NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 20, 2002

11:05 a.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will come to order.

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

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

ACTING PRESIDENT McGEE: In the absence of clergy, will everyone please bow their heads in a moment of silence.

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

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 19, the Senate met pursuant to adjournment. The Journal of Tuesday, June 18, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT McGEE: The Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

On behalf of Senator Bruno, I move that the Senate not concur in said amendments and move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 138, by Senator Bruno, Senate Print 6265, Assembly Reprint 30001.

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: Madam President, I believe the bill is to be restored to the Third Reading Calendar.

ACTING PRESIDENT McGEE: So ordered.

SENATOR MARCELLINO: And I

further move that said bill be recommitted to the Committee on Rules.

ACTING PRESIDENT McGEE: Said bill is recommitted to the Committee on Rules.

Senator Marcellino.

SENATOR MARCELLINO: On behalf of Senator Saland, Madam President, I wish to call up Calendar Number 245, Assembly Print 11197.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 245, by the Assembly Committee on Rules, Assembly Print Number 11197, an act to amend Family Court Act.

SENATOR MARCELLINO: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Saland's bill, Senate Print Number 5131B, on June 11, 2002.

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR MARCELLINO: I now move

that the Assembly Bill Number 11197 be committed to the Committee on Rules and Senator Saland's Senate bill be restored to the order of the Third Reading Calendar.

ACTING PRESIDENT McGEE: So ordered.

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

ACTING PRESIDENT McGEE: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT McGEE: Senator Skelos, we have substitutions.

SENATOR SKELOS: Are there any substitutions at the desk?

If we could make them at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: On page 6, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 7366B and substitute it for the identical Senate Bill Number 2505B, Third Reading Calendar 141.

And on page 19, Senator LaValle

moves to discharge, from the Committee on Rules, Assembly Bill Number 6942D and substitute it for the identical Senate Bill Number 5618A, Third Reading Calendar 553.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Skelos.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 26, by Senator LaValle, Senate Print 2589A, an act to amend Chapter 554 of the Laws of 1996 relating to creating.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 47, by Member of the Assembly Morelle, Assembly Print Number 7426A, an act to amend Chapter 912 of the Laws of 1920.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 131, by Senator Volker, Senate Print 3781A, an act to amend the Civil Rights Law, in relation to the confidentiality of personnel records.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 221, by Senator Morahan, Senate Print 6106A, an act to amend the Volunteer Firefighters Benefit Law, in relation to enacting.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 272, by Senator Farley, Senate Print 2964A, an act to amend the Banking Law and others, in relation to providing for banks.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 277, by Senator Leibell, Senate Print 3251A, an act to amend the Education Law and the Retirement and Social Security Law, in relation to the applicable interest rate.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 334, by Member of the Assembly Colman, Assembly Print Number 1632, an act to amend the Real Property Tax Law, in relation to including special district.

ACTING PRESIDENT McGEE: Read the last section.

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

January.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 457, by Senator Nozzolio, Senate Print 6444A, an act to amend the Tax Law, in relation to hotel or motel taxes.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 793, by Member of the Assembly Weinstein, Assembly Print Number 10662, an act to amend the Family Court Act, in relation to the jurisdiction of the Family Court.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 829, by Member of the Assembly DelMonte, Assembly Print Number 10731A -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 896, by Member of the Assembly Morelle, Assembly Print Number 10455A, an act to amend the Social Services Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 902, by Senator Trunzo, Senate Print 1236B, an act to amend the Retirement and Social Security Law, in relation to the additional pension benefits.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 928, by Member of the Assembly Cahill, Assembly Print Number 9990, an act to amend the Education Law, in relation to the requirements of certification.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect 180 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 941, by Senator Seward, Senate Print 5524C, an act to amend the Insurance Law, in relation to discontinuance.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 988, by Senator Hannon, Senate Print 4622B, an act to amend the Surrogate's Court Procedure Act, in relation to health care decisions.

SENATOR HEVESI: Lay it aside,

please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1005, by Senator Velella, Senate Print 6863A, an act to amend the Labor Law, in relation to the reclassification.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1075, by Senator Morahan, Senate Print Number 6839, an act to amend the Public Health Law, in relation to eligibility of veterans.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1079, by Senator Seward, Senate Print 6827A, an act to amend Chapter 217 of the Laws of 2001 amending the Education Law.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1092, by Senator Skelos, Senate Print 6633A, an act to amend the Public Authorities Law, in relation to authorizing the Dormitory Authority.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1114, by Senator Nozzolio, Senate Print 7196B, an act to amend the Tax Law, in relation to the imposition of additional taxes.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1234, by Senator Balboni, Senate Print 7202A, an act providing for an exemption to certain provisions.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Madam President, to explain my vote.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: This bill would recognize the heroic efforts of our firefighters during all of the work that they put in with regard to the September 11th tragedy. Many of them had to work mandatory overtime, enormous hours, at tremendous personal sacrifice.

As a result of all those hours, they were unable to participate in other programs that would earn them points for the retirement system. This bill now recognizes the mandatory overtime and does not penalize all that work, so they are able now to enjoy those points that they otherwise would have been eligible to receive.

Just one more recognition of our great heroes. Thank you, Madam President.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1262, by the Assembly Committee on Rules, Assembly Print Number 11167A, an act to amend the Public Authorities Law, in relation to the Water Pollution Control Revolving Fund Program.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1280, by the Assembly Committee on Rules, Assembly Print Number 11678, an act to amend the Civil Practice Law and Rules, in relation to the form.

ACTING PRESIDENT McGEE: Read the last section.

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

January.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1309, by Senator Nozzolio, Senate Print 4525A, an act to amend the Correction Law, in relation to custody and supervision.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1384, by Senator Velella, Senate Print 7226B, an act to amend the Workers' Compensation Law, in relation to the presumption.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1392, by Senator Volker, Senate Print 5463, an act to authorize the participation of the County of Erie.

ACTING PRESIDENT McGEE: 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 McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1421, by Senator LaValle, Senate Print 4647A, an act to amend the Education Law, in relation to the preparation, updating and provision.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1439, by Senator Larkin, Senate Print 7600, an act to amend the General Business Law, in relation to information statements.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1440, by Senator Seward -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1482, by Senator Volker, Senate Print 7423A, an act to amend the Criminal Procedure Law and the Penal Law, in relation to the status of Tax Department employees.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1491, by Senator Bonacic, Senate Print 7659, an act to amend the Transportation Law, in relation to establishing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1492, by Senator Johnson, Senate Print 7695, an act to amend the Environmental Conservation

Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1493, by Senator Meier, Senate Print 7696, an act to amend the Social Services Law, in relation to the availability.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first day of January.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1499, by Senator Maziarz, Senate Print 5788C, an act to amend Chapter 55 of the Laws of 2002, enacting the transportation and economic development budget.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1509, by Senator Trunzo, Senate Print 7426B, an act to amend the Vehicle and Traffic Law, in relation to the length of house coaches.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1511, by Senator Fuschillo -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1513, by Senator Seward, Senate Print 7723, an act to legalize, validate, ratify and confirm certain actions of the Dryden Central School District.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1514, by Senator Meier, Senate Print 7725, an act to amend the Public Service Law, in relation to the siting.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1515 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 221, by Senator Morahan, Senate Print 6106A, an act to amend the Volunteer Firefighters Benefit Law, in relation to enacting.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Morahan, an explanation has been requested.

SENATOR MORAHAN: Yes, I'm going to lay that aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 457, by Senator Nozzolio, Senate Print 6444A, an act to amend the Tax Law, in relation to hotel or motel taxes.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, as we go through the day it would be extremely important if the members on both sides of the aisle could be in the chamber when their bills are called up, and particularly during the controversial calendar, so that we can move and close today in sunlight.

ACTING PRESIDENT McGEE: Members are reminded to be in the chambers at all times.

Calendar Number 457 is laid aside temporarily.

The Secretary will read.

THE SECRETARY: Calendar Number 829, by Member of the Assembly DelMonte, Assembly Print Number 10731A, an act to convey the right title and interest.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: If you'll lay 829 aside temporarily.

ACTING PRESIDENT McGEE: Lay 829 aside temporarily.

SENATOR SKELOS: And if we could go back to Calendar 221, by Senator Morahan.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 221, by Senator Morahan, Senate Print 6106A, an act to amend the Volunteer Firefighters Benefit Law, in relation to enacting.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT McGEE: Senator Morahan, an explanation has been requested.

SENATOR MORAHAN: Yes, Madam President.

This bill will allow fire companies and others to donate equipment that has been certified, retested, reapproved, to fire companies in districts that may not have the same resources. And this enables the giving and donating agency some freedom, if you will,

from worry about liability, even though there are some liability changes.

The bill passed in the past, in this session. However, there have been some modifications. And we did modify the bill to satisfy the fire companies plus others.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Morahan would yield for a question.

ACTING PRESIDENT McGEE: Senator Morahan, will you yield for a question?

SENATOR MORAHAN: I certainly do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, are you suggesting by introducing this bill that there's no standard of care for the donation of any kind of equipment in these types of situations, and that though it might be a rare circumstance -- but this is what we do here in the Legislature, we govern based on the rarities of life.

The fact is that if you donated

equipment of substandard quality, you could actually be creating more harm than good, even though it seems very altruistic.

SENATOR MORAHAN: I don't suggest that at all, nor does the bill, Senator. This bill just requires people to act reasonably.

But the equipment, before it can be donated, has to be recertified up to manufacturer's specifications. All safety provisions would be implemented.

SENATOR PATERSON: Well, I'm happy to hear that, Senator, because -- Madam President, I'm sorry.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: I'm happy to hear that, Senator, because certainly we would like to reward these types of donations. Remember that in these types of donations there are tax credits you can get for them, and even tax write-offs.

And so all I'm saying is that if we can demonstrate that the equipment is of quality such that it can be used, that's fine. But down the road, if there is a finding at

some point that it was not, we've left injured parties with no real remedy. And the parties who possibly are injured should be weighed just as heavily as the parties who perhaps were trying to do something in good faith.

So it's really no way of diminishing the value of the voluntary allowance and the gift that's really being made available. But at the same time, we do understand that we have to protect those who often are injured. And we can't come back and tell them, "Well, we're sorry what happened to you, but that was donated equipment and you don't have an option at this point." And that's what concerns me.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Well, through you, Madam President, in defense of the bill, and in explanation to Senator Paterson, this bill does allow a remedy. If there is gross negligence, if people act in a reckless way in making that contribution, if there's a defect that causes injury, damage, or loss resulting from an act or an omission of the person or

the agency making the contribution, then you would have recourse in the courts.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, on the bill. I just think it's -

ACTING PRESIDENT McGEE: Senator Paterson, on the bill.

SENATOR PATERSON: -- kind of dangerous to allow for these types of immunities. Because even though Senator Morahan is right and he clearly, from some of the previous bills, has taken a step in the right direction -- I really thank him for rethinking it and for this change in the legislation. Not to this particular piece of legislation, but from some of the other types of bills that we've seen here.

But the fact remains, an inspection at the time that the products are transferred is one thing. But as we know, often there are defects in a product that are not known until some time after the fact. And that would completely put anyone who was victimized by that in a position of having no one to seek a

remedy.

And while I think there are some ways we could limit the recovery based on the fact that this was voluntary, I still think that we have to rethink the danger of granting these sort of blanket immunities.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Senator Dollinger.

SENATOR DOLLINGER: Madam President, just briefly on the bill.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I concur with the sentiments from Senator Paterson. I appreciate Senator Morahan making some changes in this bill that attend to the issue of due care and when due care is exercised and what happens when due care is not exercised.

Madam President, I voted against the earlier iteration of this bill. I'm going to vote against this version as well, because I think Senator Paterson's words are critically important.

And that is that we in this state

have a system of civil law, of a tort system that is based on a requirement that everybody exercise reasonable care. The smarter that we get, the more intelligent we get, the more people sit at these meetings of fire districts and fire companies -- and, Senator Morahan, I agree with you -- what they say is: "Well, if we take that piece of equipment, will we be liable if something goes wrong with it?"

There are many people in this state who think that that question in and of itself is a bad thing. I'm one of those who completely disagrees. I think that question asked by everyone, every day that they are in the workplace, every day that they're providing services, is a good thing.

Because in essence what that question means is that the people who are making decisions are concerned about whether they've exercised reasonable care and made every effort to minimize the risk to our citizens, whether they're driving on our highways, whether they're in burning buildings, whether they're in a fire hall walking around on what could be a slippery

floor.

I think that we are getting more and more safety-conscious. I think one of the reasons why we're doing that is because we have a tort system that says if you don't exercise reasonable care and somebody gets hurt, you've got to pay them. I think that's the right thing to do.

I think as a society we are getting more careful about drugs, about equipment, about all kinds of things, because the tort system puts in a consciousness on behalf of users that makes them safety preeminently conscious. And I don't think that's a bad thing.

I think whenever we waiver our system of liabilities, when we raise the bar to gross negligence, it will be much more likely that people won't be paying attention, that they won't be exercising due care, and more people will get hurt.

I think, Senator Morahan, you're moving in the right direction. I'm not convinced you're there yet, at least for this senator's vote. So I'm going to vote in the

negative, Madam President. I think moving away from the tort system is not what we should be doing to protect our citizens from defects in products of any type, whether they're bought or donated.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Just to close, Madam President.

We did take a look at the tort impacts. We believe we have addressed that issue. And we talk about safety. I wonder if we think about the safety of the firefighters who will have to fight fires, if we didn't have a bill like this, with less than satisfactory equipment, without the proper resources. By getting these donations, we help the firemen, we help those firefighters that are going to go and save property and save lives.

I fully understand that we don't want to have anyone completely free of tort or responsibility. I believe we've moved the bill, according to the dictates of the last debate and, you know, to get Assembly

agreement, into the right direction. I believe we have satisfied those standards that gross negligence or not acting in a reasonable manner or not having all the checks and the inspections performed, then I think they would be open for tort.

