expertise or experience with respect to a particular matter. Well, that's a very simple test to meet. You simply -- it doesn't say that they have special expertise, it doesn't say that they have unique characteristics, it simply says that if they've got any experience in the subject matter, they meet the first part of the certification.

The second part of the certification is that it is otherwise

unavailable at a comparable cost. How is a department head or an agency head to know that? And the answer is there's only one way you can find out, and that is to put the whole contract out to bid, accept a whole series of bids, and then conclude that the former state employee is the best or the most responsible bidder.

While that's the only way to come to that conclusion, there's nothing in this exception that requires that any kind of public bidding or any kind of request for proposal process occur prior to the agency head varying the bar on former employees going to work for state agencies in this state.

My personal opinion is that this is a watered-down version of opening the door so that state employees can go back to work for the state so that they may retire and come back as consultants.

Or, quite frankly, it opens the great danger that a political appointee in the administration would come back and serve as a private contractor, simply based on the agency head saying: Well, they have expertise. It

may not be the best available and it may not have the most highly qualified experience, but they have expertise, they have experience -- and oh, by the way, I'm going to conclude that it's unavailable at a comparable cost without the only way to determine that, through the process of public bidding.

Mr. President, I think this makes the revolving door spin a little quicker for these former state employees. We laid down a rule that said we're going to slow down the revolving door, we're going to save it for only unique circumstances will people be allowed to pass through that door. I would suggest this is going to spin the door much too quickly for the taxpayers of this state.

The danger of ethical conflicts influencing judgments by state agency heads is far too high. Let's keep the revolving door moving at a much slower pace than this bill allows. I recommend we vote in the negative, Mr. President.

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 1420 are Senators Andrews, Dollinger, Duane, Hevesi, L. Krueger, and Montgomery. Ayes, 53. Nays, 6.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Can we now please take up Calendar 1164, by Senator Maziarz.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1164.

THE SECRETARY: Calendar Number 1164, by Senator Maziarz, Senate Print 1040, an act to amend the Election Law, in relation to deadlines for military ballots.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Maziarz, Senator Dollinger has requested an explanation.

SENATOR MAZIARZ: Thank you very much, Mr. President.

This legislation would delete the requirement that a military ballot have a postmark and that the military ballot, the envelope simply have the signature and date of -- the signature of the voter and the date upon which the ballot was mailed.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, will my colleague from Monroe County allow a question?

SENATOR MAZIARZ: Certainly, Mr. President.

SENATOR DOLLINGER: Through you, Mr. President. Senator Maziarz, you said that it deleted a section?

SENATOR MAZIARZ: It doesn't delete it. I think it -- right now I believe that military ballots are required to have a postmark. And obviously what we saw, particularly in the election, the presidential election of 2000, is that it is very

difficult, particularly for sailors and those military personnel on ships, submarines, where there are no post offices available, that thousands of ballots were not counted during the course of that election.

This would certainly allow those ballots to be counted, Senator.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield?

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Do we allow other absentee voters, people who are voting away from their normal voting place -- not just military people, but other voters -- to simply sign and date the ballot, irrespective of when the postmark comes in?

SENATOR MAZIARZ: No. Those would still be required to maintain the postmark on it.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Maziarz will continue to yield.

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

SENATOR MAZIARZ: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: What is it about a military voter that says that we should have a special rule for them and not extend this same privilege to everybody else who votes by absentee ballot?

I understand that we're trying to accommodate military ballots, and I'd like to get as many people voting as possible. But what is it about the military that makes their attestation of the date that they vote any more effective than it would be for a normal absentee-ballot voter of any type?

SENATOR MAZIARZ: Well, because of some of the special circumstances in the military, as I pointed out. They may be stationed aboard a submarine, they may be stationed aboard a ship where there's not a

post office readily available. They may be stationed in a foreign country where there's a mail deposit system involved in collecting the mail, but not a normal United States post office where they could get a postmark on an envelope.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will continue to yield.

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

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: I understand that; in other words, that they may sign the ballot on Election Day and file it and it doesn't actually go to the post to be delivered.

But my question is, if what we're going to do is allow a vote to be effective based simply on the voter's attestation that this is my signature and this is a date which is either the date of the election or before,

why wouldn't that apply to all ballots that occur away from the polling station? Why shouldn't that be the rule?

I understand why military people may not get it postmarked on that day. But in essence, why don't we have a single rule for everybody rather than have one special rule for the military with respect to the ability to sign it on the day?

In other words, if you or I were not present, we could sign it and say: I voted on this day, and we mailed it in, it meets the mailing requirements here --

SENATOR MAZIARZ: Through you, Mr. President. I believe that the answer, Senator, is that we have always, in the history of New York State, had special provisions for military ballots.

I think it goes along the lines of encouraging people, young people that are in the military, young men and women that are away, perhaps for the first time, in some very unusual places, let's say. Again, I'm going to use the example of a submarine or aboard ship.

I don't know if you have great numbers of those individuals, you know, that would be under similar circumstances. But I would agree with you. I mean, I think we should extend this to -- I think voting privileges should be made easy and extended to everyone.

But the history of the New York State voting laws are that military -- there have always been special provisions for military voters.

SENATOR DOLLINGER: Thank you, Mr. President. Just on the bill.

I'm going to vote in favor of this bill, Mr. President, but I would just ask Senator Maziarz and everybody why we should have a special rule for the military with respect to trusting them to sign and date the ballot and to consider the ballot valid even though it may not be postmarked on Election Day.

We have used the postmarked rule as the guiding rule for the delivery of ballots. But it seems to me that -- I just can't differentiate between a young military person,

why they get the benefit of signing and dating and no matter when it's postmarked, so long as it's received within ten days, it's considered valid, but we wouldn't allow that for the average businessman or the average traveler or even if you're not a member of the United States military but you happen to be a civilian employee of the military who happens to be stationed overseas.

It seems to me that the rule ought to be the same. If we're going to go to a rule that says irrespective of the postmark, if you sign and date it on Election Day, it counts, that rule ought to apply to everybody.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Just as a matter of information, military personnel abroad on ships and mailing a document, there is no postmark. So therefore you cannot require it, since it doesn't exist.

They get mail through an APO, which is in many cases quite late because it travels a rather circuitous route to get to them. And when they return something, it does not go to

a post office where there's someone with a stamp. It goes through a military channel.

And so the postmark issue is unfortunately not at all applicable, which is why you have to provide this exception.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Just to respond to Senator Padavan, I understand that the postmark may not be affixed and there may be other ways to do it. But it seems to me we're taking a leap of faith here. We're saying that irrespective of whatever is on the outside of the envelope, we're going to trust the person to sign it and date it either on Election Day or before.

I agree with Senator Maziarz. I think let's trust the American electorate to do that. I'm simply saying that we extend that trust to military personnel, why shouldn't we extend that same trust to everybody that votes by absentee ballot? So that if you sign it and date it at 11:00 p.m. on Election Day and you've got it in your hand but you don't go to the post office till the

next day, it should still count, because it was done on Election Day.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Mr. President, because any person other than a military individual -- a New Yorker who's in Florida, a New Yorker who's some other place -- will mail it through a civilian system which will have a postmark date. So they are certainly in a position of -- we are in a position of requiring to see that date.

But if there is no postmark date, which applies to many military personnel, then you have an entirely different circumstance. They are the exception.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Just to explain my vote, Mr. President.

I understand the point that Senator Padavan makes. But I want to emphasize one thing again.

We are trusting military people to vote on Election Day because they said so. They can do that in parts of the world where the polls have already closed in New York and we've already projected a winner in the presidential race or we've already projected a winner in the governor's race or there's already been a projection that the election may be very, very close. And they may be in California or they may be in Hawaii and it may still be Election Day, even though the polls have closed here.

And we're trusting them to say: Okay, my vote may count, I'm going to write in my name and date it. And irrespective of when the postmark is actually put on it or whether there's a postmark put on it.

I'm just suggesting to everyone that if that's going to be the rule, let's apply that rule to everybody with respect to

absentee ballots. Let's not focus on the postmark, let's focus on when they say they voted. We trust military people. We should trust everybody to be honest with their government when they vote. Let's extend the same benefit to everyone.

ACTING PRESIDENT MEIER: How are you voting, Senator?

SENATOR DOLLINGER: Aye, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Could we return to reports of standing committees. I understand there's a report of the Rules Committee.