And I believe this bill is going to help firefighters, not harm them. Thank you.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 30 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 221 are Senators Dollinger, Duane, L. Krueger and Stavisky. Ayes, 46. Nays, 4.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1439,

by Senator Larkin.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1439.

THE SECRETARY: Calendar Number 1439, by Senator Larkin, Senate Print 7600, an act to amend the General Business Law, in relation to information statements.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT McGEE: Senator Larkin, an explanation has been requested.

SENATOR LARKIN: Yes, Madam President.

Richard, we had this bill last year and the question came up about the forms that were going to be used by the Department of Agriculture and Markets. And after working with the pet shops, the department, and a lot of other interested persons up and down the line, what we wanted to do was to have enough flexibility that the document that they would be receiving as a pet owner purchasing something new would be a form that we could be using throughout the state.

But the Department of Ag and Markets wanted enough flexibility in the form

that they would be using that would eventually come back to the department. And the pet owners agree with it, the shops agree with it, and the department in effect said okay, they will agree to the pet owners, as long as there's a certified document that can - excuse me, Senator Fuschillo, just a little bit to the left. Thank you.

What we're doing here is actually tying our pet owners and their requirements into a national level so that we won't have, if you sell -- there are certain pets that you would sell that you have to notify the national, as your counsel is telling you. Now they won't have to have two sets of forms, they'll have one form, and that will be the documentation.

SENATOR DOLLINGER: Explanation satisfactory, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 2. Senators Duane and Hevesi recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, please call up Calendar Number 1079, by Senator Seward.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1079.

THE SECRETARY: Calendar Number 1079, by Senator Seward, Senate Print 6827A, an act to amend Chapter 217 of the Laws of 2001 amending the Education Law.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT McGEE: Senator Seward, an explanation has been requested.

SENATOR SEWARD: Certainly, Madam President.

Last year it was actually Chapter 217 of the Laws of 2001 included a requirement that school districts install electrically

operated -- when they do install the electrically operated partitions or room dividers, most commonly in the gymnasium to divide the gymnasium, that at the time they would need to have these equipped with safety devices which will stop the motion of the door partitions if there is any obstruction at all, principally a child.

And it also calls for the schools in the new construction to include these, but also go back and retrofit existing door partitions.

That was last year's bill. It was to become a requirement that this be met on August 29th of this year, which was one year following the signature of the Governor.

What we are finding is that that date is not practical. The rules and regulations that are required from the State Ed Department are imminent, and there is going to be too little time between now and August 29th for all the schools to comply.

Also the fact that all of the schools are looking at doing this, and there are only certain contractors that are

available to do the work. So that is a further problem.

In light of that, what this bill would do would be to simply extend the time to December 31st of 2002, and also would include a further extension to June 1st of 2003 if the school district certifies to the Commissioner of Education that it's unable to fully comply with the provisions of the act and that request is granted by the commissioner.

So it's basically giving the school districts a little more time to comply with what I think is a very worthy measure that we passed last year.

ACTING PRESIDENT McGEE: Senator Hevesi.

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

ACTING PRESIDENT McGEE: Senator Seward, will you yield for a question?

SENATOR SEWARD: Sure.

SENATOR HEVESI: Thank you, Madam President.

Could the sponsor tell us, what was the impetus for last year's legislation that

we are amending, the chapter of which we are amending today?

SENATOR SEWARD: Well, Madam President, I got involved with this issue because of a tragedy that occurred in the Ithaca city school district where an elementary school student was literally crushed by the partitions in the gymnasium coming together. And he unfortunately was killed.

Therefore, as a result of that tragedy -- and I think there had been at least one other in the state a few years earlier. And this is directed at attempting to make our schools safer by this requirement.

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

ACTING PRESIDENT McGEE: Senator Seward, do you continue to yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: I appreciate that answer. I'm actually holding your memo, Senator, from the original chapter which cites

the second tragedy or, chronologically, the first tragedy, which was in 1991, a 9-year-old girl was killed. And now we have this tragedy last January where somebody else was killed.

And in fact, according to the memo, there were -- the original death occurred despite a 1992 law mandating that each school set up partition-related safety protocols. And it didn't require, evidently, retrofitting, which was the impetus for last year's piece of legislation.

So we've had two deaths so far, and two legislative attempts, seemingly, to prevent any future deaths. And now we're in a situation where there's another piece of legislation here that's going to extend the time, ostensibly because the State Education Department was unable to comply with the law we passed last year.

And my question to the sponsor, Madam President, is what's going on with the State Education Department that they are not able to promulgate regulations pursuant to laws that we pass?

ACTING PRESIDENT McGEE: Senator

Seward.

SENATOR SEWARD: Well, Madam President, I can't speak for the State Education Department.

I do know that the rules and regulations are imminent. That there is the further problem, as well, that we have all of the school districts looking at the complying to the law that we passed last year. And there's also that practical problem, in addition to the rules and regulations, of a limited number of contractors that can do this work. There's great demand which has been created by the law that we passed last year.

All this measure would do would be to provide some degree of reasonableness in terms of the school districts being able to comply with this requirement that we imposed last year. Which, I might point out, is aidable under the building aid program.

So I see this measure before us as a reasonable attempt to make sure that our schools are in fact safer. And it is setting some additional deadlines, giving another few months for the school districts to comply. I

think it's a very reasonable approach, and I urge passage.

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

ACTING PRESIDENT McGEE: Senator Seward, will you continue to yield?

SENATOR SEWARD: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HEVESI: Thank you, Madam President.

If one of the problems that necessitates this bill is that there is demand that exceeds the availability of contractors, I infer from that that a whole slew of schools in New York State, though certainly not all of them, have gone ahead to try and comply with the law last year.

That being the case, I don't understand what regulations all the schools who have not complied with are waiting for from the State Education Department, if a whole host of schools are able to comply.

ACTING PRESIDENT McGEE: Senator Seward.

SENATOR SEWARD: Madam President, I would say this, that the school districts have not yet moved forward. I did not mean to imply that they have.

We are -- in our discussions with the school districts and various organizations that represent the school districts and the school superintendents, through those conversations, we are told that with the initial inquiries that they have made in terms of the availability of contractors for the work to be done in the future to comply with this requirement, that in fact we do anticipate a crunch there, so that they will need some more time.

It's not that the work has been done, it's that they anticipate a crunch because the initial inquiries indicate there are only a few contractors that do this type of work.

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

ACTING PRESIDENT McGEE: Senator Hevesi asks for you to yield, Senator Seward.

SENATOR SEWARD: Certainly.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you, Madam President.

I'm not trying to put the sponsor on the spot here, but I am really concerned that we are letting the State Education Department off the hook and, in the process, potentially compromising the safety of schoolchildren. This is not being dramatic. The impetus for these bills, this bill and the law that preceded it, were that two kids died.

Because the safety provisions that we required to be in place by August 29th of this year, those provisions are not going to be in place now.

And so my final question to the sponsor, Madam President, is are you troubled at all by the State Education Department's inability to promulgate regulations to comply with your law in such a serious, serious situation?

ACTING PRESIDENT McGEE: Senator Seward.

SENATOR SEWARD: Well, Madam

President, I'm not sure I'd use the word "troubled."

Certainly we in the original bill gave one year for the school districts to comply. In retrospect, perhaps that was too aggressive a date, because there's a lot of work to be done. It's not just the State Education Department; all the school districts have a lot of work to be done in terms of the RFPs and the bidding process and approvals and all of that.

So it's something that we obviously, collectively, we'd like to see done as soon as possible. I'll grant you that. But there's a practical matter here, that that's just not possible to be done by August 29th of this year, so we're going to extend it a few months.

I think that's a statement by this Legislature that we definitely want this work done because it's important for the safety of the children. But we just as a practical matter realize that they need a little more time to do it, and so we're granting that under this legislation.

SENATOR HEVESI: On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Madam President. I thank the sponsor for his interest in this issue.

I'm not going to be a part of the statement that the Legislature is making on this issue today, because the statement that we're making on this today is -- and we had this issue arise yesterday. The statement we're making, again, is it's okay not to comply with laws that we pass. That's the statement here.

And I find the argument that the State Education Department could not come up with regulations for new buildings and to retrofit old buildings with partition motion sensor devices, couldn't do that in a year's time and have them installed, completely unconvincing. I don't know why they can't go ahead and do it, particularly on an issue that is a life-and-death issue. We've had two kids who have been killed by these partitions. It

took us a long time to act on this bill. It took us -- for another death in January of last year, in addition to the 1991 death, we act, we say you've got to do this in one year. Which is, in my opinion, a very reasonable amount of time for SED to go ahead and come up with regulations and have the school districts go and put the devices in.

And now SED didn't get around to it, couldn't do it, for whatever reason they claim. Unconvincing, in my opinion. And we go ahead and say to them now: Oh, it's okay, we'll give you, SED, and we'll give all the schools essentially another year.

So think about what we're saying. A child died on January 29, 2001, Rasheed Richardson, a 12-year-old, and now we're going to wait two more years before we ensure that the school partitions have motion sensors. That's what we're doing here. That's our acquiescence here. And it's essentially saying to SED, it's okay that you don't comply.

It was the same yesterday when we had the residency requirement in Yonkers and

then we exempted 15 police officers who, in violation of the law, moved out of Yonkers.

And it's the same as when this Legislature requires reports to be issued by a certain date and the reports aren't issued. And that is an issue, Madam President, that Senator Dollinger has brought up repeatedly on the floor of this house.

I for one am insulted that an education department, that an entity of the state, would completely ignore the law. Which is what they did here. I am insulted that the City of Yonkers ignored the law or condones the ignoring of the law, and any other state agency that is required to produce a report by a certain date doesn't do it either.

And on this case, this is a life-and-death case. And, you know, Senator Seward is to be commended for his work on this. He's the one who's carrying the ball, saying this is so incredibly pressing that he drafted legislation last year and passed it to protect kids. It's just counterintuitive to me that we then go and let them off the hook.

So I'm not going to be a party to

this, Madam President. I'm voting against this bill. I suggest my colleagues vote against this bill and have SED go and promulgate those regulations this week. Why can't they do it in one week? What, are they splitting an atom? Is this nuclear fission? What are they doing?

Promulgate the regulations, come up with the RFP process, make this a very high priority. This is life and death. This is life and death.

I'm opposed to this bill.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Senator Dollinger.

SENATOR DOLLINGER: Madam President, I'm going to support Senator Hevesi and vote against this bill. Let me explain why.

First of all, I think Senator Seward properly highlights an enormously difficult problem, which is the problem of the closing doors without safety devices on them.

There's another one that I've been working on which involves counterweights in

stages. Lots of the old school buildings were built with counterweights that have heavy weights up in the sky to make the scenery go up and down. There have been deaths recorded nationwide. And I've been looking at passing a bill in this house that would prevent the use of counterweights in schools, because oftentimes these difficult systems of adjusting weights to move scenery up and down on a stage is often put in the hands of stage technicians who are 17-, 18-year-olds who are working in the school play. There have been fatalities elsewhere and serious injuries elsewhere. I think we ought to look at that issue.

But let me tell you why I think Senator Hevesi is right. It seems to me that the State Department of Education has waited too long. Senator Hevesi expressed that, and I agree with him. But the other thing that really I don't understand is that what we're in essence doing here is we're saying we mandated that all the educational institutions do something to protect children.

And it seems to me that if we

believe that we set originally too short a period of time for them to comply, if we think that they didn't have enough time to comply because we changed the rules, then what we ought to do is have the courage to say and do the honest thing, which is to simply say: Okay, we want to encourage you to move in the right direction. We will bump back the compliance date one year, we'll just bump it back. We'll conclude that the honest thing to do is say: Okay, you haven't had enough time to adjust. Maybe it's because there aren't enough contracts. For whatever reason, we're going to bump the effective date back a year.

But we don't do that. What this bill does instead is it says even though we know that you probably can't comply in a timely fashion, we're still going to put the onus on the school district to write us a certification letter that says we can't comply.

It just seems to me that that's disingenuous, Madam President. That we should either, as Senator Hevesi said, bite the bullet, set a date, get the State Department

of Education to do it and then hold all the districts accountable. Or, if we as the policymakers conclude that that can't be done, for whatever practical reason, let's just say to the school districts in the state: Okay, we're going to take you off that. You don't have to do anything. We'll bump the statute back a year.

Instead, what this bill does is this says, Well, we're going to keep it in effect. But if you write us a letter and say "we can't do it," that's okay, we'll give you more time.

I understand what Senator Seward is trying to accomplish. But it just seems to me let's make up our minds here, let's set a definite date, let's give them the financial incentive to do it and then hold them accountable. Whether that date is earlier, like Senator Hevesi suggests, or later, like Senator Seward seems to be suggesting, let's at least be -- let's have some integrity in doing it and simply say either do it now or do it later, and we'll give you the money to do it.

But this unseeming compromise of write us a letter and say you can't do it and it's okay doesn't seem to me to be the right approach, Madam President. I'll join Senator Hevesi in opposing the bill.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: I'd like to make one other comment on this. And I appreciate Senator Dollinger's comments.

I want to put this argument in a different context, because everybody is going to cast a vote on this. So if you find the argument compelling that it's an insufficient amount of time, one year, for SED to come up with the regulations and for the motion sensors to be put in, and that it has to wait another year, so that it took two years, if that sounds like a compelling argument right now in the context of this debate, let me change the context and see if that argument is still compelling.

Three or four months from now all of us are sitting in our district offices, and a TV camera comes up and wants to interview

you, and they stick the camera in your face and say: "Senator Jones, the child of one of your constituents was just crushed to death by a motion sensor. You voted in favor of extending by another year -- after the State Education Department couldn't in one year come up with regulations, you voted to extend that to two years, so that that school in your district didn't have a motion detector. And now the child of one of your constituents has been killed. What was the reason why you voted yes on that?"

Now, is the answer why this bill is necessary, is that going to fly? Are you going to give that answer to that TV cameraman? Are you going to let SED off the hook? I'm not.

Let's send the message to SED today we don't accept it, it's -- two years is the time that it's okay to potentially jeopardize some kid. And it's very possible that another kid can be killed in the next year. We should all vote no on this. How are you going to respond to that mother, God forbid this happens? One year I can understand. Two

years, unacceptable.

I vote no.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those voting in the negative on Calendar Number 10 are Senators Andrews, Dollinger, Duane, Hevesi, L. Krueger, Onorato, Paterson, and Stavisky. Ayes, 42. Nays, 8.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we please call up Bill 1515, by Senator Padavan, to be followed by 829, by Senator Maziarz.

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

ACTING PRESIDENT McGEE: Immediate meeting of the Judiciary Committee in the Majority Conference Room.

The Secretary will read Calendar Number 1515.

THE SECRETARY: Calendar Number 1515, by Senator Padavan, Senate Print 7729, an act to amend the General City Law and the Administrative Code of the City of New York, in relation to extending.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Padavan, an explanation has been requested.

SENATOR PADAVAN: Thank you, Madam President.

There are two very well received and effective programs in the City of New York that deal with incentives for businesses to stay, to locate and to expand in the City of New York, thereby providing economic development, jobs, and all the other good things that come with it.

We sponsored this bill a number of years ago. We amended it in the year 2000. And this is a one-year extender, as requested

by the City of New York.

ACTING PRESIDENT McGEE: Senator Paterson, why do you rise?

SENATOR PATERSON: Madam President, would Senator Padavan yield for some questions?

ACTING PRESIDENT McGEE: Senator Padavan, will you yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Who is eligible for the abatements in this bill, Senator Padavan?

SENATOR PADAVAN: The primary abatement relates -- well, there are two different categories here, two different programs. One is the city's Energy Cost Savings Program, ECSP, and the other is the Lower Manhattan Energy Program.

Benefits are given to those who provide cogenerational and other energy consumption improvements, thereby reducing energy costs and thereby receiving rebates which are offset by reductions in property

taxes on the utility that provides the rebates.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, of course this type of legislation, which was first -- well, let me ask Senator Padavan. It was first introduced when, Senator?

SENATOR PADAVAN: The last time I dealt with this bill was 2000. We made some amendments at the request of the city, and this is a one-year extender of that particular bill.

SENATOR PATERSON: Okay. So -

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: -- back in 2000 obviously the -- what was the special need that Lower Manhattan evidences that would cause us to have to provide this amount of assistance? This is back, of course, in -

SENATOR PADAVAN: Now or then?

SENATOR PATERSON: Then. Because of course we're going back before

September 11th of 2001.

SENATOR PADAVAN: Senator, you and I live in the City of New York. We understand full well that city agencies and City Council and other governmental entities attempt to evaluate needs in a whole host of areas. This is one they identified.

They came up with an imaginative and appropriate program to improve job opportunity, commercial expansion, development citywide and also in Lower Manhattan. We thought it was a good idea, and so we advanced the legislation to implement it.

So the basic -- to answer your question, the basic underlying determination as to the efficacy and the benefit of these programs is with the City of New York Economic Development and others who are certainly involved in the process.

SENATOR PATERSON: Okay.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Padavan would continue to yield.

SENATOR PADAVAN: Yeah.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR PATERSON: I was pretty sure that would be your answer, Senator. And what I was moving toward is that to grant a one-year extender right now, in light of the events of September 11th, why was that decision made? When perhaps, if there's any time that this particular geographic area needs assistance, I would think it would be now. And just looking at -

SENATOR PADAVAN: Madam President, I wonder if we could cut down on some of the noise, because I'm having trouble hearing Senator Paterson even though he's right in front of me.

ACTING PRESIDENT McGEE: Can we have some quiet, please, in the chambers.

Thank you.

SENATOR PATERSON: Thank you, Madam President. What I'm going to do is I'll go back and repeat the question for Senator Padavan.

And it was that previous question I

asked him which related to when this bill first came, and he said he's worked on it since the year 2000. I thought the bill went back into the mid-'90s, because Senator Connor actually had told me about the need to address the issues of Lower Manhattan, and I believe he did in one of his bills.

But the fact is that in terms of the extension, I asked Senator Padavan to clarify what the actual needs were and what the special assessment would be to Lower Manhattan, which he provided to me.

And I'm now asking him would a one-year extender be appropriate at a time when we have had the events of September 11th, in which we understand that the city report released by the comptroller of the City of New York estimated that the city would lose somewhere from $45 billion to $60 billion in aggregate over a long period of time. And that the area of Lower Manhattan, the office space in Lower Manhattan is actually the most condensed office space in the country, followed by the cities of Atlanta, Chicago and then mid-Manhattan. And then right now I

don't remember what the fifth city was, Senator Padavan.

But my issue is that with that amount of damage occurring in that area, would a one-year extender be appropriate when we consider what's happened in the last few months?

SENATOR PADAVAN: I presume you're suggesting that it should be longer. Am I correct, Senator?

SENATOR PATERSON: Madam President, in response to the question, I am sure that both of us feel that this should go on for a period of time so -

SENATOR PADAVAN: Okay, I just wanted to make sure that was the thrust of your question.

The city's request was for a much longer time frame in terms of extending the bill, several years or more. The Assembly, however, insisted upon only a one-year extender, which is why we have that bill before us. The city spoke to us and frankly and very candidly we had said, "Well, we don't want to let this thing expire, so one year

we'll have to accept and then deal with it in the next session." So that's why it's one year.

SENATOR PATERSON: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Paterson, on the bill.

SENATOR PATERSON: I don't think that we're disagreeing here on what would really be the end result. So I don't think - see, at first I thought it might have been Senator Padavan. And I didn't presume anything about Senator Padavan, and neither would I about the Assembly. I think it's well understood that we need this type of protection.

So I would have to assume, for purposes of this discussion, that the Assembly has a solution as to how we can provide more quality energy savings to that severely damaged region of our city, Lower Manhattan, which, as I said, lost an immense amount of - I think it was 8 million square feet of office space just as a result of the attack on America on September 11th.

Now, if Senator Padavan would yield for a question.

ACTING PRESIDENT McGEE: Senator Paterson, was that a question?

SENATOR PADAVAN: I'm sorry, I was talking to my counsel, Senator, who advises me that I first introduced this bill in the late '90s. But that's all right.

What was your question? Would you repeat it, kindly, please.

SENATOR PATERSON: My question is -- well, actually, let's go to your counsel, Senator Padavan.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: May I interrupt. Will you suffer an interruption, Senator Paterson and Senator Padavan.

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

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

Senator Paterson.

SENATOR PATERSON: Actually, Madam President, if Senator Padavan would continue to yield.

SENATOR PADAVAN: Yes, I would.

SENATOR PATERSON: Okay. Thank you.

We discussed this bill in 1999, you and I, here on the floor of the Senate. You actually, I believe, introduced the bill. The extender I believe you introduced in 1997. I think that's when it was.

SENATOR PADAVAN: Could be, Senator. We've been dealing with this bill over a period of years, extending it, modifying it, amending it as the City of New York provided input on the program. You're right.

SENATOR PATERSON: Now, in 1999, in response to a question that I asked, you said that this bill applied citywide and had -- I'm sure it had citywide implications. Can you explain to me how the bill applies citywide?

SENATOR PADAVAN: As I said earlier -- thank you, Senator. As I said

earlier, there are two parts of the bill. One part of it is the city's Energy Cost Savings Program, ECSP, which is citywide, involving all the boroughs. The other part of the bill relates to the Lower Manhattan Energy Program, which is specific to Lower Manhattan.

Both programs are in this bill.

SENATOR PATERSON: Thank you, Madam President. If Senator Padavan would yield for another question.

ACTING PRESIDENT McGEE: Senator Padavan, will you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: I want to return to the discussion that we were having earlier, and that involved the fact that Senator Padavan informed us -

ACTING PRESIDENT McGEE: Can we please have some quiet in the chambers so these gentlemen can hear each other while they're debating. They're standing right next to each other and can't even hear themselves.

Can we please have some quiet.

Thank you.

SENATOR PATERSON: Thank you, Madam President.

I had mistakenly thought that Senator Padavan had limited the sunset on this legislation to one year. But I didn't think that Senator Padavan just did not want to have energy savings in Lower Manhattan, particularly at this time.

Senator Padavan then informed all of us in the chamber that it was not he, it was actually the Assembly that did so. And I was saying that I would not presume that the Assembly doesn't understand the need for cost savings and energy savings in Lower Manhattan.

And so my question to Senator Padavan is, what is the actual feeling of our colleagues in the other house as to how we can provide this energy? In other words, are they suggesting that after a year, if need be, we might actually increase what would be the deductions and the savings to those entities that operate in that particular area?

SENATOR PADAVAN: I haven't the slightest idea, Senator, why they wanted to

limit it to one year, except with the possibility they want to revisit the program and perhaps evaluate its effectiveness in that interim year. I don't know. It's a presumption on my part.

We thought several years or more would -- the city thought and their initial request was several years or more would be more desirable. But here we are with one year. Which we have to do; otherwise, it expires.

One more question, Senator.

SENATOR PATERSON: Actually, I have two questions, Madam President.

SENATOR PADAVAN: Can you put them together?

(Laughter.)

SENATOR PATERSON: Madam President, the -

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Would Senator Padavan please elaborate more on the second part of the bill, the cost savings that exists for residents all around the city? Because

clearly there's so much emphasis on Lower Manhattan. And there actually should be, given the tragedy that we all witnessed there so recently. But going back to the -

SENATOR PADAVAN: I'm going to answer that question, Senator.

Throughout New York City, over one thousand businesses that employ over 50,000 individuals within the city's five boroughs have benefited by this program. As of last year, and this number is now even greater, they save $30 million annually in energy costs.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Senator Stavisky.

SENATOR STAVISKY: Madam President, I just have a couple of questions.

SENATOR PADAVAN: Lay the bill aside.

ACTING PRESIDENT McGEE: Lay the bill aside.

The Secretary will read Calendar Number 829.

THE SECRETARY: Calendar Number

829, by Member of the Assembly DelMonte, Assembly Print Number 10731A, an act to convey the right title and interest.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Will you please take up Calendar 66, by Senator Skelos.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 66, by Senator Skelos, Senate Print 2683C, an act to amend the Family Court Act and the Domestic Relations Law, in relation to abandoned infants.

ACTING PRESIDENT McGEE: Senator

Morahan.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MORAHAN: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 10. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Calendar 69, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 69, by Senator Saland, Senate Print 4899C, an act to amend the Social Services Law, in relation to abandoned infants.

ACTING PRESIDENT McGEE: Senator Morahan.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MORAHAN: Move that we accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The

message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 12. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President, would you take up Calendar 457.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 457.

THE SECRETARY: In relation to Calendar Number 457, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 10450A and substitute it for the identical Senate Bill Number 6444A, Third Reading Calendar 457.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 457, by Member of the Assembly Kolb, Assembly Print Number 10450A, an act to amend the Tax Law.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. As I recall, it was Senator Hevesi who set this one aside. And I think he's in Finance. So I'm wondering if the courtesy could be extended to wait until he comes back from the Finance Committee meeting.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, inquiry to Senator Duane. Will he yield?

ACTING PRESIDENT McGEE: Senator Duane, will you yield?

SENATOR DUANE: Sure.

SENATOR NOZZOLIO: Madam President, to Senator Duane, is Senator Hevesi a member of the Senate Finance Committee?

SENATOR DUANE: Yes, he is.

SENATOR NOZZOLIO: And I'm

prepared to discuss this bill, Madam President.

ACTING PRESIDENT McGEE: Senator Paterson, why do you rise?

SENATOR PATERSON: Madam President, Senator Dollinger is in the Finance Committee, and Senator Dollinger -- actually, when I got up, it was Senators Dollinger and Hevesi that wanted to discuss the bill. So we were just going to ask that it be temporarily laid aside.

We're glad the Senator is here to discuss this bill. We remember when he wasn't here when some of his other bills came up.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Madam President, yes, the bill that's now under discussion, will you lay that aside temporarily.

ACTING PRESIDENT McGEE: Calendar Number 457 will be laid aside temporarily.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Please call up Calendar 1481.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1481.

THE SECRETARY: Calendar Number 1481, by Senator Hannon, Senate Print 6995A, an act to amend the Public Health Law and the Tax Law, in relation to the sale of tobacco products.

ACTING PRESIDENT McGEE: Senator Maziarz.

SENATOR MAZIARZ: Is there a message of necessity at the desk, Madam President?

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MAZIARZ: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Madam President, if at this time we could call up Calendar Number 457, by Senator Nozzolio.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 457, substituted earlier today by Member of the Assembly Kolb, Assembly Print Number 10450A, an act to amend the Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President. If at this time we could take up Calendar Number 1114, by Senator Nozzolio.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1114, by Senator Nozzolio, Senate Print 7196B, an act to amend the Tax Law, in relation to the imposition of additional taxes.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President. Could we please at this time call up Calendar Number 1309, by Senator Nozzolio.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1309.

THE SECRETARY: Calendar Number 1309, by Senator Nozzolio, Senate Print 4525A, an act to amend the Correction Law, in relation to custody and supervision.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT McGEE: Senator Nozzolio, an explanation has been requested on 1309.

SENATOR NOZZOLIO: Thank you, Madam President.

This measure is a measure that would exclude the supervision of inmates in correctional facilities from privatization. The security function of prisons is the most important function. And that the purpose of

this measure is to ensure the security functions of our state correctional facilities be provided by those employees entrusted with the responsibility of being state employees or local employees.

And that those callings are in effect established to take away the profit motive for management of our correctional facilities and entrust that power to the employees of the people.

ACTING PRESIDENT McGEE: Senator Hevesi.

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

ACTING PRESIDENT McGEE: Senator Nozzolio, will you yield for a question?

SENATOR NOZZOLIO: Yes, Madam President. I'll be happy to yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you, Madam President.

I voted in favor of this bill in 2001 and in 2000. My understanding is that the Governor vetoed this bill in 2000. And

I'm curious to know from the sponsor why the Governor vetoed the bill in 2000.

SENATOR NOZZOLIO: Madam President, Senator Hevesi is correct that an earlier version of this measure was approved in the year 2000 but vetoed by the Governor. The Governor's concerns at that time we believe are addressed by adding a new subdivision 3 to proposed Section 120. That's on page 2 of the legislation.