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 1228A, by Senator Maziarz, an act to amend the Penal Law;

3518B, by Senator Saland, an act to amend the Executive Law;

3586A, by Senator Larkin, an act to amend the Real Property Law;

5061A, by Senator Saland, an act to amend the Insurance Law;

5445A, by Senator DeFrancisco, an act to amend the Vehicle and Traffic Law;

5788C, by Senator Maziarz, an act to amend Chapter 55 of the laws of 2002;

6028C, by Senator Seward, an act to amend the Alcoholic Beverage Control Law;

6166, by Senator Alesi, an act to amend the Retirement and Social Security Law;

6482, by Senator Seward, an act to amend the Tax Law;

6808, by Senator Libous, an act to amend the Mental Hygiene Law;

6835, by Senator Espada, an act to

amend the General Business Law;

7027, by Senator Saland, an act to amend the Family Court Act;

7177A, by Senator Alesi, an act to amend the Tax Law;

7308, by Senator DeFrancisco, an act to amend the Education Law;

7343, by Senator Lachman, an act to authorize;

7426B, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

7562, by Senator Velella, an act to amend the Labor Law;

7618, by Senator Fuschillo, an act to amend the Education Law;

7664, by Senator Nozzolio, an act to amend the Energy Law;

7723, by Senator Seward, an act to legalize;

7725, by Senator Meier, an act to amend the Public Service Law;

7729, by Senator Padavan, an act to amend the General City Law;

And Senate Print 7755, by Senator Trunzo, an act to amend the Vehicle and

Traffic Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Move to accept the report of the Rules Committee, sir.

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 Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I request unanimous consent to be recorded in the negative on Calendar 1353, Senate 5063B, and on Calendar 1420, Senate 3923.

ACTING PRESIDENT MEIER: Without objection, Senator Schneiderman will be recorded in the negative on Calendars 1353 and

1420.

SENATOR SCHNEIDERMAN: Thank you.

SENATOR MORAHAN: May we stand at ease for a few moments, Mr. President.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:58 p.m.)

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

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Can we now have the noncontroversial reading of the Supplemental Calendar 54B.

ACTING PRESIDENT MEIER: With regard to Supplemental Calendar 54B, the Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 1494, by Senator Maziarz, Senate Print 1228A, an act to amend the Penal Law, in relation to increased penalties.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 5. This --

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1495, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 5023B and substitute it for the identical Senate Print Number 3518B, Third Reading Calendar 1495.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1495, by Member of the Assembly Green --

ACTING PRESIDENT MEIER: Just a second. Stop.

Close the door to the chamber, please. Can we have some order in the chamber, please.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1495, by Member of the Assembly Green, Assembly Print Number 5023B, an act to amend the Executive Law, in relation to financial aid.

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: In relation to Calendar Number 1496, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Print Number 7148A and substitute it for the identical Senate Bill Number 3586A, Third Reading Calendar 1496.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1496, by Member of the Assembly Cahill, Assembly Print Number 7148A, an act to amend the Real Property Law and the General Business Law.

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 1497, by Senator Saland, Senate Print 5061A, an act to amend the Insurance Law, in relation to the definition.

SENATOR MORAHAN: Lay it aside for the day, please.

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

THE SECRETARY: In relation to Calendar Number 1498, Senator DeFrancisco moves to discharge, from the Committee on

Veterans and Military Affairs, Assembly Bill Number 8746A and substitute it for the identical Senate Bill Number 5445A, Third Reading Calendar 1498.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1498, by the Assembly Committee on Rules, Assembly Print Number 8746A, an act to amend the Vehicle and Traffic Law.

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: In relation to Calendar Number 1500, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 9600C and substitute it

for the identical Senate Bill Number 6028C, Third Reading Calendar 1500.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1500, by Member of the Assembly Tonko, Assembly Print Number 9600C, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1501, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 9849 and substitute it for the identical Senate Bill Number 6166, Third Reading Calendar 1501.

ACTING PRESIDENT MEIER: Substitution ordered.

There is a home-rule message at the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 1501, by Member of the Assembly Morelle, Assembly Print Number 9849, an act to amend the Retirement and Social Security Law.

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 1502, by Senator Seward, Senate Print 6482, an act to amend the Tax Law, in relation to certain deductions.

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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1503, by Senator Libous, Senate Print 6808, an act to amend the Mental Hygiene Law, in relation to renaming the Binghamton Psychiatric Center.

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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1504, Senator Espada moves to

discharge, from the Committee on Consumer Protection, Assembly Bill Number 1854 and substitute it for the identical Senate Bill Number 6835, Third Reading Calendar 1504.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1504, by Member of the Assembly Dinowitz, Assembly Print Number 1854, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect 180 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1504 are Senators Meier, Seward, and Wright. Ayes, 56. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1505, by Senator Saland, Senate Print 7027, an act to amend the Family Court Act and the Social Services Law, in relation to combined.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1506, by Senator Alesi, Senate Print 7177A, an act to amend the Tax Law and the Insurance Law, in relation to conforming.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. 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 1507, by Senator DeFrancisco, Senate Print

7308, an act to amend the Education Law, in relation to excluding school.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1508, by Senator Lachman, Senate Print 7343, an act to authorize the payment of 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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1510, by Senator Velella, Senate Print 7562, an act to amend the Labor Law, in relation to enforcement.

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 1511, by Senator Fuschillo, Senate Print 7618 --

SENATOR MORAHAN: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1512, by Senator Nozzolio, Senate Print 7664, an act to amend the Energy Law, in relation to implementing the Empire Propane Education and Research Act.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Wright recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR MORAHAN: May we now have the controversial reading of the calendar.

ACTING PRESIDENT MEIER: I have a couple of members asking to be recognized. May I take them first, Senator?

SENATOR MORAHAN: Yes.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: I'd like to be in the negative on 1504.

ACTING PRESIDENT MEIER: Without objection, Senator Farley will be recorded in the negative on 1504.

Senator Duane.

SENATOR DUANE: With unanimous consent, I'd like to be recorded in the

affirmative on Calendar Number 1164, from Supplemental 1.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the affirmative with regard to Calendar 1164.

The Secretary will now read the controversial calendar.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Just a clarification, please, Mr. President. Are there certain bills on this supplemental calendar that we did not consider on the --

ACTING PRESIDENT MEIER: There are those bills on this calendar which are high. In other words, they have not aged sufficiently. And we have not taken those up yet.

SENATOR HEVESI: Thank you, Mr. President.

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

THE SECRETARY: Calendar Number

1494, by Senator Maziarz, Senate Print 1228A, an act to amend the Penal Law, in relation to increased penalties.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT MEIER: Senator Maziarz, Senator Montgomery has requested an explanation with regard to Calendar 1494.

SENATOR MAZIARZ: Thank you very much, Mr. President, Senator Montgomery.

This bill, to be known as Curt's Law, would make killing someone while driving under the influence of drugs or alcohol a violent felony offense. It would raise the penalty for vehicular manslaughter in the first degree from a Class C felony to a Class B violent felony. It would also raise the penalty for vehicular manslaughter in the second degree from a D felony to a Class C violent felony offense.

Curt DeWitt, of Niagara County, was 26 years old when he was killed in 1997 as a passenger in a car driven by an intoxicated driver that was involved in a crash. Curt had a bright future ahead of him and was in the process of taking over his family's business.

The driver who survived the crash served, unbelievably, only 60 days in the county jail for Curt's senseless death.

The taking of a life as a result of driving while intoxicated is as much a violent crime as killing a person with a gun or a knife. For too long all of us have stood, sometimes in this chamber or before audiences, and talked about getting tough with individuals who drive while they are drunk. This law accomplishes that.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. If Senator Maziarz would yield to --

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

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Thank you.

Senator Maziarz, I certainly agree

with you that vehicular manslaughter is a serious offense and we should treat it as such. But could you tell me, what is the difference in the sentencing guidelines between the C and the B?

SENATOR MAZIARZ: Vehicular manslaughter in the second degree is defined as causing the death of another person by operating a vehicle while intoxicated.

Vehicular manslaughter in the first degree is defined as causing the death of another person by operating vehicle while intoxicated and at that time driving with a suspended driver's license.

A Class B violent felony would require at least a five-year but not more than a 25-year sentence. A Class C violent felony would be at least 3 1/2 but not more than 15.

SENATOR MONTGOMERY: All right. And if Senator Maziarz would continue to yield.

ACTING PRESIDENT MEIER: Senator Maziarz, will you continue to yield?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR MONTGOMERY: Yes, Senator Maziarz. In the event of an accidental situation, how is that handled in relationship to this legislation?

SENATOR MAZIARZ: I'm sorry, Senator, I couldn't hear you very well.

SENATOR MONTGOMERY: In the event of an accidental situation, how would that be handled in relationship to your legislation?

SENATOR MAZIARZ: Well, I'm assuming that the officers involved in investigating the crash would make the proper charges, and that they would have the evidence in determining whether the individual was driving while intoxicated and whether they had a valid driver's license or not.

SENATOR MONTGOMERY: And if Senator Maziarz would continue to yield.

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Senator

Maziarz, the charge for a person who is engaged in an accident where there is a death and there is no alcohol or drugs involved, how is that --

SENATOR MAZIARZ: That would not be covered under this law. Where there was no drugs or alcohol involved, then it would not be covered under this.

SENATOR MONTGOMERY: All right. Thank you, Senator.

SENATOR MAZIARZ: Thank you.

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

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Would the sponsor yield to a question?

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

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: Senator Maziarz,

does this bill have -- do you have a three-way agreement or a two-way agreement with the other house and the second floor on this bill?

SENATOR MAZIARZ: No, we do not.

SENATOR KUHL: Is this a one-house bill?

SENATOR MAZIARZ: Well, we do have an Assembly sponsor for it.