It reads, in part, that nothing in the section shall limit in any way persons or employees of a correctional facility that in effect maintain the custody and supervision of persons confined in a correctional facility, if such custody and supervision are a regular part of their principal employment or incidental to their principal employment duties.

In other words, to ensure that civilian personnel such as teachers, counselors, and managers are specifically excluded from provisions of this act. In large part, Senator, to address some of the concerns you had in a colloquy we engaged in

earlier this week relative to the state allowing the City of New York to ensure forbidding privatization of our correctional facilities.

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

ACTING PRESIDENT McGEE: Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you, Madam President.

The sponsor knew exactly where I was headed with this, that the Governor had objections to this bill in 2000 which were remedied in the bill that we have before us right now. And those objections were in 2000, by the Governor, that it was possible, with the language that he had before this amendment, before the addition of Section 3 on page 2 of today's bill, that it's possible that nonuniformed civilian personnel within DOCS facilities could potentially be excluded

from the current work that they do.

It is the exact same concern I had with the bill that we passed two days ago for New York City. And I called, Madam President, on some language in that bill to protect the exact same personnel that the Governor was concerned about and that Senator Nozzolio agrees we should be concerned about, because he just put that language in this bill.

So my question to the sponsor, Madam President, is knowing that we were going to bring this bill to the floor with the language that is identical to the language that I was requesting for New York City, why didn't we do it for the bill that we passed two days ago?

SENATOR NOZZOLIO: Madam President, I certainly respect Senator Hevesi's intuitive understanding of these measures. And that, frankly, I am extremely heartened by his support of my efforts in this legislation to address one of his major concerns.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: I am, Madam President, greatly concerned with the same issues that Senator Nozzolio is concerned with. And now I know that we really are a hundred percent in line. I wasn't so sure two days ago, because we had this one issue that was outstanding where it was possible that nonuniformed correction personnel in New York City could be precluded from their duties pursuant to the bill that he passed.

And we had a disagreement, I thought, on that. But it turns out, Madam President, lo and behold, that we don't. Because in the bill before us today, we have a wonderful section -- it's so good, I want to read it to you, Madam President.

Section 3: "Nothing in this section shall limit in any way persons who are employees of a correctional facility as defined in Section 40 of this chapter or persons who are under contract to the

department pursuant to subdivision 2 of this section from maintaining the custody and supervision of persons confined in a correctional facility or in any other facility pursuant to subdivision 2 of this section if such custody and supervision duties are a regular part of their principal employment or incidental to their principal employment duties."

Brilliant. That's brilliant. I couldn't have written that better myself. That is exactly the language, Madam President, word for word -- except I would have added in "New York City correctional officers" -- that is exactly the language that should have been added in the bill two days ago.

And I strongly suspect that the Governor, if the Assembly passes the bill we did two days ago, the Governor will veto it for the exact same reasons. Which is good, except it doesn't speak well of the legislative process here. It's a little bit -

ACTING PRESIDENT McGEE: Excuse me, Senator.

Can we please have some quiet in the chambers.

SENATOR HEVESI: Thank you, Madam President.

It's a little bit inefficient of us to now pass it in both houses, have the Governor veto the New York City bill, and then come back and amend the legislation. Kind of unnecessary.

But I am proud on this day to stand with my Republican colleague Senator Nozzolio and with my Republican partner in government, George Pataki, in perfect agreement on the necessity to make sure that we don't unintentionally preclude certain individuals in correctional facilities from being denied the opportunity to perform the valuable services that they provide.

So I will be supporting this bill, and I look forward to the Governor's veto on the bill that we passed two days ago. Unfortunately, I don't think that I will be back to vote on the amended version of it. So, Madam President, let the record reflect that I am pleased that Senator Nozzolio agrees

with me on this. And, were I to be in the chamber next year when that bill comes back to us, I would have voted yes.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Hevesi.

Any other Senator wishing to speak on the bill?

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I will -- in addressing Senator Hevesi's comments, certainly the hypothetical is just that, a hypothetical. But should it occur, I will make every effort to acknowledge the wisdom and foresight of Senator Hevesi on this important measure.

ACTING PRESIDENT McGEE: Thank you, Senator Nozzolio. How very large of you.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President. Could we please call up Calendar Number 988, by Senator Hannon.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 988.

THE SECRETARY: Calendar Number 988, by Senator Hannon, Senate Print 4622B, an act to amend the Surrogate's Court Procedure Act, in relation to healthcare decisions.

SENATOR HEVESI: A brief explanation, Madam President.

ACTING PRESIDENT McGEE: Senator Hannon, an explanation has been requested by Senator Hevesi.

SENATOR HANNON: Thank you, Madam President.

This legislation would deal with the population of those who are mentally retarded and for whom a guardian has already been appointed under the Surrogate Court's Procedure Act.

It is unfortunate that the powers

the guardian has are not complete because of some other provisions that have been adopted in this state under the common law in regard to healthcare decision-making. The gap we address is that this population has never had the opportunity to ever have the capacity to make healthcare decisions for themselves.

Accordingly, we do two things with this legislation: Ensure that there is a uniform standard of healthcare decision-making. Because unfortunately, over the years, between application and court decisions, there has been some uneven application.

And, second, when it comes to end-of-life decision-making, we set forth a high standard as to what can be accomplished, how it can be brought about, who has to be consulted, the number of people who have to be involved, and a number of considerations to ensure that religious and ethical considerations of various religions are considered.

We also widen the scope so that people who ought to be notified in case they

want to bring their own views in have that opportunity.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President. At this time could we call up Calendar Number 1499, please.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1499.

THE SECRETARY: Calendar Number 1499, by Senator Maziarz, Senate Print 5788C, an act to amend Chapter 55 of the Laws of 2002.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DOLLINGER: Explanation.

THE SECRETARY: Section 2 -

ACTING PRESIDENT McGEE: I'm sorry. Senator Maziarz, an explanation has been requested.

SENATOR MAZIARZ: Thank you very much, Madam President.

This bill would expand the geographical area for which funding was reappropriated in the 2002-2003 state budget for the purposes of construction, reconstruction or rehabilitation of a stadium to be located in the city of Rochester, to allow for the siting also to be in the town of Gates, Monroe County.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, will the sponsor yield to a question?

ACTING PRESIDENT McGEE: Senator Maziarz?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The

sponsor yields.

SENATOR DOLLINGER: As you know, Senator Maziarz, I've supported the construction of this stadium in downtown Rochester, adjacent to Frontier Field, as part of a stadium complex in the city.

This bill would authorize, as you correctly point out, that the stadium could be built in the town of Greece [sic]. Could you just tell me what happens, in your judgment, if there is no alternative for the construction of a stadium in the city of Rochester in the next six months or a year?

SENATOR MAZIARZ: Well, let me just make one correction, Senator. I think you slipped and you said the town of Greece. It's actually the town of Gates.

SENATOR DOLLINGER: This is what happens when you represent Greece. You're correct, in the town of Gates.

SENATOR MAZIARZ: It's the town of Gates.

I'm extremely concerned, Senator, that this money could not be used at all in the County of Monroe if we do not pass this

legislation, that the money may be swept away, as they say.

SENATOR DOLLINGER: Madam President, just briefly on the bill.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I'm going to vote in favor of this amendment to the appropriation for the soccer stadium in Rochester. I continue to believe that the appropriate site to build this stadium is in the city, adjacent to Frontier Field.

I do know that the Rochester Sports Authority, the Monroe County Sports Authority has been evaluating this. I am disappointed and will publicly declare my disappointment that the sports authority has not communicated with the members -- it may have communicated with other members of the delegation, they have not communicated with me -- about why this money seems to have been sitting there for the better part of a year or 18 months, two years, without any action.

It seems to me that the sports authority has to be candid both with this

delegation, those of us who represent portions of Monroe County and portions of the city of Rochester, and with the taxpayers in Rochester with respect to their expectation that a stadium would be built.

It seems to me that we have waited far too long for a definitive word from the sports authority. We have been awaiting their guidance; it has not been received. Under those circumstances, in order to keep these funds for our community, in order to ensure that the promise of the construction of a new stadium would be realized, in order to preserve options -- even though I'm not convinced those are necessarily the right options now -- I think in order to preserve options so that money that was obtained by this delegation to benefit our community can remain in our community, I'm going to vote in favor of this.

I still hold out a hope, Madam President, that this amendment will eventually be unnecessary and that the stadium will be built in downtown Rochester. But if for some reason it can't be built there, it's money

that this delegation fought for that we should keep in our county.

So with that, Madam President, I will support this endeavor by my colleagues from Monroe County to make sure this money is used for the people we represent.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Nozzolio, on the bill.

SENATOR NOZZOLIO: Madam President, I applaud Senator Maziarz's leadership on this important issue. That the members of the Senate worked very hard to obtain a $15 million appropriation so that the potential for Rochester to enter the major leagues in terms of being a host of a professional franchise at the major-league level of soccer is something we all worked very hard on, as did the county executive in supporting this appropriation and working for it.

That one of the things that I

believe certainly should be forthcoming here is that the appropriation, as was indicated, is over two years old. And that appropriation is in jeopardy of being lost unless it's utilized. And that Senator Maziarz's efforts ensure the potential of this utilization. I congratulate him for that.

And I also believe that we should stand fast and hope that the Assembly will enter into the support for this redirection if this redirection is necessary to construct a new facility.

That over 600 people will be working at this facility in constructing it. It's a major construction project. It will be the most major, largest construction project in the region in a number of years. It's necessary. And that I certainly congratulate the sponsor for bringing it to the floor.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Alesi.

SENATOR ALESI: On the bill.

ACTING PRESIDENT McGEE: Senator Alesi, on the bill.

SENATOR ALESI: Thank you.

Taking into mind the comments of all of my colleagues that represent the County of Monroe, I will be supporting this effort to enlarge the possibilities of where the stadium can be located, pointing out that this only gives us an additional option. Reading the language of the bill, it says "the city of Rochester or the town of Gates in Monroe County." Although it appears that the city of Rochester, of which I represent a significant portion, is probably at this point not the most viable location, for a number of reasons. But that is a responsibility that would have or should have been determined by the sports authority itself.

Allowing for another potential location allows the greater Rochester area the opportunity to have a major-league soccer team at a stadium that could most likely but at least possibly be in the town of Gates. It does not eradicate the possibility of locating it in the city of Rochester, however. And I want to make that point clear.

Probably the most important element

behind this effort -- again, applauding Senator Maziarz, who represents the town of Gates, and Senator Nozzolio, as well as the rest of the Rochester delegation -- is the fact that a couple of years ago we fought very hard for $15 million which was in the budget at that time, at the same time establishing, through legislation, the Rochester Sports Authority, which would have some domain over this kind of development.

Unfortunately, nothing has happened with the expenditure of that $15 million that has been available. And at this point, it is gathering dust; very dangerous dust, I might point out. Because at some point, if we are not able to use that for something that the community has indicated very strongly that it wants, then we might very well lose that $15 million, not only as a sports/entertainment venue but also as an economic development tool that is vital to the greater Rochester area.

So I'll be supporting this bill primarily because I want to do everything that I can -- representing the city of Rochester to

some extent, I want to do everything that I can to make available the opportunity to use the money from an economic development standpoint. And if that means moving the stadium, then at least we have the option to do that and, in doing that, we save that very important funding for economic development as well as for sports and entertainment in Monroe County.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, I just want to echo the comments of my colleagues and toss out one other idea. If for some reason this money is not used for the construction of a soccer stadium, either in the city of Rochester or in the town of Gates, if anybody from the Rochester delegation wants to abolish the sports authority, I will be standing in line asking for an opportunity to cosponsor that bill.

Because it seems to me we created them, they're our creature, we punt them this responsibility -- and I know that there may be different communications with other members

from Rochester and Monroe County. But based on how they've talked to me, they can go right back to repeal. Let's get them right off the books. Let's put it in the hands of public officials that we know and we can hold accountable. We can abolish them, as far as I'm concerned.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President. At this time could we return to the reports of standing committees. I believe there's a report of the Judiciary Committee at the desk.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read.

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

As a judge of the Court of Claims, Vincent M. Del Giudice, of Brooklyn.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to move the nomination of Vincent M. Del Giudice, of Brooklyn, as a judge of the Court of Claims.

We received the credentials on the nominee from the Governor. They were perfectly in order. He's another excellent example of who should be sitting in the Court of Claims that we've received from this Governor.

We examined all of his credentials. They were, as I said, perfectly in order. He appeared earlier this afternoon before the committee and was unanimously moved from the committee to the floor for consideration at this time.

And I'm most happy to yield, for

purposes of a second, to Senator Andrews.

ACTING PRESIDENT McGEE: Senator Andrews.

SENATOR ANDREWS: Yes, Madam President. I rise to second the nomination of Vincent M. Del Giudice to the Court of Claims.

Mr. Del Giudice is a resident of the County of Kings. His work in the legal community is well known throughout the borough, specifically his work in the Brooklyn Bar Association and the Kings County Criminal Bar Association. He also has a private law practice, since 1993.

And it is indeed a pleasure and my honor to second his nomination.

ACTING PRESIDENT McGEE: The question is on the confirmation of Vincent M. Del Giudice, of Brooklyn, as a judge of the Court of Claims. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Vincent

M. Del Giudice, of Brooklyn, is hereby confirmed as a judge of the Court of Claims.

Visiting us in the chambers this afternoon is his wife, Christina, his children, Anthony and Victoria, and his parents, Anthony and Rose Del Giudice.

And may I say, on behalf of the New York State Senate, our congratulations and best wishes, Your Honor.

(Applause.)

ACTING PRESIDENT McGEE: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much. Can we return to the calendar and take up Calendar 1454, please.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1454.

THE SECRETARY: Calendar Number 1454, by Senator Volker, Senate Print 7574B, an act to amend Chapter 367 of the Laws of 1999, amending the Civil Practice Law and Rules.

ACTING PRESIDENT McGEE: Senator Maziarz.

SENATOR MAZIARZ: Is there a

message of necessity at the desk, Madam President?

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MAZIARZ: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam

President. Can we take up Calendar 1490.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1490.

THE SECRETARY: Calendar Number 1490, by Senator Saland, Senate Print 7655, an act in relation to the form and contents of the statement of taxes.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes. Is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MORAHAN: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Can we now address 1516, Calendar Number 1516.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1516.

THE SECRETARY: Calendar Number 1516, by Senator Trunzo, Senate Print 7755, an act to amend the Vehicle and Traffic Law, in relation to special hauling permits.

ACTING PRESIDENT McGEE: Senator Morahan.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MORAHAN: Move to accept.

ACTING PRESIDENT McGEE: The

motion is to accept the message of necessity. All those in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message of necessity is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Can we now take up 1523.

ACTING PRESIDENT McGEE: The Secretary will read 1523.

THE SECRETARY: Calendar Number 1523, by Senator Saland, Senate Print 7647, an act to amend the County Law, in relation to

wireless communications.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Is there a message at the desk, Madam President?

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

SENATOR MORAHAN: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill

is passed.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, Madam President. I request unanimous consent to be recorded in the negative on Calendar Number 221.

ACTING PRESIDENT McGEE: Without objection.

SENATOR MALCOLM SMITH: Thank you.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, with unanimous consent I'd like to also be recorded in the negative on Calendar Number 221.

ACTING PRESIDENT McGEE: Without objection.

Senator Morahan.

SENATOR MORAHAN: Please recognize Senator Brown.

ACTING PRESIDENT McGEE: Senator Brown.

SENATOR BROWN: Thank you, Madam President. Thank you, Senator Morahan. I

also would like to be recorded in the negative on Calendar 221.

ACTING PRESIDENT McGEE: Without objection.

SENATOR BROWN: Thank you.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Appreciate your support.

(Laughter.)

SENATOR MORAHAN: Madam President, can we take up 1526.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1526.

THE SECRETARY: Calendar Number 1526, by Senator Leibell, Senate Print 7651, an act to amend the County Law, in relation to wireless communications service.

ACTING PRESIDENT McGEE: Senator Morahan.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MORAHAN: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, could we return to Calendar 1515 and have the last section read.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number

1515, by Senator Padavan, Senate Print 7729, an act to amend the General City Law and the Administrative Code of the City of New York.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President. I was in the Finance Committee meeting, and I would like to have unanimous consent to be recorded in the negative on Calendar Number 221.

ACTING PRESIDENT McGEE: Without objection, Senator Smith.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we now go to Calendar 1358.

ACTING PRESIDENT McGEE: The

Secretary will read Calendar Number 13 -

SENATOR MORAHAN: Can we lay that aside temporarily, please.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

SENATOR MORAHAN: Madam President.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Could you lay aside for the day Calendar 1384.

ACTING PRESIDENT McGEE: Calendar Number 1384 is laid aside for the day.

Senator Morahan.

SENATOR MORAHAN: Can we return to reports of standing committees. I understand there's a report of the Rules Committee at the desk.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read.

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

Senate Print 475A, by Senator

Alesi, an act to amend the Executive Law;

3244A, by Senator Leibell, an act to amend the Education Law;

3248A, by Senator Leibell, an act to amend the Education Law;

3365A, by Senator Maziarz, an act to amend the Retirement and Social Security Law;

3906A, by Senator Onorato, an act in relation;

4015, by Senator Balboni, an act to amend the General Business Law;

5124, by Senator Leibell, an act to amend the Retirement and Social Security Law;

5428A, by Senator Nozzolio, an act to amend the Judiciary Law;

5616, by the Senate Committee on Rules, an act to amend the Education Law;

6521A, by Senator Seward, an act to amend the General City Law;

6666, by Senator Volker, an act to amend the Criminal Procedure Law;

7173B, by Senator Farley, an act to amend the Banking Law;

7181A, by Senator DeFrancisco, an

act to amend the Navigation Law;

7278, by Senator Balboni, an act to amend the Insurance Law;

7344, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

7354C, by Senator Morahan, an act in relation to authorizing;

7392, by Senator Spano, an act to amend the Real Property Tax Law;

7394, by Senator Kuhl, an act to amend;

7526, by Senator Alesi, an act to amend the General City Law;

7575, by Senator LaValle, an act in relation to removing;

7584A, by Senator Libous, an act to amend the Tax Law;

7685, by the Senate Committee on Rules, an act to amend the Workers' Compensation Law;

7706, by Senator A. Smith, an act to authorize;

7716, by the Senate Committee on Rules, an act to make certain domestic

partners;

And Senate Print 7741, by the Senate Committee on Rules, an act to amend Chapter 511 of the Laws of 1995.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes, Madam President, I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President, I'd like to announce that there's an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

Senator Morahan.

SENATOR MORAHAN: Could you recognize Senator Andrews. He would like to vote against my bill.

(Laughter.)

ACTING PRESIDENT McGEE: Senator Andrews.

SENATOR ANDREWS: Madam President, Senator Morahan is a mind reader. I request unanimous consent to be recorded in the negative on Calendar 221.

ACTING PRESIDENT McGEE: Without objection.

Senator Morahan.

SENATOR MORAHAN: Could we have the noncontroversial reading of Supplemental Calendar 55A.

ACTING PRESIDENT McGEE: The Secretary will read Supplemental Calendar 55A.

THE SECRETARY: In relation to Calendar Number 1533, Senator Alesi moves to discharge, from the Committee on Rules,

Assembly Bill Number 2424A and substitute it for the identical Senate Bill Number 475A, Third Reading Calendar 1533.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1533, by Member of the Assembly Morelle, Assembly Print Number 2424A, an act to amend the Executive Law, in relation to requiring.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 2. Senators Kuhl and Meier recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1534, by Senator Leibell, Senate Print 3244A, an act to amend the Education Law, in relation

to members of the New York State Teachers' Retirement System.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1536, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 4190A and substitute it for the identical Senate Bill Number 3365A, Third Reading Calendar 1536.

ACTING PRESIDENT McGEE: Substitution ordered.

THE SECRETARY: Calendar Number 1536, by Member of the Assembly Sweeney, Assembly Print Number 4190A, an act to amend the Retirement and Social Security law.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1537, Senator Onorato moves to discharge, from the Committee on Rules, Assembly Bill Number 5931A and substitute it for the identical Senate Bill Number 3906A, Third Reading Calendar 1537.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1537, by Member of the Assembly Nolan, Assembly Print Number 5931A, an act in relation to allowing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1538, by Senator Balboni, Senate Print 4015, an act to amend the General Business Law and the Penal Law, in relation to operating an aircraft.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1539, by Senator Leibell, Senate Print 5124, an act to amend the Retirement and Social Security Law, in relation to retirement credit.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1540, by Senator Nozzolio, Senate Print 5428A, an act to amend the Judiciary Law, in relation to salary.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR MORAHAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1541, by the Senate Committee on Rules, Senate Print Number 5616, an act to amend the Education Law, in relation to the distribution of information.

SENATOR STAVISKY: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1543, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 10597 and substitute it for the -

SENATOR PATERSON: Lay it aside.

THE SECRETARY: -- identical Senate Bill Number 6666, Third Reading Calendar 1543.

ACTING PRESIDENT McGEE: Substitution ordered.

The bill is laid aside.

THE SECRETARY: Calendar Number 1544, by Senator Farley, Senate Print 7173B, an act to amend the Banking Law and the General Business Law, in relation to -

SENATOR LIZ KRUEGER: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1545, by Senator DeFrancisco, Senate Print 7181A, an act to amend the Navigation Law, in

relation to vessel speed.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1546, Senator Balboni moves to discharge, from the Committee on Insurance, Assembly Bill Number 8567A and substitute it for the identical Senate Print Number 7278, Third Reading Calendar 1546.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1546, by the Assembly Committee on Rules, Assembly Print Number 8567A, an act to amend the Insurance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR ONORATO: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1547, by Senator Maltese, Senate Print 7344, an act to amend the Administrative Code of the City of New York and the Retirement and Social Security Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1549, Senator Spano moves to

discharge, from the Committee on Rules, Assembly Print Number 8616A and substitute it for the identical Senate Print Number 7392, Third Reading Calendar 1549.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1549, by the Assembly Committee on Rules, Assembly Print Number 8616A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1550, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Print Number 11388 and substitute it

for the identical Senate Bill Number 7394, Third Reading Calendar 1550.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: Substitution ordered.

The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1551, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 11551 and substitute it for the identical Senate Print Number 7526, Third Reading Calendar 1551.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1552, by Senator LaValle, Senate Print 7575, an act in relation to removing certain property in the Town of Brookhaven.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1553, by Senator Libous, Senate Print 7584A, an act to amend the Tax Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1554, by the Senate Committee on Rules, Senate Print Number 7685, an act to amend the

Workers' Compensation Law, in relation to making death benefits available.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. To explain my vote.

ACTING PRESIDENT McGEE: Without objection.

SENATOR DUANE: Thank you.

I just want to commend Senator Spano on this piece of legislation. It's really a terrific law. And I'm very pleased that he moved this forward, and it will go a long way towards providing equality for all of New York City's uniformed services members and their spouses and domestic partners.

Thank you very much.

ACTING PRESIDENT McGEE: Thank you, Senator Duane.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1555, Senator A. Smith moves to discharge, from the Committee on Rules, Assembly Print Number 11505 and substitute it for the identical Senate Print Number 7706, Third Reading Calendar 1555.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1555, by the Assembly Committee on Rules, Assembly Print Number 11505, an act to authorize the Agape Fellowship Church to file an application.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1556, by the Senate Committee on Rules, Senate Print Number 7716, an act to make certain domestic partners, parents, and widows and children of certain firefighters dying at the World Trade Center on September 11, 2001, eligible for special accidental death benefits.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

Again, I want to thank the sponsor of this legislation and just say what a terrific piece of legislation this is, despite

the horrible tragedy of September 11th.

I'd like it to be noted that we are treating everyone equally under the law, and I want to thank the body for that as well.

ACTING PRESIDENT McGEE: Thank you, Senator Duane.

Announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1557, by the Senate Committee on Rules, Senate Print Number 7741, an act to amend Chapter 511 of the Laws of 1995.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan, that completes the

reading of the noncontroversial calendar.

SENATOR MORAHAN: No, I'd like you to call up, Madam President, Calendar 1544, which was laid aside inadvertently.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1544.

THE SECRETARY: Calendar Number 1544, by Senator Farley, Senate Print 7173B, an act to amend the Banking Law and the General Business Law, in relation to the regulation of budget planners.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the 180th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Can we have a reading of the controversial calendar, starting with 1541.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1541.

THE SECRETARY: Calendar Number 1541, by the Senate Committee on Rules, Senate Print Number 5616, an act to amend the Education Law, in relation to the distribution of information.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR STAVISKY: Madam President.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: Madam President, I have a question, a couple of questions for the sponsor, Mr. Rules, Senate Rules.

ACTING PRESIDENT McGEE: Just one moment, Senator Stavisky.

SENATOR MORAHAN: Madam President, can we lay that aside temporarily and go to Calendar 1550.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

The Secretary will read Calendar

Number 1550.

THE SECRETARY: Calendar Number 1550, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11388, an act to amend a chapter of the Laws of 2002 amending the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR HEVESI: Explanation.

ACTING PRESIDENT McGEE: Senator Kuhl, an explanation has been requested by Senator Hevesi.

SENATOR KUHL: Senator Hevesi, if you refer to the bill, particularly Section 2, lines 9 through 15, and read that, I think you'll understand the basic concern here was because the defibrillator bill -- as you may remember, we started with a bill, passed the bill, then we passed a chapter amendment which essentially extended the bill to all facilities rather than just facilities that had a capacity of a thousand people or more.

And in talking with the second floor, they voiced a concern as to whether or not school districts would be able to meet the

mandate that we were placing on them that they have a defibrillator in each one of their facilities and also have a defibrillator at extracurricular-activity athletic events that were held at a field near or some place distant from the school district.

So what we've come up with is a three-month extender, if you will, if a school district finds themselves in a hardship in not being able to comply with the requirements of the original defibrillator bill.

Now, one of the requirements, in addition to actually purchasing a defibrillator, is to actually provide training to individuals who may actually provide this service to a student or other person who happens to be on the premises who suffers a cardiac arrest. That training could present a problem to some school districts in some areas of the state in being able to implement the process, or I should say the compliance, and all the criteria that's included in the bill by September 1st.

So on an application, this chapter would allow a school district to make an

application to the superintendent to have a three-month extender to come into total compliance with the bill that we're putting on them, this mandate that we're putting on them which actually takes effect in about three months.

ACTING PRESIDENT McGEE: Senator Hevesi.

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

ACTING PRESIDENT McGEE: Senator Kuhl, will you yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you, Madam President. I thank the sponsor for that explanation.

The reason I wanted to discuss this is because we had similar bill earlier which also dealt with the delaying of implementation of what is essentially a safety measure. In this case, your legislation I think is terrific, the idea to require automatic defibrillators.

My question is, what was the effective date of this chapter that the requirement then had September 1st as the date to have trained and have the devices in all the schools? When did we -- what was the window that the state and educational facilities had under the original bill?

SENATOR KUHL: Well, it's very small, Senator. And that's -- the original bill required -- which, as I understand it, still has not been signed by the Governor. They've been waiting for the various chapters to be passed by the houses before they actually sign the original bill. But the original bill was to take effect immediately, and we passed that about a month ago.

Now, one of the problems that school districts are faced with, as you may remember, they all had to vote on their budgets on I believe it was May 21st. So that budget vote took -- actually was taken before this mandate that we placed on them that has an expense to them. So most of them, not understanding that this was in the making, if you will, did not have anything in their

budgets to actually allow for the purchase of these.

That's one of the reasons why the first chapter amendment that we did, which extended the application to more school facilities, actually had a September 1st compliance, was to allow them to actually have some additional time for compliance.

What this bill does is extends that even another three months, recognizing that there is potentially a training problem, primarily, with the compliance of the provisions that we put in the bill and the additional chapter amendment.