SENATOR KUHL: But there's been no movement in the other house?

SENATOR MAZIARZ: No.

SENATOR KUHL: Would the sponsor yield to another question?

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

SENATOR MAZIARZ: Surely, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: And I ask these questions, Senator Maziarz, because I'm interested as an attorney. That's my background, and factual circumstances are always interesting to me.

You outlined that in fact the

person that you've named this prospective law after, being Curt -- and I didn't catch the last name -- but that he was a passenger in this car?

SENATOR MAZIARZ: Yes.

SENATOR KUHL: Do you know whether or not he had any alcohol content in his blood?

SENATOR MAZIARZ: No, I do not.

SENATOR KUHL: If the sponsor would yield to another question.

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

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: Were the driver and the person who lost his life friends?

SENATOR MAZIARZ: Yes, they were.

SENATOR KUHL: Would the sponsor yield to another question?

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield?

SENATOR MAZIARZ: Yes, Mr.

President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: Was the young man who lost his life in the car that was driven that had the accident in which he died there voluntarily?

SENATOR MAZIARZ: I'm not familiar with the circumstances of the accident. I would assume, Senator, that he was.

SENATOR KUHL: Well, the reason I ask these questions, Senator, is that it seems to me in most cases in the past that this house has dealt with the issue of vehicular homicides involving the use of alcohol, that in fact collisions and accidents have occurred with somebody who was not a passenger in the car but who was in another car or who was a pedestrian in a sidewalk or on a sidewalk or walking along the highway.

And you're posing a situation and naming a bill after an individual who appears to me to be probably a voluntary participant in riding in this car.

Now, my question to you is, do you see any difference in whether or not the statute as you're proponing it and attempting to change here, whether or not the individual who loses his or her life voluntarily takes the risk of riding with somebody when they should or knowingly know that they are intoxicated?

SENATOR MAZIARZ: No, I don't see any difference in it at all, Senator. I think the onus is on the individual who gets behind the wheel of a car that has been drinking.

SENATOR KUHL: All right. So then you are suggesting -- if the sponsor would yield, Mr. President.

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: You are suggesting, then, to every driver who has imbibed alcoholic beverages that if there is a passenger, that they refuse to have the passenger be allowed to be in that particular situation as a friend or whatever if they are

to avoid prosecution under this particular statute that you're proposing, are you not?

SENATOR MAZIARZ: I don't think I understood the question.

SENATOR KUHL: Let me ask the question another way, Mr. President, if I can. Will the sponsor continue to yield?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: You don't see, under your circumstances, Senator, that in fact there should be any overriding consideration given to the driver of a vehicle if in fact the passenger is voluntarily there and voluntarily there at their own request if they in fact subsequently lose their life?

SENATOR MAZIARZ: No, I do not.

SENATOR KUHL: Do you know of any other statute, Senator, that you're proposing like this one that eliminates the risk that you're seemingly eliminating under this proposal?

SENATOR MAZIARZ: Am I aware of

any other statute? No, I am not.

SENATOR KUHL: So if the sponsor would continue to yield, Mr. President.

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: So if you don't, then you are essentially setting a precedent here, are you not, and eliminating any responsibility on behalf of somebody who was the subsequent loser, if you will, to use that terminology, in placing total responsibility for another person's actions by becoming a passenger in a vehicle like this upon a driver?

SENATOR MAZIARZ: If the driver so chooses to consume alcoholic beverages to the point where they are intoxicated, yes.

SENATOR KUHL: If the sponsor would continue to yield.

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: What if the factual circumstances in this particular case, Senator Maziarz, were that the passenger who actually lost his life pleaded with the driver to actually take him and was more inebriated than in fact the driver was? Now, isn't that a consideration that should be taken into account in this proposal?

SENATOR MAZIARZ: Well, we don't know that that was in fact the case. I think --

SENATOR KUHL: But it very well could have been, could it not?

SENATOR MAZIARZ: No, I think that the onus is on the individual that chose to drink and drive.

SENATOR KUHL: So you -- if the sponsor would continue to yield, Mr. President.

ACTING PRESIDENT MEIER: Senator Maziarz, will you yield?

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: So you totally, by this proposal, choose to disregard any attempt to help or assist the potential -- well, the passenger who actually lost his life in this situation; is that correct?

SENATOR MAZIARZ: I'm not sure, Senator, where you're going with this, whether you're saying that it makes a difference whether a drunk driver kills a passenger in their car or kills another individual, a nonpassenger in their car. I don't think it makes much difference.

I think the penalty has to be on that individual who chooses to drink to the extent where they are intoxicated, legally intoxicated, and get in a car and drive and causes the death of another individual, whether they're a passenger in their car or not.

We've seen it happen so many times, Senator. And people serve days in jail. Not weeks, not months, but days.

SENATOR KUHL: Well, if the Senator would continue to yield.

ACTING PRESIDENT MEIER: Senator

Maziarz?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: Senator, I'm particularly troubled with your proposal. You probably have come to that conclusion. And I'm troubled because it appears to me that you totally disregard the passenger's intent or desire to be in that vehicle.

It would seem to me that if your proposal was going to be fair to all concerned, that in fact you should take into consideration how and why the passenger is actually in that vehicle. Because it seems to me that in the course of life as we know it, we choose the risks we take.

For instance, you and I chose to take the risk of winning or losing when we ran for this office. Every time we get behind a car and decide to drive or ride as a passenger, we make a choice. We either choose to get in that car or not get in that car. We either choose to drive or we don't choose to

drive.

But in this particular case, without a factual circumstance that forced this passenger into this car -- and I have to believe, under the circumstances that you've provided here to us, that in fact the passenger was as knowing about the risks that he was about to undertake by getting into a car with an inebriated driver as the driver was in asking the passenger to be there.

But yet you disregard that particular willing acceptance of this passenger to undertake what would by all factual circumstances be an extremely riskier method of or perhaps pattern of behavior.

So my question to you is, why don't you consider -- because this is an unusual circumstance, in that you don't have somebody using the car as a weapon in the literal sense of running somebody else off the road or running over somebody who happens to be walking along the road. Why don't you take into consideration the knowing, perhaps, particular exaggerated risk that this passenger had?

Now, if that passenger was too inebriated to know that in fact he was undertaking a large risk, well, that should be something that you should take into consideration in this bill. But you don't. And I'm concerned with that. And I'm asking you why you're not taking that particular factual pattern into consideration in this proposal.

SENATOR MAZIARZ: The answer is because I don't -- I disagree with you, obviously. I just don't see any difference in whether a drunk driver kills a passenger in his vehicle or kills an individual who may be riding a bike or walking along the road. I don't see there's any difference.

SENATOR HEVESI: Mr. President.

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

SENATOR HEVESI: Mr. President, I would like to ask if Senator Kuhl would yield to a question.

SENATOR KUHL: Not at this time.

ACTING PRESIDENT MEIER: The Senator chooses not to yield.

SENATOR KUHL: So, Senator Maziarz, just again to repeat my question, because I don't think I heard the answer, why is it that you haven't taken this additional factual pattern into consideration in your proposal?

SENATOR MAZIARZ: Because I don't see any difference in whether a drunk driver kills a passenger in their car or kills another individual who may be walking along the street or in another car.

SENATOR KUHL: Would the sponsor continue to yield?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: Do you see any difference in the risk that a person who drives a car who is, let's say, under the influence of alcohol takes than the risk that a passenger takes getting into an automobile knowing that the driver is under the influence?

SENATOR MAZIARZ: I'm sorry,

could you ask that question again, Senator?

SENATOR KUHL: I said do you see any difference in risk to an individual who gets into an automobile who is under the influence and drives an automobile, to himself, than a passenger, the risk to a passenger who gets into an automobile knowing in fact that the driver is under the influence and chooses to take that risk. Do you see any difference in risk as to being killed?

SENATOR MAZIARZ: No, I -- again, Senator, I think the onus has to be on that driver who chooses to do that.

SENATOR KUHL: One last question.

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

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR KUHL: Then as I take it from your proposal, you are suggesting to anybody who drives that they in fact, if they're under the influence of alcohol, assume all the risks for themselves and anybody in

their car regardless of how the other person got in their car or whether they even want to be in the car.

SENATOR MAZIARZ: Yes.

SENATOR KUHL: Okay, I understand the proposal. Thank you, Mr. President. Thank you, Senator.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR GENTILE: Mr. President, I would ask if Senator Kuhl would yield for a question.

ACTING PRESIDENT MEIER: Senator Kuhl, do you yield to a question from Senator Gentile?

SENATOR KUHL: No.

ACTING PRESIDENT MEIER: The Senator declines to yield.

SENATOR GENTILE: Then, Mr. President, can I ask the sponsor to please yield for a question.

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield to a question from Senator Gentile?

SENATOR MAZIARZ: Yes, I do, Mr.

President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR GENTILE: Senator, listening to the discussion that just went on with our colleague Senator Kuhl, you would agree with me that an analogy to what this supposed assumption of the risk, as we were just speaking of here, would not be -- would not even be a consideration if this were a domestic violence situation where an abused woman would remain -- choose to remain in the house and be abused by a spouse or another partner?