SENATOR HEVESI: Madam President, would the sponsor yield to an additional question?

ACTING PRESIDENT McGEE: Senator Kuhl, will you continue to yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HEVESI: Thank you, Madam President.

This all sounds very reasonable.

In fact, it seems to me that we only gave essentially what is two or three, maybe even four months to get the devices and to require the appropriate training with a September 1st date, that that -- that the initial legislation was insufficient.

And I just want to, for clarification purposes, this legislation is not necessary because, for example, with Senator Seward's bill that the State Education Department should have but didn't come up with regulations -- my question is, has any state agency been deficient in helping to get us to a point where schools are compliant with the original law? Or this is just a recognition that they need more time, that the original law probably should have had a later date for its compliance?

SENATOR KUHL: Senator, at one time we talked about having an implementation date of September 2003, a year away. But we thought that this issue was so critical to have this device on school facilities that we moved it up a whole year.

Now -- so there was discussion at

one time. And what we have done is to actually probably put a very quick, timely and probably extra-timely response to them which we're not sure they really can meet.

Now, many school districts have already gone and purchased this particular little instrument and have gone through the training. I know out in, say, Canandaigua, in my district, for instance, that school is in compliance already. Two or three other school districts are already in compliance.

Out in Senator Volker's district I know he has set up a system where there is a not-for-profit organization putting these instruments into the schools already.

So there are schools that recognize there's a need and are already going ahead with that. But it is a short period, no question about it. We think it's very important that they move ahead with this particular purchase.

And actually what we're finding is the price is coming down. Remember, we initially talked about $3,000 being the average price of purchasing one of these

defibrillators. What we're finding now -- and in my district, we're putting a process in place to have a not-for-profit, the same one that is implementing this whole law in Senator Volker's district, in a position to actually provide the training and the purchase of these instruments for $1,995 all-inclusive.

So the price is coming down. We think that's going to make this instrumentation available immediately and where school districts actually can comply.

Now, to answer your question, to get around to the answer to your question, there is a provision in the second bill that requires the State Education Department to adopt rules and regulations as to how the law actually applies to each facility and what type of instrument they actually need. But again, the bill has not been signed yet by the Governor, so the state agency has not been put under the gun, so to speak, to draft those regulations.

But we know that school districts can go ahead and say, Okay, we're going to have one in each facility, and we're going to

provide one for each athletic event that goes on in a field that's not necessarily immediately adjacent to this facility. So they're going ahead without having the actual regulations developed.

But the bill has not been sent to State Ed to actually say "you need to develop these regulations." So in some cases some school districts are a little hesitant because they don't know quite yet the exact demand that's going to be placed on them for purchase and providing the availability of these devices.

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

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Madam President, thank you. And I thank Senator Kuhl for that well-thought-out and lengthy explanation.

This bill that we have before us is dramatically different than Senator Seward's bill earlier, which I opposed. Both are in the same realm; that is, extending the implementation requirement date for a public

safety measure in our schools. But this bill is different for three reasons.

Number one is this bill recognizes that the original bill was deficient. I don't believe that Senator Seward's original bill was deficient. That one gave a year. This one had a much more contracted time period.

In the second case, the difference with this bill is there is no state agency, such as SED, which has been deficient. And I would just hope, as a word of caution to everyone, that when it is time for SED, upon the signing of this bill into law, that SED doesn't drag its feet, as they did in the case of motion detectors on school partitions. I'm very concerned about that. That shouldn't be the case.

And, finally, the remedy in the case of the earlier bill was to take a one-year time frame and extend it by another year, so you had a sufficient time frame that was then extended by an insufficient -- or an insufficiently long time frame. Here you had an originally insufficient time frame and it was remedied by a sufficient time frame of

three more months.

So this is acceptable. I applaud Senator Kuhl, not just for this appropriate remedy but for bringing automatic defibrillators -- which is going to save somebody's life -- into all these buildings. Guaranteed, Madam President -- thank you, Madam President. Guaranteed, this bill and the bill that preceded it that Senator Kuhl sponsored is going to save somebody's life. Guaranteed, without a doubt.

So this is a good bill. I will be supporting it. I urge my colleagues to support it as well.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Just to explain my vote, Madam President.

I voted against the earlier version of this bill for reasons that I made clear at the time. This again seems to be some way to

in essence say, well, we're going to mandate it, but if the school districts say they're not ready for it, we'll relieve them from that mandate.

We're still requiring them in the period of time to have to step forward and certify to the Department of Education that they're not ready for this bill. I think for all the reasons I explained when we did the automatic defibrillator bill in the first place -- and now to bump it back further, under this requirement that they do something to ask for an extension, is just adding cost and expense to our school districts.

This is a good bill. It's a great idea. Let's pay for it and make it an even better idea, instead of simply telling them: You've got to do it, but we're not going to pay for it.

I just can't countenance it in this case, Madam President. I vote no.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays,

1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, first, let's return to reports of standing committees. And I believe that there is a report of the Finance Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read.

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

As member and chairman of the New York State Thruway Authority, John L. Buono, of Castleton.

ACTING PRESIDENT McGEE: Senator Stafford.

SENATOR STAFFORD: Madam President, as always, I'll be very brief - especially when I am yielding to our leader. But on this last day of session, and my

last -- I won't go there -- we had three fine appearances.

And with that, I yield to Majority Leader Joseph L. Bruno, born in Glens Falls and from Rensselaer.

SENATOR BRUNO: Thank you very much -

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: -- Madam President and Senator Stafford.

And as one of Senator Stafford's earliest supporters, when I was a constituent, when he was the youngest senator in the Senate, I am proud of our friendship and our relationship over these years.

But, Madam President, we're not here to talk about the virtues of Senator Stafford, because we don't have enough time and we can't extend the session for a week. We're here really to talk about, as Senator Stafford observed, three outstanding individuals. And the first one that is before us presently is John Buono.

John presently serves as president

of Hudson Valley Community College, that happens to be in my Senate district. John Buono is a constituent. And John Buono has been a friend for a lot of years.

But John Buono has distinguished himself as a public servant, having served as county executive in Rensselaer County in an exemplary way for a lot of years, really leading that county forward in all of the important ways that improve the quality of life for people.

He went to the Dormitory Authority, where he helped manage everything of consequence that took place here in the state, something in the neighborhood, I believe, of a $24 billion portfolio. And again, distinguished himself in such a way that they sought him out to become president of what is now the best community college in all of the United States. Now, that is subject to debate, but we won't take the time now.

The Governor, in his wisdom, in his vision, has asked John to step forward again to serve now as a member of the Thruway Authority and to chair that very important

authority, important because it affects the welfare of everyone in New York State and anyone that travels across this great Empire State of ours.

So I am confident that my colleagues will join me in approving this nomination, which I am proud to support and move.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

As a member of the Capital District delegation, along with Senator Bruno and Senator Stafford and so many that think they represent this area, John Buono is a true Capital District treasure. As I said in Finance, every job that he's undertaken, he's done well.

And, you know, someone asked: "How are you going to be able to do this with all your responsibilities?" If you want to get something done, ask a busy person to do it. John Buono has really been a true asset to the state, done a great job. He's a graduate of

SUNY Albany, which is very significant to a lot of us. And we wish you well in a very, very important job.

I think the Thruway Authority has really been doing well in recent years, and I'm confident that he's going to continue in that line.

Good luck and best wishes, John.

ACTING PRESIDENT McGEE: The question is on the confirmation of John Buono as the chairman of the Thruway Authority. Mr. Buono is in the balcony with us. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Mr. Buono is hereby appointed as the chairman of the Thruway Authority.

He's joined us here this afternoon with his wife, Bobby.

May I take this opportunity to say congratulations to you on your new position, and welcome.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a member of the New York State Racing and Wagering Board, Michael J. Hoblock, Jr., of Loudonville.

ACTING PRESIDENT McGEE: Senator Stafford.

SENATOR STAFFORD: Madam President, as everyone here, I certainly second what was said about the president.

And now it's a pleasure for me to again yield to the boxing champion for the South Pacific during the Korean campaign, our Majority Leader, Joseph L. Bruno.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Thank you very much, Senator Stafford. Listening to him, I may have to come out of retirement.

Thank you, Senator Mendez. You impressed her.

But, Madam President, we are here now to talk about another very distinguished public servant, an individual that the

Governor has seen fit to appoint previously as the chair of the Racing and Wagering Board here in New York State.

And that is a gentleman who came most recently right out of the Senate, Mike Hoblock, known to all of us. Served in the Senate for several years. Before that, he served as county executive in Albany County. And before that, Mike was on the Colonie Town Board, really devoted his time over the last 34 years to doing just outstanding, great things for the people of this state.

But Mike is a very modest and very humble individual. Mike is a war hero. And Mike, in '68 to '71, was in Vietnam, got the Bronze Star there for gallantry, got the Vietnam Medal for gallantry. Was decorated in more ways than I could memorize in this short period of time.

So we're very proud of Mike Hoblock. We're proud of him for his public service, proud of him in terms of the way he relates to the community. Most proud that he was able to come out of the Senate and run one of the most important boards in our life, the

Racing and Wagering, now, because it takes so much to manage with efficiency, with concern, with all the interests that are involved, to make sure that everything is appropriate and right. And Mike Hoblock has done that for several years.

So we are proud here in this chamber that the Governor would see fit to resubmit Mike to be reappointed so he can continue the great work that he has been doing on behalf of all of us here in New York State.

We're proud to move the nomination, Madam President.

ACTING PRESIDENT McGEE: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I too would like to rise to second the nomination of Mike Hoblock.

I've had the opportunity to work with Mike in his position at Racing and Wagering, and I think he does a great job. Actually, Joe, I think -- Senator Bruno, I think it's his Marine Corps background that helps him deal with a lot of the people he has to deal with in that Racing and Wagering

position.

But he does a terrific job. He always gets back to you, he's very responsive, and he keeps that agency working at a very high level. I think it's a great reappointment. I think that he does a terrific job. And he's a very good asset to the state.

And for that reason, I'm glad to have the opportunity to rise up and second the nomination.

ACTING PRESIDENT McGEE: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President. I too want to rise in support of this nomination and echo the comments of my colleagues Senator Bruno and Senator Stachowski.

I have to say that having served here with Mike Hoblock was a great pleasure for me, learning from him when I first came in to the Senate.

And one thing that's impressed me about Mike's service with the Racing and Wagering board, as chair of that board, is I

could call up there with a problem involving some very small volunteer fire company involving bingo and Mike would get right back to me with an answer or the staff person that had the answer.

Or a major issue like Western Regional OTB taking over a racetrack, a harness track at Batavia Downs, Mike Hoblock not just, I think, offered some great wisdom and advice on how to go about doing that, but he came out to Batavia, a small community in Genesee County, to make sure that things were on track, so to speak, and doing it right.

And it's an honor for me to stand here today and to second this nomination.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Larkin.

SENATOR LARKIN: Thank you, Madam President. I rise also to second the nomination of Mike Hoblock.

I had the privilege, as some of us did, of serving with Mike Hoblock in the Assembly. As a matter of fact, our offices were across the hall. Michael never had tea,

he always had coffee.

Michael moved on. When he was asked to go to this position that he has now, he was told that there were a lot of problems that had to be overcome. There had to be more diversity, there had to be an opportunity for the agency to work with all of the local governments, to all the town clerks. Because on issuing of permits, there had to be a clear understanding of what the clerks were responsible for, what even the bingo inspectors were for.

Everyone looks at that and says "racing." They think that is the only aspect of it. That position that Michael holds has many aspects and areas of responsibility. But I have known of Michael going to many, many areas throughout the state because people didn't understand some aspect of the rules and regulations, not just the law. Michael put himself out there for the people and let them question him and made sure that, when he left, that they clearly understood their responsibilities and Michael's responsibilities to them.

When we started talking about putting the video lottery terminals in, everybody looked at, well, this will be a job just for the Lottery Division. But without Michael's expertise, advice and guidance to the Lottery Division, we would be stymied.

Mike Hoblock is a thinker, a doer, and a very responsible public servant. I'm proud to have served with him. I'm proud to call him a veteran. And I'm proud that he will continue on doing an outstanding job for the people of the State of New York.

Thank you, Michael.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Thank you, Madam President. I also rise to second the nomination of Mike Hoblock.

He's my buddy. We go back a long ways. As was said, he served in local government in Colonie, the New York State Assembly, county executive for the County of Albany, and a great county executive, and of course in the New York State Senate.

Every job, again, that Mike has

done, he's done well. Senator Larkin said the area that he's taken over is one that has always been a little bit troubled.

But not under your domain, your tutelage, Michael. You've done a great job. You deserve reappointment. I'm very proud of you and the job that you've done, and I wish you well in the years ahead.

ACTING PRESIDENT McGEE: Senator Onorato.

SENATOR ONORATO: Madam President, it gives me a great deal of pleasure to second the nomination of Mike Hoblock.

I had the pleasure of serving with him when he was the chairman of the Veterans Committee and also now as the ranking member on Racing and Wagering. I've heard all of these redundant remarks about him, about his wonderful character, and they certainly are worth repeating. He has done an outstanding job with the Racing and Wagering Board, as he has done with all of his previous endeavors.

And I look forward again to working with him, but more so, I am looking forward to

getting him on that golf course with the round of golf that he promised me.

Good luck, Mike.

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I too am delighted to rise and second the nomination of Michael Hoblock for this very important reappointment. As the chairwoman of the Senate Agriculture Committee, I am acutely aware of the issues facing the horse industry in New York State. And all of those beautiful horses that we raise and breed in New York State have an opportunity, with Mr. Hoblock's guidance, to race in New York State and bring further credit and economic benefit to the people of this state.

Since Mike Hoblock has had this position, I've seen a much greater level of cooperation between the breeders' associations, the various breeding groups who are within that subcategory, and with the Racing and Wagering Commission.

Obviously, it is in the best interests of everyone in this state, whether their concern is tourism or agriculture or racing, to make sure that all of these communities of interest operate in harmony. And with Mike Hoblock at the helm, they have been doing that, and I know they will continue. Even though there may be difficult challenges ahead, it's comforting to know that there is a level-headed individual at the helm and one who understands this chamber and the legislative process as well.

There's one other thing that I would just offer on the record today in supporting Mr. Hoblock. The role of any department head requires a sensitive hand in the administration of the employees. A few years ago a young man in my Senate district, a well-known constituent and a very fine gentleman -- who happened to be an inspector working for Racing and Wagering at one of the tracks on a part-time basis -- died suddenly. And the actions of Mike Hoblock as his boss were truly exemplary. He reached out and comforted that family and sent a reassuring

message to all of the other Racing and Wagering employees in a way that was commendable both to the state and for Racing and Wagering.

So I thank Mr. Hoblock for all that he has done, both as an employer and as administrator of one of our most significant agencies.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. On the nomination.

I rise to wholeheartedly support the renomination of Mike Hoblock as chairman of the New York State Racing and Wagering Board.

But before I do so, I wish to comment, because I was inadvertently out of the chamber, about the qualifications and excitement that I have over the appointment of John Buono as the chairman of the Thruway Authority.

That John is an excellent administrator, and I wish to associate myself with the remarks praising him and praising his

appointment. And that I look forward to working with him as he has jurisdiction now on the two major thoroughfares of this state, the New York State Thruway and the New York State barge canal system, two arteries that bring economic development to our state.

And that he certainly is an excellent choice. I praise Governor Pataki for making it. And I look forward to his stewardship of those important resources for New York.

I've had the honor of serving with Mike Hoblock as an Assemblyman and as a member of this chamber, in this body, as well as in his capacity as chairman of the Racing and Wagering Board. Senator Hoffmann very adroitly made mention -

ACTING PRESIDENT McGEE: Can we please have some quiet in the chambers.

Thank you.

SENATOR NOZZOLIO: Senator Hoffmann made very important reference to how important this racing industry is to the State of New York. With its many diverse components, it is an extremely important

component of economic and job development throughout New York. And that Mike's stewardship of his responsibilities has been second to none.

That he has, through his decisions, made significant impact in my own Finger Lakes region, and that I certainly welcome his continued association in this very important position.

An excellent renomination, Madam President, and I wholeheartedly support it.

ACTING PRESIDENT McGEE: The question is on the confirmation, the renomination of Michael Hoblock as chairman of the Racing and Wagering Board. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Michael Hoblock is hereby confirmed and reappointed as chairman of the Racing and Wagering Board.

Mr. Hoblock, congratulations to you on behalf of the New York State Senate, and

welcome to the chambers again. And congratulations.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a member of the State Athletic Commission, Bernard B. Kerik, of New York City.

ACTING PRESIDENT McGEE: Senator Stafford.

SENATOR STAFFORD: Madam President, I have to again emphasize we could not have three finer nominees here today. And I know everyone agrees with me.

I certainly second what was said about Michael. I go way back with Mike and John.

And for the next nominee, former Commissioner Kerik, in yielding to our Majority Leader, I want to apologize: it was champion of the Pacific Theater, not South Pacific. Senator Bruno.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Thank you very

much, Senator Stafford.

And Madam President, once again, it is an honor and a privilege for me to rise in support of just an outstanding individual who is willing to continue to be of service to the public.

Bernie Kerik was the 40th commissioner of police in New York City. And he had the unfortunate circumstance of having served through 9/11. And wherever you saw Mayor Giuliani, you saw Bernie Kerik, as the police commissioner. He was there really supervising, being the man in charge, trying to be helpful, trying to be responsive to the great needs of the victims, their families, his officers that were risking their lives on a daily basis in the rescue effort and continue to risk their lives on a daily basis.

He served as the commissioner of corrections in New York City, served as the chief investigator in charge of security for the Kingdom of Saudi Arabia, which many of us here would relate to and aspire to having the proper qualifications.

So given the background that Bernie

Kerik has in public service and doing the kind of police work that he has done, he is a huge asset now to the Athletic Commission, the Boxing Commission here in New York State.

And as we all know, many times there are tough guys that are passing through and that you have to relate to, but none will be equal to or as qualified to make the proper judgments and to hold his own in any way as Bernie Kerik.

So we're proud to move his nomination, Madam President.

ACTING PRESIDENT McGEE: Senator Velella.

SENATOR VELELLA: Madam President, I also rise not to speak about the Bernie Kerik that we knew on 9/11, but the Bernie Kerik who I knew before that.

Who, when he was being considered by Mayor Giuliani to be corrections commissioner, the fact that most of the correction officers, the guards of our prisons in the city of New York, called me and asked me to give a call to Mayor Giuliani and ask that they get Bernie Kerik as their

commissioner, speaks for the type of individual that he is.

And again, when he took command of the Police Department of the City of New York, we saw a major change in the direction and operation of the police department. Not only because we had put money and resources in, but because police officers were given the dignity to know that when they made a decision, the man at the top would back them.

He stood behind his officers when he was in corrections. He stood behind them as a police commissioner. He stood loud and tall and bravely for us on 9/11. And he will do a great job as our boxing commissioner.

I look forward to seeing him at many of the boxing events when I go and pay my way. Thank you.

(Laughter.)

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Madam President, I rise to take the opportunity to make sure that Mr. Kerik understands how deeply his actions through this last fall have

made us proud, given us hope, instilled a sense of confidence in the police department in the City of New York that protects so many of our residents and constituents who work there every day.

And as he embarks upon this new endeavor, I have had a personal interest in the Athletic Commission, through the good work of a gentleman by the name of Arthur McCanty, one of the most celebrated and recognized boxing referees in the history of the sport.

And I had a chance to work, through Governor Pataki's offices, with the commission, and I've seen tremendous changes for the better. It is a sport that when things go well, it's not mentioned. But the minute something goes wrong, it's front-page and it's nasty.

So this is more combat duty, Mr. Kerik, for you. But I know that through your leadership that the commission will continue to excel and New York State will continue to be the preeminent location for boxing events in the future.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I too would like to rise to second the nomination of Mr. Kerik.

I think that his background will serve him well in this job. I think that the commission still needs a little bit more to go. I think there's still some people that can use his kind of direction in order to do the job they're supposed to do. And hopefully after a short while on the job he'll have that office in lockstep, moving in the right direction to help New York State reestablish a position in boxing as a venue that some of the better fights will want to use.

So with that hopeful comment, I just hope that this will be the right appointment to make us the boxing venue that we want to be and will bring other kinds of competition. And actually -- I think nobody mentioned it -- but he has a competition background I think that will also help out, because he's aware of how much a referee or a judge can affect the competition if it's not

done to the letter of the rules.

So I'm tickled with this appointment, and I'm glad to get up and second the nomination.

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I recently came from the tenth anniversary celebration, in Canastota, New York, of the Boxing Hall of Fame, the International Boxing Hall of Fame, which I'm very proud to say I helped fund through some Senate appropriations over the years.

And at each one of those celebrations and induction ceremonies we see boxers from all over the world, along with the newswriters, the sportswriters who follow them, and many people interested in the boxing world coming into New York State and recognizing that boxing exists outside New York City.

Indeed, Canastota became the site of the International Boxing Hall of Fame because it's home to two former world

champions, Carmen Basilio and Billy Backus.

And I know that Mr. Kerik, in his new position, will make sure that the rest of the beautiful state of New York and all of the many athletes across the state -- those in and out of boxing, but particularly in the boxing world -- will get the same kind of attention.

And as Senator Balboni said, when there is a bad news story, it dominates. But there many, many good news stories, an opportunity for us to nurture the kind of discipline and self-determination that governs boxers in the early days of their career.

As we look at legislative opportunities here to stimulate that industry and to protect those who enter the field of boxing, I know it will be a real pleasure for us to work with Commissioner Kerik in this capacity. I look forward to it and congratulate him too.

ACTING PRESIDENT McGEE: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you very much, Madam President.

I rise to second the nomination,

also, of -- I consider him and always still call him Commissioner Kerik. I had the pleasure of knowing him during the time he was commissioner down in the City of New York. And he impressed me because he was a very hands-on individual.

He came into my district a couple of times, dealt with some issues on our behalf, and always was forthright and always put his hands right on matters in such a way that the solution was not only obvious, but it was one that was received in a great -- I should say not received in a great -- but everyone appreciated his ability to put his hands right on the issue and solve it.

So I would just like to second the nomination, tell the Governor he made an excellent choice. And I'm sure the State Athletic Commission will be all the better for his appointment.

Thank you.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, I thought it was an ironic fortune

that New York City had that Commissioner Kerik, who was only nominated by Mayor Giuliani in mid-August of 2000, only served a year and a half as police commissioner, but was actually on-site during the tragedy of September 11th, the attack on this country. At which time his international experience that Senator Bruno referred to earlier, his understanding of Saudi Arabia and some of the other Arab nations and other places around the world was actually quite helpful in trying to establish security around the city and even intelligence during that particular period of time that we all remember as a lugubrious period in our state's history.

And yet his leadership demonstrated at that particular time was one that he had considered years before when he'd given up an outstanding career and had gone back to become a New York City police officer. Having had the opportunity to have gone on and become very successful, this was actually his dream, and he was able to fulfill it to the point where he was raised to the highest level of decision-making capacity of the Police

Department of the City of New York.

So we all wish him well as commissioner of boxing and hope that we will see him continue to aspire, even after that, as one of the state's true leaders and someone whose points of view on a lot of these international subjects these days are quite thoughtful when you read about them and certainly should be listened to by those who make policy, not only here in the state but in our national government.

ACTING PRESIDENT McGEE: Senator Brown.

SENATOR BROWN: Thank you, Madam President.

I rise to simply say thank you to Mr. Kerik for all he has done for our state and also to congratulate him for the nomination to the State Athletic Commission.

And, finally, to bring to his attention that in the city of Buffalo, New York, we have the future heavyweight champion of the world, Baby Joe Mesi.

ACTING PRESIDENT McGEE: Thank you, Senator Brown.

The question is on the confirmation of Bernard B. Kerik as a member of the New York State Athletic Commission. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Bernard B. Kerik is hereby appointed as a member of the New York State Athletic Commission.

And may I say, on behalf of the New York State Senate, welcome to the chambers. Congratulations on your new appointment.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a member of the Small Business Advisory Board, Richard M. Bivone, of East Meadow.

As a member of the board of directors of the New York Convention Center Operating Corporation, John LaMura, Esquire, of East Moriches.

And as a member of the Board of Visitors of the Helen Hayes Hospital, Patricia Ann Norris-McDonald, of Malverne.

ACTING PRESIDENT McGEE: The question is on the confirmation of the nominees as read by the Secretary. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Those read by the Secretary are hereby confirmed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we return to reports of standing committees. I believe there's a report of the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 4946A, by Senator

Skelos, an act to amend the Public Health Law;

5195B, by Senator Velella, an act to provide;

5418A, by Senator Gentile, an act authorizing;

7259, by Senator Leibell, an act to amend the Public Authorities Law;

7342A, by Senator Maziarz, an act to amend the Executive Law;

7470, by Senator Farley, an act to amend the Social Services Law;

7487, by Senator Volker, an act to amend the Correction Law;

7516A, by Senator Saland, an act to amend the Executive Law;

7654, by Senator Bonacic, an act to amend the Tax Law;

7682, by Senator Hannon, an act to authorize;

7690, by Senator Kuhl, an act to amend the Education Law;

7691, by Senator Larkin, an act to amend Chapter 444 of the Laws of 1997;

7697, by Senator Spano, an act to amend the Penal Law;

7713, by Senator Stafford, an act to amend the Executive Law;

7715, by Senator Johnson, an act to amend the General Business Law;

7726, by Senator LaValle, an act to amend the Education Law;

7727, by Senator LaValle, an act to amend the Education Law;

7737, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

7746, by the Senate Committee on Rules, an act in relation;

7774, by Senator Hannon, an act to amend the Real Property Tax Law;

And Senate Print 7778, by Senator Skelos, an act to amend the Public Authorities Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Bruno.

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

ACTING PRESIDENT McGEE: All in favor of accepting the report of the Rules

Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Bruno.

SENATOR BRUNO: From this last report, can we take up Calendar Number 1562.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1562.

THE SECRETARY: In relation to Calendar Number 1562, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Print Number 9913B and substitute it for the identical Senate Bill Number 7342A, Third Reading Calendar 1562.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

SENATOR CONNOR: Explanation.

THE SECRETARY: Calendar Number 1562 -

ACTING PRESIDENT McGEE: Senator

Bruno.

SENATOR BRUNO: Madam President, this bill before us really creates the most integrated setting coordinating council, which will be compromised of commissioners from several of the state departments, to develop and administer policies relating to people of all ages with disabilities.

And the bill follows the Disabilities Act of 1990, as amended, the federal bill, and the 1999 U.S. Supreme Court's Olmstead decision, where it was mandated that we the states be responsible for developing an integrated plan for people with disabilities of all ages.

And New York State really has been in the forefront of helping people attain independence in every way that is possible.

Senator Maziarz has had this bill, has put it together, has been a leader, really, in helping people in all walks of life reach their greatest potential.

So, Madam President, this is important to a large segment of our society. And this passage will implement the council so

that they can get on with the planning for these people who truly want to be contributors in our society. They want to live in our society in a community-based way, be integrated, and be able to go to the movies and go to restaurants and go to ball games and do all the kinds of things that all of us want to do in our daily lives.

So we think this is an important piece of legislation, and we are happy to move it in this chamber.

ACTING PRESIDENT McGEE: Senator Connor.

SENATOR CONNOR: Yes, Madam President. I note in this that -- and I agree with Senator Bruno, it's important that we move forward with this.

But on this council are various categories of people to be appointed to it. And in two different categories, appointments are given, understandably, to the governor, to the majority leader, and to the speaker, and there are no appointments for the minority leaders.

And I think certainly when you're

dealing with compliance with the Americans with Disabilities Act, when you're talking about formulating integrated models, I don't think there's any Republican or Democratic way to do that. I don't think there's any majority or minority way to do that.