In that situation, wouldn't you agree with me, Senator, that a crime is being committed by the person who is doing the abusing and therefore the person who is being abused does not assume the risk and does not share in the culpability of that situation? Would you agree with that situation?

SENATOR MAZIARZ: I would agree, Senator. I think it's a stretch, but I would agree.

SENATOR GENTILE: And therefore,

as an analogy in this situation, someone who gets into a car with someone who is drunk and makes a decision to drive while they're drunk does not -- that person's culpability is no less because someone chooses to get in the car with them?

SENATOR MAZIARZ: I would agree with that.

SENATOR GENTILE: Thank you, Mr. President.

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

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you. Through you, Mr. President, if the sponsor would yield to a question.

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

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

I think, following through on the conversation that's been taking place here,

how would we ever prove the intention of the passenger in a car who was killed? Because, in fact, they're dead. So I was just curious what your response would be to if in fact, as Senator Kuhl was trying to raise, that there's a difference in this -- how would we ever know?

I suppose if I was the drunk driver, I would always make the argument that it was the other person's decision to get in the car with me. But since they were deceased, they would have no basis.

So assuming you could amend your bill to take this into account, what could we do to assure that we ever knew what the intent of the passenger was?

SENATOR MAZIARZ: I don't know that you could do that, Senator.

SENATOR LIZ KRUEGER: Thank you.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: I'm going to vote in the negative, and for this reason.

Obviously drunk driving is a very serious offense. But what it's being asked to be labeled now is a violent felony offense. It was only a few years ago when there was no such thing as vehicular manslaughter. It was either a manslaughter charge, manslaughter in the first or second degree, or it was criminally negligent homicide. Vehicular manslaughter is of very recent vintage.

I know we all want to be labeled as the heroes to clean our streets from drunk drivers, and everybody wants that to happen. But comparing a homicide or a vicious rape or other intentional-type crimes which are violent felony offenses, I think it's a stretch to assume someone who does not have an intent to do harm but was doing it because he disregards a known risk, that that really is

the same culpability of a violent felony offense.

And for that reason, I'm going to vote no.

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

Announce the results.

THE SECRETARY: Ayes, 58. Nays, 2. Senators DeFrancisco and Kuhl recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Could we please call up Calendar 380 from the main calendar and then follow with Calendars 1093 and 1094 from the first active list for today.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 380.

THE SECRETARY: Calendar Number 380, by Member of the Assembly Stringer, Assembly Print Number 9852B, an act to amend the Public Authorities Law, in relation to authorizing.

SENATOR HEVESI: Explanation.

ACTING PRESIDENT MEIER: Senator Skelos, an explanation has been requested by Senator Hevesi of Calendar 380.

SENATOR SKELOS: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

The Secretary will read Calendar 1093.

THE SECRETARY: Calendar Number 1093, by the Assembly Committee on Rules, Assembly Print Number 11111A, an act to amend the Public Authorities Law, in relation to authorizing.

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 1094, by Senator Skelos, Senate Print 6635A, an act to amend the Public Authorities Law, in relation to authorizing 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, could you reread Calendar 380.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 380.

THE SECRETARY: Calendar Number 380, by Member of the Assembly Stringer, Assembly Print Number 9852B, an act to amend the Public Authorities Law.

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 Morahan.

SENATOR MORAHAN: Mr. President, would you please return to the regular order.

ACTING PRESIDENT MEIER: The Secretary will continue to read in regular order.

THE SECRETARY: Calendar Number 1505, by Senator Saland, Senate Print 7027, an act to amend the Family Court Act and the Social Services Law, in relation to combined dispositional.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Saland, Senator Dollinger has requested an explanation of Calendar 1505.

SENATOR SALAND: Thank you, Mr.

President.

Mr. President, this bill is a bill which is intended to deal with permanency planning of children who have been freed for adoption. They have been freed for adoption primarily under either Article 6, Article 10, termination of parental rights, or pursuant to some proceeding brought under Article 10.

What this is, is it requires within 60 days of the termination of parental rights that there be the first permanency hearing to be conducted by the court, and subsequently thereafter at six-month intervals. What this is about is more effective administration of these permanency hearings, more effectively providing planning for children, children who have been freed for adoption.

This bill is at the request of the judiciary. And the judiciary is seeking, according to its own memo, more rigorous judicial monitoring of cases involving children freed for adoption, thereby fulfilling the twin goals of expediting the achievement of permanency for these children and ensuring New York State's eligibility for

federal foster care funding through its compliance with primarily AFSA.

This bill is, I believe, an agreed-on bill. I believe the Assembly is doing this bill today as well.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 18. 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 1507, by Senator DeFrancisco, Senate Print 7308, an act to amend the Education Law, in relation to excluding school athletic sports officials.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT MEIER: Senator DeFrancisco, Senator Hevesi has requested an explanation of Calendar 1507.

SENATOR DeFRANCISCO: Yes. In the year 2000, Project SAVE was signed into law. And this would require all prospective school employees and applicants for teacher certification to be fingerprinted and a state and federal background check be done, a criminal background check.

Last fall, school sports officials were told that the fingerprinting requirement has been interpreted to apply to referees, umpires and judges. The reason I don't believe that that's a fair interpretation and should be clarified is that, first of all, sports officials are generally independent contractors and are not employees of a single school district. They often work many different schools and, many times, many different school districts.

Who is to be responsible for overseeing this particular procedure? There are 16,000 officials statewide who are not listed in any central database. There would have to be, therefore, repeated background checks, and that would be passed on to various athletic programs.

The reason fingerprinting, in my mind, is not necessary is that these officials are officiating games with many, many students on a field or on a basketball court or on a baseball field. They are not in unsupervised settings with students. Each group of students that are participating are supervised by their coaches, presumably. And also the events are observed by many, many different spectators.

So I guess my point is that I don't believe that the cost of performing this fingerprinting, the difficulty in administering it, in view of the fact that these are independent contractors and in view of the harm that is sought to be avoided is not really real as far as sports officials are concerned -- that this interpretation should be changed by statute in order to eliminate the requirement for this fingerprinting for sports officials.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr.

President. Would the sponsor please yield?

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you. And I appreciate your comments.

In your explanation you mentioned that it was an interpretation of the Project SAVE legislation, I believe you said by the New York State Public High School Athletic Association, that the legislation would require referees and other officials. But the way you phrased it, it seemed that it might apply or it might not apply.

Can you just tell me what the language was in current law that is in dispute?

SENATOR DeFRANCISCO: I can't give you the current law; I don't have it with me. But it talks about all prospective school employees and applicants for teacher certifications. I don't know that the exact wording says "officials." I don't believe it

does.

The information I received from this group who requested the bill was that the -- it has been interpreted to apply to all people involved with children in the schools.

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

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

That language would certainly say to me that anybody who is going to be an employee would have to comply. I'm just curious as to whether the original sponsors of legislation intended to exempt the individuals that your bill exempts.

SENATOR DeFRANCISCO: Well, these individuals, as I said, are independent contractors. They're not employees of the schools. They're employed by some state organization to -- and they're assigned to

various games or various sporting events.

So I would think that since they're independent contractors and they're not employees or teachers of a school district. That the reading of the -- that this is an interpretation that's a misinterpretation.

But, since last fall, some of these officials were being told that they have to get fingerprinted, that's why I brought the bill in.

SENATOR HEVESI: Thank you.

Mr. President, would the sponsor continue to yield?

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you.

Let me, Mr. President, just lay out my concerns here without a lengthy line of questioning. We've had other fingerprinting bills come before us. I know that Senator Saland and I had a lengthy debate about whether or not we should exempt prospective

employees who would be teachers, I believe it was specified in the law, from the background check temporarily in an emergency situation when new hires had to come in to ensure that there was proper coverage in the classrooms.

And I opposed that legislation, and when I did, I cited -- and you'll forgive me, I didn't know this bill was coming out or I would have had the numbers -- cited some numbers which showed that prospective applicants to be teachers in New York City showed an excessively high rate of positive results in the criminal background check. I remember it was well in excess of 15, it may have been as high as 20 percent of people applying to be teachers in New York City would be denied because they actually had criminal backgrounds.

And so I'm just wondering, doesn't it seem logical to conclude also that some reasonably high percentage of the 16,000 people who will come into contact -- and I understand why you think that's different -- but some high percentage of the 16,000 officials, were we to do fingerprint checks on

them, would come back that they were criminals? And wouldn't you agree with me that the ones who did should not be serving in a capacity where they're in any way involved with our kids?

SENATOR DeFRANCISCO: No. I think there's a qualitative difference here.

Officials are not in classrooms with kids. Officials are not there after school hours with children, are not in a situation where they would be alone with a child. They're on a field with many spectators, with coaches who are supervising, with players who are not under their direct supervision or control.

And I would think in such a public activity as a sporting event that the purpose behind the bill would not be served for officials.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR HEVESI: Thank you.

Through you, Mr. President.

Do you have any idea how many individuals are currently employees in education positions in New York State that have undergone the criminal background checks?

SENATOR DeFRANCISCO: I do not know that.

SENATOR HEVESI: Mr. President, would the sponsor yield to a final question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR HEVESI: Thank you.

The one thing that struck me in your comments and in your memo in support was the one sentence that "tracking the assignment of all officials within the assigned sections of the New York State Public High School Athletic Association would be a monumental task, as there's no present database for officials in any central location."

So does that mean that the New York State Public High School Athletic Association doesn't know who these 16,000 people are who are operating within its different areas

throughout the state?

SENATOR DeFRANCISCO: Oh, I'm sure they know who they are and what areas they operate in. But they do games for different school districts, different -- who would be responsible for getting the fingerprint checks in the schools?

The point is, does every school have to make sure that when this official does one game out of 11 that that official has been properly fingerprinted? Whose responsibility would it be to do the fingerprinting? Because it's the school districts, is the way I understand it presently. But what school district would be responsible for what official?

And it applies -- not to digress, but since they are independent contractors, it's somewhat similar to anyone going into the school to fix the HVAC system or someone going to bring in a series of schoolbooks that the school district contracted with. If you expand the bill to independent contractors, there's no logical reason why any and all people who deal with school districts

shouldn't be fingerprinted as well.

And that's the distinction I think the bill makes.

SENATOR HEVESI: Mr. President, would the sponsor allow one final question? My final, final question.

SENATOR DeFRANCISCO: I will yield to a second final question.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR HEVESI: Thank you. It seems -- Mr. President, I withdraw the request to have the sponsor yield. Let me just speak on the bill briefly.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you.

I'm a little troubled by this bill. I think I know why we're looking to do this, although the notion that the referees and judges and other people who are officiating at sporting events are always going to be in a situation where they're supervised and therefore shouldn't be fingerprinted has some weight.

But we still have to weigh that against the potential, the very real potential that some of those 16,000 school officials, I am sure, if we did background checks on them right now and there was a provision which would prevent somebody from having a criminal background of a certain nature and being with our children in that capacity, that those individuals would be ineligible if we went and did this.

So I don't know why we wouldn't err on the side of caution here. And if the Public High School Athletic Association -- which I'm pretty sure has to license a referee. There must be some qualification for an individual to be able to go in and officiate in public schools -- that that association can put themselves in compliance with the current law by mandating that people who are eligible to participate in any event, regardless of what school they're participating in the event in or how many games they're participating in, that those individuals, if they're licensed and authorized, should be fingerprinted.

I want to fingerprint everybody, Mr. President, whoever comes into contact with our children, whether or not they are supervised, whether or not these individuals may, the predominant amount of time, also have other individuals supervising them. Let's err on the side of caution in this.

I don't know why this should be a cost issue. I think we can get over the administrative hurdles. And just logic dictates that some of these people are going to have criminal backgrounds. And I don't think anybody, any parent, certainly, would want their child to be on basketball team where the individual who's officiating the game has committed a felony or a violent felony.

Not a huge problem, but I think maybe we should err on the side of caution. So I'll oppose the bill.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Senator Hevesi, can I ask you a question, please?

ACTING PRESIDENT MEIER: Senator

Hevesi, do you yield to a question from Senator Volker?

SENATOR HEVESI: I'd be happy to yield.

ACTING PRESIDENT MEIER: Senator Hevesi yields.

SENATOR VOLKER: I believe that you participated in high school sports, just as I did, didn't you?

SENATOR HEVESI: I did.

SENATOR VOLKER: Mr. President, through you. The officials that refereed games and the umpires, they were not really employees, is this correct, of the school but were really hired by the league or whatever to handle those games, but indirectly were employees of the school, isn't that correct?

SENATOR HEVESI: Well, my understanding of it is that in New York City, with the Public School Athletic League, that the money that financed the refereeing operations came from taxpayer-levied funds that were distributed and disbursed by the New York City Board of Education.

SENATOR VOLKER: Thank you.

That's what I wanted to know. Because that's not the way it works upstate, that's my understanding.

And if I might, on the bill, very quickly. That's the reason I asked that question.

SENATOR HEVESI: Thank you.

SENATOR VOLKER: It's my information -- and I played a bunch of sports, baseball and basketball and football and so forth. Upstate, particularly in upstate New York, the people are generally, as I understand it, are not even paid for by the league. At least in the days I played baseball or basketball, they were not employees of the school. But indirectly they were employees of the school, because the schools that the games were played paid these people as officials.

The problem with having these people do fingerprinting is who really gets their fingerprints. Is it the school when they play the game? Is it the league? Because the league really doesn't generally hire these people. At least they didn't years

ago.

The difficulty here was that if you read the law that we passed, technically they're education officials. But they're really not officials of any one school district, in most cases, because they deal with all the schools in the whole area.

The bigger problem is -- and this is particularly true with umpiring. Because, frankly, I was asked to umpire some games after I left because they were having such a devil of a problem getting anybody to umpire. Because it doesn't pay much. I mean, it's more people that were just dedicated to do it. And Bill Stachowski I know did it. Of course, neither one of us have done it recently. But I did it in the past.

But I have to tell you, very honestly, these are not school officials. They really aren't. And the problem with having these people fingerprinted is the very difficulty that we worried about when we first looked at the fingerprinting of all school employees.

Now, the schools -- the leagues --

for instance, take the Catholic league that I was part of. We knew just about all the officials. And frankly we knew all their backgrounds. Of course that was years ago, I'm the first to admit it.

But I think the real problem is here I'm not sure who would ask these people to take their fingerprints, who would actually do it. It would probably be the league, I guess. It wouldn't be an individual school district, I don't think.

So my personal opinion is that I think Senator DeFrancisco's bill -- and I by the way agree with you that we should err on the side of caution. But in this case, these people are people who all they are is they're right out there in the public. They're like John Cahill is when he, you know, referees college basketball games. I mean, he's an official too, and so forth.

And we've got to check, by the way, and see if he was fingerprinted. We think he was, so don't worry about that.

But in any case, I just think this. And I understand what you're saying, but I

have to say that I think that John's bill points out the danger that you have when you try to fingerprint everyone, whatever connection they have, because frankly you'll run into terrible administrative problems.

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

SENATOR STACHOWSKI: I would like to know if Senator Volker would yield for a question.

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

SENATOR VOLKER: Yes. Certainly.

SENATOR STACHOWSKI: Senator Volker, wouldn't you agree, though, that the way some of these people officiate is almost criminal?

(Laughter.)

SENATOR VOLKER: You know, Senator, there's a great deal of truth to that. And the more I think of it, maybe we should fingerprint some of these people.

(Laughter.)

ACTING PRESIDENT MEIER: Senator

McGee.

SENATOR McGEE: I wonder if the sponsor might yield for one question, please.

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR McGEE: Realizing, of course, that the fingerprinting of athletic officials was done through the Safe School Act and the purpose of that, of course, was to provide safety for the children, and realizing of course the issues and problems that the officials are saying that they're going to have, can you give me any indication what school has not been able to find an official to officiate at any game because they have not been fingerprinted?

SENATOR DeFRANCISCO: I don't know how many -- I'm sure there is none that have not been able to officiate because they have not been fingerprinted.

But the fact is, there's an interpretation of the law that I believe is a

misinterpretation and that it should be clarified so that overzealous district might not do that in the future.

SENATOR McGEE: Meaning leaving themselves open for liability of any type?

SENATOR DeFRANCISCO: That's correct. If there is an interpretation that's incorrect and a school district excludes an official, that's wrong.

If someone then otherwise brings the issue up why has this individual not been fingerprinted, there has to be an interpretation of the bill. If there's confusion, we should straighten it out.

And by the way, before I forget -- I've been meaning to say this every time I stand up -- this is not a one-house bill. Harvey Weisenberg has it in the Assembly.

SENATOR McGEE: Do you continue to yield?

SENATOR DeFRANCISCO: Yes.

SENATOR McGEE: And I realize -- and I intend to support the bill. I just have another question on the fact that there seems to be the indication that the official at the

athletic event never has any contact with the individuals players, et cetera, et cetera.

Is there not -- does not every school have locker rooms where after the game the opposing team goes and has a shower and the home team goes and has a shower? Do the referees, at boys' or girls' basketball games, do they have separate showers also?

SENATOR DeFRANCISCO: I can only go to my athletic days, since everyone is touting their athletic abilities here, and that is there was always separate rooms for officials that I know of. I don't know of any situation where any adult is in a locker room or a shower with a kid after a game.

And once again, it's not only the fact that there are generally hundreds of people watching and coaches supervising that makes this different than a teaching situation, but they are independent contractors. If you want to be consistent with your rationale --

ACTING PRESIDENT MEIER: Just a second, Senator DeFrancisco.

Can we have some order in the

chamber. If you have a conversation that you really need to have, take it outside.

Senator DeFrancisco.

SENATOR DeFRANCISCO: If you want to be consistent with your rationale, every food supplier that brings food into a school district, independent contractor, they have access to the students. The students are around when they bring the food in or do some work on the HVAC system or any of many different activities where the school districts pay for it, out of taxpayers' money, but they're independent contractors.

You can expand this to just about anyone by the logic that anybody who's around a student at any time should be fingerprinted. And I don't think that's the intent of the bill.

SENATOR McGEE: Mr. President, on the bill, if I may.

ACTING PRESIDENT MEIER: Senator McGee, on the bill.

SENATOR McGEE: I don't think there's any question that when we drafted and crafted the bill for safe schools that our

intention was to provide safety for the children. And one of the things that we would look at would be the safety when children are involved in any kind of an athletic event. And that would include, of course, officials, be that as they may that they may be contractors on their own.

I can understand what Senator Volker is saying. I can understand what Senator DeFrancisco is saying, that there is a question of whether they are independent contractors. And I can see the terrible hurdles these people would have to go over to be able to be fingerprinted; i.e., who would fingerprint them, where would the fingerprints be, et cetera, et cetera.

I understand the issues that are involved in this. I think that the purpose behind it was for safe children. And I will support the bill. But there is, I think, a question involved in the safety for our children.

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

SENATOR STACHOWSKI: Would

Senator McGee yield for a question?

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

SENATOR McGEE: Sure.

SENATOR STACHOWSKI: Senator, would you mind if I gave you an answer to the question you asked Senator DeFrancisco about where the officials go after the game?

SENATOR McGEE: Sure. Absolutely.

SENATOR STACHOWSKI: Even in the smaller Catholic schools, normally every place where there's athletic teams, the coaches have a locker room with a shower in it. And that's where the referees go, separate from all the teams. And they don't even let the parents go talk to them after the games.

SENATOR McGEE: Thank you very much for clarifying that.

SENATOR STACHOWSKI: You're welcome.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Mr. President, would the sponsor yield for a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SALAND: I apologize to Senator DeFrancisco, I didn't hear his opening remarks. And I'm curious to know the context within which this has arisen. And I'll make it perhaps even easier.

Has this problem come to your attention because there's an allegation that's being applied sporadically or erratically to some referees and not all, or it's being applied to referees or sporting officials uniformly and it shouldn't be at all?

SENATOR DeFRANCISCO: The request came from whatever the statewide organization is, I've got it printed here someplace. And the rationale is that this is an interpretation of the bill where some school districts and some school districts aren't requesting that the officials be fingerprinted.

And that interpretation I don't believe is the logical interpretation of the bill. They are not employees of the district,

they're not teachers, they are not individuals to which the bill I believe was intended to apply. So that interpretation has been made differently in different districts.

And also, since officials officiate in different districts and also in different conferences, the question arose as to who would actually do the criminal fingerprinting and who would maintain the records of that printing, since it's not any specific school district to which that individual is assigned, being an independent contractor.

SENATOR SALAND: Thank you, Senator.

I must say just initially that I'm rather disappointed that the Senate Children and Families Committee didn't have the opportunity to review this bill. That in fact they would have welcomed the opportunity to do so, because we were certainly very much involved in the legislation requiring fingerprinting of school employees.

And as I listened to Senator DeFrancisco and others, certainly the intent of this bill was not only to deal with school

employees, but it was really also intended to deal with those figures who schoolchildren might be in contact with who were people who were in positions of authority, people who might be those to whom young people and schoolchildren might respond to that authority, might in fact rely upon that authority and repose a degree of trust in that authority.

I can say quite candidly that in all of the discussions we had over the nearly three years within which we dealt with this subject, there was never any discussion dealing with the subject of the status of sports officials.

Nonetheless, having said that, I would have welcomed the opportunity to consider, within the context of the responsibilities of the committee, whether in fact the interpretation of the Ed Department was in fact the proper interpretation.

I would be troubled by an irregular application of this in some quarters to referees or sports officials and in other quarters not. I think it should be uniform.

The question that is being placed before us today by Senator DeFrancisco is that it should be uniform, but not at all. And I would have welcomed the opportunity, as I said, to reflect upon that a bit longer that, you know, a late-session calendar with a bill coming out.

I have reservations really about this measure. And quite candidly, I think it would be an abrogation of my responsibilities as the chairman of the Senate Children and Families Committee and the role which I had in the underlying legislation to support this bill. And I will therefore be voting in the negative.

Thank you.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I request that -- to see whether or not Senator Saland would yield to a question.

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

SENATOR SALAND: Yes, Mr. President.

SENATOR DeFRANCISCO: You had indicated in your comments a moment ago that the bill applied to employees of school districts and we intended to have it apply to figures of authority. Isn't it true that there is no such language in the bill that says "figures of authority"?

SENATOR SALAND: That's absolutely correct, Senator.

SENATOR DeFRANCISCO: So the bill does apply to employees of a school district; correct?

SENATOR SALAND: Correct.

SENATOR DeFRANCISCO: So in the event that someone is interpreting this bill to apply to independent contractors, they would be wrong; correct?

SENATOR SALAND: I think it would depend upon the nature of the independent contractor. I don't have the bill in front of me.

We certainly didn't intend it to cover the soda vendor who came in and filled the soda machine every week. We didn't intend it to apply to the delivery personnel who

might have dropped off packages of paper or supplies.

We were concerned about abuse of authority. And we dealt in the context, as you have rightfully pointed out, of school employees. And whether our definition was broad enough to encompass these school officials, off the top of my head I can't tell you, Senator.

But you're absolutely correct when you say that the bill was intended to deal with school employees. And I do understand the argument that you've made that these people are compensated not as school employees, but they're compensated independently.

SENATOR DeFRANCISCO: Okay. I have no further questions. But I'd just like to speak further on the bill.

Senator Saland also mentioned in his comments that there was never any discussion in over three years about school officials. And it seems to me that if school officials were intended to be included, there would have been at least some discussion about

it. And the language is obviously unclear, since the sponsor is not sure whether this position of authority was even considered.

So therefore, the purpose for the bill was to clarify this situation. And I know others may differ. But in my judgment, in view of the independent contractor status and the lack of direct contact with kids, other than in very, very supervised and very, very public areas, these officials should not be included.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. Can I ask the sponsor to please yield?

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I'm not clear on one point. Maybe if you can do us all a service and clarify

this. The suggestion was advanced here that even if everybody agreed that the school -- the sports officials should be fingerprinted, that we have an insurmountable obstacle to doing that for administrative reasons. And I'm not convinced that that's the case.

So my question to you is, if I wanted to, as Senator Volker had suggested, be an umpire in public -- for public school sporting events, baseball games, upstate New York, do I not have to be licensed or sanctioned by the New York State Public High School Athletic Association?

SENATOR DeFRANCISCO: You have to be sanctioned by somebody. I don't know what the sanctioning authority is.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you. Through you --

SENATOR DeFRANCISCO: Excuse me. There's no -- I've got an expert witness here,

a Big East official who happens to be counsel to this body.

I was informed that there's no state sanctioning organization. They're local sanctioning organizations that are not sanctioned by the State of New York.

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

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you.

Am I then to understand that the New York State Public High School Athletic Association is the umbrella organization beneath which all of the local public school athletic organizations report?

SENATOR DeFRANCISCO: That's my understanding, but I can't say for sure.

And I guess in direct answer to the other question about the insurmountable burden, that is a secondary reason for my bill. Even if -- I understood what you said

before, that we don't care what the cost is, it's important enough to do it. And I can't disagree with you. There's no reason why it can't be done. This is one of the reasons given by this organization.

My reasons for the bill were the reasons I've cited earlier.

SENATOR HEVESI: Thank you.

Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you.

One more issue I'd like to raise that has not yet been raised, because we've covered the administrative aspect, the discourse with Senator Saland.

But the central argument here that you have made is that it's really not necessary to have these individuals fingerprinted because, though some of them might wind up having criminal records, there

is always somebody else around to supervise them.

The point that I would make to somewhat dispute that is that when I participated, as Senator Volker brought up, as a member of the men's basketball team in high school, very often the type of contact that came between the referees in basketball games and the players was physical contact, with referees separating players who may have had an altercation, with fights breaking out, with hotheaded players who were disputing calls and what have you.

And I'm sure the same is true with other sports, particularly football, where my concern is that you need these individuals who are directly supervising players, in a highly competitive, charged, adrenaline-flowing environment, you need the referees and the umpires to be the most cool, level-headed individuals.

And it would seem to me that those who have in the past committed criminal acts might not be the best people we want in that position. And that would be another reason

why I'm uncomfortable with this bill.

What do you think about that?

SENATOR DeFRANCISCO: I think there's just as much a chance of some lunatic officiating a game that has a perfect record with no criminal convictions, no traffic tickets, because it depends on the demeanor of the individual. And you no doubt have run into officials, coaches and other players that acted very inappropriately and had a wonderful criminal record.

But whatever is happening on that field or on the basketball court is being observed by hundreds of eyes. And that inappropriate activity, whether it's a criminal record behind it or just a very immature or irrational human being, it's going to be observed and taken care of.

SENATOR HEVESI: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Mr. President.

I would with great respect dispute

Senator DeFrancisco's assertion that a pool of officials who had engaged in criminal conduct, as compared with a pool of officials who had never engaged in criminal conduct, were no more likely to exhibit behavior that is inappropriate or that is reflective of bad judgment.

I would suggest that those individuals who have engaged in criminal conduct and have been convicted are certainly more likely to engage in conduct that is questionable, that is intemperate, perhaps.

Again, I'm going to oppose this bill. I don't know why we couldn't, if everyone in this chamber agreed that we should -- which I know this is disputed, but if everybody in this chamber agreed we should fingerprint everybody coming into contact with kids in public schools in any way, shape, or form, I don't at all buy the argument that we could not administratively do it. Sure we could do it.

We'll find out who the sanctioning body is. If not, we'll create one. We'll create a mechanism, we'll have the school

districts report to the State Education Department. And I could write the bill.

But I believe that everybody, if you want to be a referee or an umpire, you need to have certain skills. You need to have passed the tests, showed proficiency in your sport and have actually gone ahead and participated in those activities. And so there is a sanctioning body.

So for two reasons, Mr. President, (A) I believe it's administratively permissible, and (B) you don't want to have a situation -- I'm going to draw an imperfect analogy here to conclude. We just had a situation where a teacher in New York City, a substitute teacher, with nobody else in the classroom -- that's why this is not a good analogy -- assaulted 20 kids with a broomstick and injured some of these kids so badly they had to go to the hospital. That individual had been fingerprinted, he had undergone a background check, and he did not have a criminal background.

But I submit to you that if that individual or a referee upstate who is

involved in some type of altercation who had not been fingerprinted, if that hypothetical individual winds up doing something in any way comparable to what this individual did in New York City -- and as Senator DeFrancisco asserted, there is -- and I disagree with this, but if you believed him instead of me, those two individuals might be equally as likely to commit an unreasonable action -- then wouldn't we have been remiss if we didn't require the testing of that individual who winds up assaulting somebody as a referee?

Wouldn't we be remiss if we didn't find out that they had in fact a history of assaulting people? That's a protection that I want to afford to parents of children and to my kids when I have my kids.

So with respect to Senator DeFrancisco -- and I very much appreciate the time and the discourse. This was a good debate. It was a bipartisan debate, which is something that we don't see here very often. It's healthy. Now we can all make an informed decision. My decision on this will be to vote in the negative.

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

Debate is closed, then.

Read the last section.

THE SECRETARY: Section 16. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator McGee, to explain her vote.

SENATOR McGEE: Mr. President, to explain my vote.

I am fully aware of the fact of the importance of officials at athletic events, and particularly in the rural area. And I would suspect, quite honestly, in the rural area most of the officials that officiate at the football games, basketball games, soccer games are individuals who we in fact know, and are family members, and are well-known throughout the area. So for us to say that we need to have a fingerprint on those individuals is something that I think is probably ridiculous, because we all know who

those people are.

I do believe that we are all concerned with the safety of our children and anybody who comes in contact with our children. I'm glad to hear Senator Stachowski indicate the arrangements of the facilities for basketball games or any kind of athletic team.

I do support this bill. I think that we need to have the officials available because sports are so important in any school, because it does make, indeed, a well-rounded young person as they come forward to become a productive part of life.

Again, I do think that perhaps the officials themselves may wish to look at some type of policing, if you will, within their own ranks. So with that, please, I will vote in the positive for the bill.

Thank you.

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1507 are Senators Balboni, Bonacic, Fuschillo, Gentile,

Hevesi, Larkin, LaValle, Marcellino, Morahan, Padavan, Rath, Saland, Spano, and Velella. Also Senator Trunzo. Ayes, 45. Nays, 15.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: Senator Morahan, we have some substitutions to make.

SENATOR MORAHAN: Can we do them, please.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I had just wanted to go back to 1494. And I would like to have unanimous consent to be recorded in the negative on Calendar 1494, Print Number 1228A.

ACTING PRESIDENT MEIER: Without objection, Senator Hassell-Thompson will be recorded in the negative on Calendar 1494.

The Secretary will read the substitutions.

Just a moment. Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1507.

ACTING PRESIDENT MEIER: Would you repeat the calendar number again, Senator.

SENATOR DOLLINGER: 1507. It's the last bill we did.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar 1507.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 12, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 7029A and substitute it for the identical Senate Bill Number 4748A, Third Reading Calendar 291.

On page 15, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 8409 and substitute it

for the identical Senate Bill Number 4248, Third Reading Calendar 392.

On page 25, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 5771A and substitute it for the identical Senate Bill Number 6929, Third Reading Calendar 666.

On page 26, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 9559 and substitute it for the identical Senate Bill Number 5228, Third Reading Calendar 683.

On page 26, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 9672A and substitute it for the identical Senate Bill Number 3707A, Third Reading Calendar 691.

On page 31, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 4343A and substitute it for the identical Senate Bill Number 1769A, Third Reading Calendar 808.

On page 35, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 10455A and substitute it

for the identical Senate Bill Number 6571, Third Reading Calendar 896.

And on page 54, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 11678 and substitute it for the identical Senate Bill Number 7453A, Third Reading Calendar 1280.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Leibell.

SENATOR LEIBELL: Mr. President, I ask for unanimous consent on Calendar 1507 to be recorded in the negative.

ACTING PRESIDENT MEIER: Without objection, Senator Leibell will be recorded in the negative on Calendar 1507.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Senator Wright, I believe, may have a motion.

ACTING PRESIDENT MEIER: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. I wish to call up my bill, Print Number 7139A, recalled from the Assembly,

which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1295, by Senator Wright, Senate Print 7139A, an act to amend the Vehicle and Traffic Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: Senator Wright.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR WRIGHT: Thank you.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. There will be an immediate conference of the Majority in the Majority

Conference Room.

ACTING PRESIDENT MEIER: Immediate conference of the Majority in the Majority Conference Room.

SENATOR MORAHAN: And the Senate will stand at ease.

ACTING PRESIDENT MEIER: Senator Ada Smith.

SENATOR ADA SMITH: There will be an immediate meeting of the Minority in the Minority Conference Room, soon to be Majority.

(Laughter.)

ACTING PRESIDENT MEIER: Immediate conference of the Minority in the Minority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:27 p.m.)

(Whereupon, the Senate reconvened at 6:52 p.m.)

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes, may I have unanimous consent to be recorded in the affirmative on Calendar Number 1494, please.

ACTING PRESIDENT MEIER: That was in the affirmative, Senator?

SENATOR KUHL: Correct.

ACTING PRESIDENT MEIER: Senator Kuhl will be recorded in the affirmative with regard to Calendar 1494.

SENATOR KUHL: Thank you.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: 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 SKELOS: And I believe there's some housekeeping at the desk.

ACTING PRESIDENT MEIER: Senator Wright.

SENATOR WRIGHT: Mr. President, on page number 5 I offer the following amendments to Calendar Number 69, Senate Print Number 4899B, 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 WRIGHT: Mr. President, on behalf of Senator Saland, on page number 61 I offer the following amendments to Calendar Number 67, Senate Print Number 3434, 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 WRIGHT: Mr. President, on behalf of Senator Skelos, on page number 5 I offer the following amendments to Calendar Number 66, Senate Print Number 2683B, 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.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 6:54 p.m.)

(Whereupon, the Senate reconvened at 7:03 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: 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.

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 7376, by Senator Lachman, an act authorizing the assessor;

7612, by Senator Seward, an act to amend the County Law;

7613, by Senator Seward, an act to amend the County Law;

7614, by Senator Seward, an act to

amend the County Law;

7633, by Senator Nozzolio, an act to amend the County Law;

7639, by Senator Larkin, an act to amend the County Law;

7647, by Senator Saland, an act to amend the County Law;

7648, by Senator Kuhl, an act to amend the County Law;

7649, by Senator Kuhl, an act to amend the County Law;

7651, by Senator Leibell, an act to amend the County Law;

7656, by Senator McGee, an act to amend the County Law;

7660, by Senator Nozzolio, an act to amend the County Law;

7661, by Senator Nozzolio, an act to amend the County Law;

7662, by Senator Nozzolio, an act to amend the County Law;

7762, by the Senate Committee on Rules, an act to amend the Education Law;

And Senate Print 7767, by Senator Espada, an act to amend the Correction Law.

All bills ordered direct to third reading.

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

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, if we could take up the report of the Rules Committee, noncontroversial.

ACTING PRESIDENT MEIER: With regard to Supplemental Calendar 54C, the Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 1517, by Senator Lachman, Senate Print 7376, an act authorizing the assessor of the County of Kings.

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 1518, by Senator Seward, Senate Print 7612, an act to amend the County Law, in relation to wireless communications.

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

1519, by Senator Seward, Senate Print 7613, an act to amend the County Law, in relation to wireless communications.

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 1520, by Senator Seward, Senate Print 7614, an act to amend the County Law, in relation to wireless communications.

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 1521, by Senator Nozzolio, Senate Print 7633, an act to amend the County Law, in relation to wireless communications service.

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 1522, by Senator Larkin, Senate Print 7639, an act to amend the County Law, in relation to wireless communications services surcharge.

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 1524, by Senator Kuhl, Senate Print 7648, an act to amend the County Law, in relation to wireless communications.

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 1525, by Senator Kuhl, Senate Print 7649, an act to amend the County Law, in relation to wireless communications service.

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 1527, by Senator McGee, Senate Print 7656, an act to amend the County Law, in relation to authorizing.

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 1528, by Senator Nozzolio, Senate Print 7660, an act to amend the County Law, in relation to

wireless communications.

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 1529, by Senator Nozzolio, Senate Print 7661, an act to amend the County Law, in relation to wireless communications service.

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 1530, by Senator Nozzolio, Senate Print 7662, an act to amend the County Law, in relation to wireless communications service.

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 1531, by the Senate Committee on Rules, Senate Print 7762, an act to amend the Education Law, in relation to the definition of financial dependent.

SENATOR SKELOS: Mr. President.

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 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1532, by Senator Espada, Senate Print 7767, an

act to amend the Correction Law, in relation to good behavior allowances.

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.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

SENATOR CONNOR: Party vote in the negative.

SENATOR SKELOS: Party vote in

the affirmative.

SENATOR CONNOR: Mr. President, to explain my vote.

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

SENATOR CONNOR: Thank you, Mr. President.

I don't know whether this is Rockefeller reform light or what. But the problem with this bill is it only addresses A felons.

It does a good thing in the sense that it permits those who have been sentenced under the Rockefeller Drug Laws for an A felony to have their sentences reduced, to apply for resentencing. The problem is it doesn't address the B and C felons who are lower-level offenders under the Rockefeller Drug Laws. It's conceivable that someone convicted of a B felony could end up doing more time than someone convicted of an A felony under this bill.

The bill lacks, frankly, the appeal that last week's bill could have had. Some more conservative members last week voted for

the bill last week because it enhanced penalties for drug kingpins and it was tougher on major drug kingpins.

This has nothing about that. So if you're a conservative, you're not doing anything in this bill other than relaxing penalties for the highest offenders under the Rockefeller Drug Laws.

And if you're a more progressive person who wants to provide for treatment, alternatives, diversions and generally reduced penalties for nonviolent drug offenders at the B and C level, there's nothing in this.

My fear, Mr. President, is if this passes, if it ever became law -- and I doubt that it will in this form -- the whole impetus for reform will go away, and about 30 people a year will be helped.

The advocates are against this. I don't think the Assembly will take this up because of these flaws.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Just to

explain my vote, Mr. President.

There's a wonderful scene in the movie "Traffic" where Michael Douglas, who plays the drug czar of the United States, gets on a plane to go to Mexico. And as he's flying down to Mexico in the plane, he's in the middle of the plane and he turns around and says to everybody: "Oh, by the way, we're going to these big negotiations with Mexico about drug trafficking. Where's the treatment guy?"

And all these people on the plane, there are about 15 people on the plane, they all look around at each other and they realize there's nobody there for treatment.

The problem -- the solution to our drug problem lies in treatment. This bill has nothing in it. The motto of those seeking to change the Rockefeller Drug Laws has been to "Drop the Rock." The only thing that this bill does is drop the ball.

I vote no.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you,

Mr. President. To explain my vote.

I think that the fact that this bill, which is clearly a one-house bill -- which, as Senator Connor explained, would deal with less than 100 people's problems in a state with tens of thousands of people doing time for drug crimes -- the explanation for why we're doing this is pretty simple.

The advocates are coming to town tomorrow to begin a campaign targeting the Governor for his inaction on this issue, and he's looking for some political cover. I hope we will not give it to him. I am confident the Assembly will not give it to him.

This is a serious issue that should be addressed this year. A lot of people have spent a lot of time and energy trying to get the public's attention focused on the need to reform these laws. We can do it. This bill does not do it. And I think that it really is a shame if we try and take this issue off the table with such a transparent maneuver.

I vote no. I urge everyone to vote no.

ACTING PRESIDENT MEIER: Senator

Espada.

SENATOR ESPADA: Thank you, Mr. President. To briefly explain my vote.

Indeed, last week we proffered, through the Governor's program bill, a very comprehensive response to the many problems that have been articulated with respect to Rockefeller Drug Laws.

Now, a couple of days later, we find that indeed there was merit, that the bill that we passed spoke to treatment, that it spoke to sentencing restructuring, that it spoke to enhancement for penalties for any number of offenders. Now the other side finds merit in what they voted against last time we dealt with this matter.

At some point we have to stop the rhetoric, stop the games with the English language, whether we drop the ball, whether we drop a rock. We're talking about building a human face to this problem. And whether it's 100 or 800 or 1000 at a time, we have to move forward.

So far in this house we've got money behind the "Road to Recovery" in terms

of treatment. So far in this house we've had a comprehensive response to the problem that has waited 30 years for a response. And today we have a targeted response. Let's not play with words. We're dealing with human beings. We have a targeted response and an effort that should be unanimously supported.

For those who talk about helping, for those who talk about reforming, let's get a yes vote for a change.

We thank you.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Very quickly. And I'm not going to speak a long time because I only have two minutes.

Very quickly, this is the Rockefeller Drug Law reform. You can say all you want, there is about between 800 and 900 people that are directly involved here, about 280 who are under A-1s. This gives every one of those people an opportunity to have their sentence reviewed. That's the Rockefeller Drug Laws that's left.

I mean, we can talk -- I realize

that we've had all this stuff about reform. And I think we need some reform, by the way. We're always talking -- people have been asking for reform on the Rockefeller Drug Laws. This is it. Does that mean we should stop here, we should not do any changed -- some drug treatments and so forth? No.

But we're talking about the Rockefeller Drug Laws, and this is really it. I mean, the problem was that people got a little carried away. Drug law reform? Yeah, you can talk about that. But not Rockefeller Drug Law reform. This is it.

This bill tonight, if it passes the Assembly -- which it may well -- and is signed by the Governor, will reform the Rockefeller Drug Laws. And then we can go on from there to talk about the rest of the drug laws and the issue of drug treatment and so forth.

ACTING PRESIDENT MEIER: I want to advise members we're going to do this, just so the record is accurate.

Senator Connor announced the party vote as the Secretary was starting the roll. So I just want the record to be accurate.

I'll ask the Secretary to call the roll.

(The Secretary called the roll.)

SENATOR CONNOR: Party vote in the negative.

SENATOR SKELOS: Party vote in the affirmative.

THE SECRETARY: Ayes, 36. Nays, 24. Party vote.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could at this time, noncontroversial, take up Supplemental Active List Number 2.

ACTING PRESIDENT MEIER: The Secretary will read, with regard to Supplemental Active List Number 2, the noncontroversial calendar.

THE SECRETARY: Calendar Number 282, by Member of the Assembly Galef, Assembly Print Number 5463A, an act to amend the Election Law and the Public Health Law, in relation to reports.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of December.

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 776, by Senator Kuhl, Senate Print 6527, an act to authorize the New York State and Local Employees Retirement System.

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 786, by Senator Lack, Senate Print 2938, an act to amend the Surrogate's Court Procedure Act, in relation to allowing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Just a second. I think everybody would like to get out of here tonight, and it's going to be helpful if we can hear.

The Secretary will continue to read.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 978, by Senator Hoffmann, Senate Print 1741A, an act to amend the Public Health Law, in relation to the sale and possession.

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 1021, by Senator Maziarz, Senate Print 6800, an act to amend the Real Property Tax Law, in relation to exemption.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1030, by Senator Farley, Senate Print 7160, an act to amend the General Municipal Law, in relation to letters of 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1165, by Senator Mendez, Senate Print --

SENATOR SKELOS: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 1347, by the Assembly Committee on Rules, Assembly Print Number 11553, an act to amend the Local Finance Law, in relation to the sale of bonds and notes.

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 1348, by the Assembly Committee on Rules, Assembly Print Number 11552, an act to amend Chapter 130 of the Laws of 1998, amending the General Municipal Law.

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

Supplemental Active List Number 2.

Senator Skelos.

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

ACTING PRESIDENT MEIER: Yes, we have some motions.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. On page number 57 I offer the following amendments to the Third Reading Calendar, on behalf of Senator Volker: Calendar Number 1454, Print Number 7574A.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Skelos.

SENATOR SKELOS: If we could just stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 7:21 p.m.)

(Whereupon, the Senate reconvened at 7:27 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator

Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk? Any substitutions to be made?

ACTING PRESIDENT MEIER: No, we have nothing at the desk for housekeeping.

SENATOR SKELOS: Then, Mr. President, I'd like to announce that there will be a meeting of the Rules Committee at 10:30 a.m. sharp tomorrow morning, that's Thursday the 20th, in the Majority Conference Room.

And there being no further business, I move we adjourn until Thursday, June 20th, at 11:00 a.m.

ACTING PRESIDENT MEIER: A meeting of the Rules Committee tomorrow morning, 10:30 a.m.

And on motion, the Senate stands adjourned until tomorrow, June 20th, at 11:00 a.m.

(Whereupon, at 7:28 p.m., the Senate adjourned.)