We have so many commissions, so many councils where the two minority leaders do have appointments. It's just a shame that the people who drafted this didn't consider that and didn't consider what might be contributed were it to be drafted that way.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time return to motions and resolutions and take care of some housekeeping at the desk.

ACTING PRESIDENT McGEE: Motions and resolutions.

Senator Wright.

SENATOR WRIGHT: Madam President, on behalf of Senator Velella, on page number -

ACTING PRESIDENT McGEE: Senator Wright, just one moment.

Thank you.

SENATOR WRIGHT: You're welcome.

Madam President, on behalf of Senator Velella, on page number 51 I offer the following amendments to Calendar Number 1384, Senate Print Number 7226B, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR WRIGHT: On behalf of

Senator Marcellino, on page number 43 I offer the following amendments to Calendar Number 1102, Senate Print Number 4755D, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR WRIGHT: On behalf of Senator Fuschillo, on page number 53 I offer the following -

(Sound of siren.)

SENATOR WRIGHT: Let me try again.

On behalf of Senator Fuschillo, on page number 53 I offer the following amendments to Calendar Number 1511, Senate Print Number 7618, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR WRIGHT: Thank you, Madam

President.

I would also request unanimous consent to be recorded in the negative on Calendar Number 1593, I believe it is, Senate Print Number 475A.

ACTING PRESIDENT McGEE: Without objection.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Velella, Madam President, I would like to make a motion to restore an amended Senate bill, previous print. And, Madam President, I move to amend Senate Bill Number 6418B by striking out the amendments made on 6/19 and restoring it to its previous print of 6418A.

ACTING PRESIDENT McGEE: So ordered.

Senator Farley.

SENATOR FARLEY: Thank you.

On behalf of Senator Leibell, Madam President, I wish to call up his bill, Senate Print 7259, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

Senator Farley.

SENATOR FARLEY: Madam President, I offer the following amendments -- you don't need to read it, right? -- and move to discharge, from the Committee on Rules, Assembly Print 10258B and substitute it for Senator Leibell's identical bill, 7259A.

ACTING PRESIDENT McGEE: Substitution ordered.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I would request unanimous consent to be recorded in the negative on Calendar Number 221, Senate 6106A.

ACTING PRESIDENT McGEE: Without objection.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT McGEE: Senator Seward.

SENATOR SEWARD: Yes, Madam President, if we could return to Senate Supplemental Calendar Number 55A and take up Calendar Number 1541.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1541.

THE SECRETARY: Calendar Number

1541, by the Senate Committee on Rules, Senate Print Number 5616, an act to amend the Education Law, in relation to the distribution of information.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: May I have an explanation of that -- of this legislation, please.

ACTING PRESIDENT McGEE: Senator Kuhl, an explanation has been requested.

SENATOR KUHL: Yes, Senator Stavisky. This is a very simple-minded bill. It simply would require a public hearing on any renewal or initial application for a charter school.

That's currently not the law. It's a "may" provision. This simply makes it mandatory to do that.

This is a bill that was before this house last year and passed, on the noncontroversial reading of the calendar, 58 to zero.

ACTING PRESIDENT McGEE: Senator Padavan.

SENATOR PADAVAN: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Padavan, on the bill.

SENATOR PADAVAN: I think it's a great idea to have these public hearings, Senator Kuhl. And we've had them.

We have, however, a problem which we have to address, and I'm sure you will at some point. Namely, that what the bill requires basically is that the school districts have hearings. It doesn't say "may," they shall.

And as you know, come next June, our community school districts are gone -

SENATOR STAVISKY: Madam President, I have trouble hearing.

ACTING PRESIDENT McGEE: Senator Padavan, just one moment, please.

Thank you.

SENATOR PADAVAN: I was pointing out, Madam President, that as of next June, June 2003, the community school boards in the City of New York will no longer exist.

So obviously we don't have a

vehicle specified to conduct these hearings. Unless, as the bill states, the State Board of Regents comes down, which is very unlikely, or the charter entity has the hearing.

And frankly, I don't feel very comfortable about that. It should be someone -- now, perhaps it could be, and these are ideas we could kick around, because we have time to do it, a committee established by the new Board of Education to conduct those hearings. Some entity within the framework of the 32 school districts where one of these charter schools would be held.

So that's the only observations I would make, Senator. I plan to vote for the bill. But I think we have some work ahead of us in terms of making it applicable in a very practical way to the City of New York.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: If the sponsor would yield to a couple of questions.

ACTING PRESIDENT McGEE: Senator Kuhl, will you yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: Senator Kuhl yields.

SENATOR STAVISKY: Madam President, I don't have a problem with changing "may" to "shall." I think that's great idea.

I do have a problem, though, with lines 16 to 19. For example, the Regents are authorized to conduct the hearings. Do you expect, Senator, that the people in the community school district that's affected will come to Albany for such a hearing?

SENATOR KUHL: Senator, we put this additional provision in here, and I think the point that Senator Padavan made is a good one. But as we know, the Board of Regents is pretty much charged with making policy for education in the state. And they would probably feel that they would belittle themselves to hold a hearing such as this.

And that's why we put it into law. We don't think a hearing which will actually bring out all of the issues that surround the creation, if you will, of a charter school or the renewal of a charter school should be just

not discussed. And so this is why we're forwarding this particular provision. If a school district -- if there is no school district, as in the case of the City of New York, it would be my position under this proposal that in fact the Board of Regents would have to either hold that hearing or the actual charter entity themselves.

Now, I think Senator Padavan again raises the point -- and I don't think we should leave it up to an assumption. And so the point will be, as we go through this governance change in the City of New York, that probably what we'll be looking at is another specific provision dealing with the City of New York. And for that, I certainly would welcome your input and certainly welcome Senator Padavan's input as to how or who should actually hold that public hearing.

But I expect that next year's session. It's a little bit late -- this is the last day this year -- for us to deal with that issue. But I expect that we've got lots of time to address it. And sometime early next session we'll probably bring back to this

house an additional proposal that will affect the City of New York specifically.

SENATOR STAVISKY: You've answered my question, because you're emphasizing the point that I was going to make. Obviously the Regents are not going to come to the community school districts to conduct a hearing.

And therefore, Mr. President, through you, I am concerned by having the alternative, the charter school conducting the hearing. What is your reaction, Senator, to the charter school conducting a hearing on its own application?

SENATOR KUHL: Well, I think that is better than no hearing at all, Senator. And the question is if you had this proposal, at least it's a public discussion of what the issues are going to be.

Now, the bill doesn't say that anything has to be done, it just says the issues need to be put out there so that there can be a common discussion of these issues, whether it's a loss of revenue to the existing public school or whatever the issue happens to

be.

Currently there is no mandated discussion of those issues. So I think we're taking this a step farther. And hopefully the Regents will step in here and recognize the responsibility and the need for the discussion of these issues and undertake the responsibility when a public school district does not undertake the hearing.

Now, at this point, you know, we hear the statements coming from public schools that they don't have the money to conduct these hearings, that sort of thing, so in some cases they don't hold them. But we think it's essential for the formation or renewal of a charter school to have those issues out publicly and give the public a chance to discuss them.

SENATOR STAVISKY: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Stavisky, on the bill.

SENATOR STAVISKY: If the legislation ended at line 15, I would be delighted and I would support the measure.

However, as has been said, the school districts are presumably going to go out of business if they receive the clearance from the Justice Department.

However, to give the Board of Regents the power to hold a hearing I think is of concern, because I don't think they're going to hold a hearing in New York City. And to let the charter school hold a hearing on its own application, that's like letting a criminal pass judgment on the crime that he is alleged to have committed.

I am going to vote no on this bill and hope that we can improve it next session.

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

Senator Padavan.

SENATOR PADAVAN: Yes. Without belaboring the issue, I would draw attention to the fact, those of you from the City of New York, that when this bill refers to "the school district," it is not referring to the community school district. It's referring to the school district which is the City of New York.

Now, we had a specific experience in part of my district in College Point where a charter-school applicant wished to establish a K through 12 where it was mandatory that every child learn Mandarin or not graduate. A public hearing was held, not by the community school district, but by the Board of Education, central, the chancellor's office. So that is an option.

I was simply pointing out before that I think we can be more specific. So when you understand that, we're not left here with just the alternatives of just the Regents or the applicant; we have the chancellor and the new Central Board of Education, however it's configured, as another option. And obviously we would insist that they do it and not the charter entity. And if they didn't, well, we'd have to bring to play whatever persuasion we could generate.

But I did want to point that out so that it's clearly understood.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: Yeah, I was

going to also ask the question of what you meant by the "school district." Because generally they refer to the city school district or the community school district. And the term "school district" I think is very imprecise.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If, through you, the sponsor would yield to one clarifying question.

ACTING PRESIDENT McGEE: Senator Kuhl, will you yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

Senator, my understanding is we do charter schools for two different systems in the state, the Regents process and the SUNY process. Would this rule apply to charter schools going through both categories?

SENATOR KUHL: Correct.

SENATOR LIZ KRUEGER: It would go through both.

SENATOR KUHL: Yes.

SENATOR LIZ KRUEGER: Okay. Thank you very much.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Stavisky recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Seward.

SENATOR SEWARD: Yes, Madam President. If we could return to the original active list and take up Calendar Number 1513.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1513.

THE SECRETARY: Calendar Number 1513, by Senator Seward, Senate Print 7723, an act to legalize, validate, ratify and confirm certain actions of the Dryden Central School

District.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT McGEE: Senator Seward, an explanation has been requested by Senator Hevesi.

SENATOR SEWARD: Madam President, this bill would, as it states in the title of the bill, would legalize, validate, ratify and confirm the actions of the Dryden Central School District with respect to a capital improvement project that had been approved by the State Education Department back in 1997, and subsequently the project was completed.

The need for this legislation is that due to a staffing change in the business office of the school district, the required final building project report was not filed with the State Education Department. And subsequently, the district has been denied building aid on that project.

So the bill would set up the provisions so that the district would be able to receive the building aid for that project, since the final building project report has

been duly filed, albeit late.

ACTING PRESIDENT McGEE: Senator Hevesi.

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

ACTING PRESIDENT McGEE: Senator Seward, will you yield?

SENATOR SEWARD: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you.

Madam President, through you, I have no problem with this legislation. I just want to clarify one point, that from the circumstances described which necessitate this legislation, this is a prior-year school aid claim, because it is building aid that should have been filed, wasn't, we are now going to make that process legal.

I simply want to ensure that this school district, pursuant to this legislation, will not receive funding before anybody else in line to receive the hundreds of millions of dollars that the state currently owes local school districts in prior-year school aid

claims.

So my question is, is there anything in this legislation which would allow this school district to jump the line, as it were, and receive payment prior to the payment that they would receive as a regular prior-year school aid claim?

SENATOR SEWARD: Well, Madam President, there's nothing extraordinary in terms of speeding up the aid to this school district under this bill. It does contain provisions that starting, actually, in the 2003-2004 school year is actually when they would go on the list, in the proper order, for the prior-year aid claim list. Which, I'm sure you know, is a lengthy list.

SENATOR HEVESI: Thank you.

On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Madam President.

I support this bill. But I would like to point out that we have not addressed the prior-year school aid claim issue. And I

hope somebody else continues to press it when I'm no longer in this body, because it's a huge issue. The City of New York is still owed hundreds of millions of dollars.

If you want to hear bad fiscal policy, Madam President, what we did in the budget this year was to take the debt that the City of New York has or is owed from the State of New York and bond it out. We bonded out money, we borrowed money for operating expenses.

And we used that -- we're going to use that money to finance a teachers' contract. And this speaks nothing of whether or not teachers deserve the raise. They certainly do. We're going to use the money that we borrowed to finance a teachers' contract, the money for which will dry up within a year or two, leaving the city with a huge hole. And the taxpayers of New York State will have to pay back the funds, with interest, over the life of the bonds. Horrible fiscal policy.

As opposed to the State of New York paying its debt. The State of New York owes

New York City and other school districts a lot of money and just doesn't pay it back. And, finally, this year there was a way to get a political benefit out of repaying some of this debt.

I hope, Madam President -- I sponsor legislation which would correct some of the inequities in the particular section of the Education Law which has deliberately shortchanged the City of New York. Though I will applaud this house and the Governor and the Assembly for at least taking the minimal effort, in the last few years, of ensuring that the oldest of the prior-year school aid claims, when they age to ten years -- as would then be required by accounting practices to be written off as a debt which will not be paid -- the state has, in those limited circumstances, come up with the money.

That doesn't in any way address the huge issue of the millions and millions of dollars of aid that is owed to New York City and to the other districts. I hope we take care of that. Nobody talks about it.

And now we have a situation where

we're going to add another school district to the list. That school district, Dryden School District, should receive that payment promptly.

So we need to address this issue, Madam President. It's another issue that I don't think we're going to address by the time we close session today. There are a slew of issues like that, and this one really needs to be handled appropriately.

But I'll be voting yes on this bill.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Seward.

SENATOR SEWARD: Madam President, still on the original active list, we will

take up Calendar Number 1358.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1358.

THE SECRETARY: Calendar Number 1358, by Senator Padavan, Senate Print 7350A, an act to amend the New York City Charter, in relation to imposing civil penalties.

ACTING PRESIDENT McGEE: Senator Seward.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR SEWARD: I move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read the last

section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Seward.

SENATOR SEWARD: Madam President, if we could return to Senate Supplemental Calendar 55A and proceed in regular order.

ACTING PRESIDENT McGEE: 55A, yes, sir. The Secretary will begin reading with Calendar 1538.

THE SECRETARY: Calendar Number 1538, by Senator Balboni, Senate Print 4015, an act to amend the General Business Law and the Penal Law, in relation to operating an aircraft while intoxicated.

ACTING PRESIDENT McGEE: Read the last section.

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

November.

SENATOR HEVESI: Madam President, would you lay that bill aside temporarily for Senator Duane.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

Senator Seward.

SENATOR SEWARD: Madam President, in the interim, let's take up Calendar Number 1546.

ACTING PRESIDENT McGEE: That bill is laid aside.

The Secretary will read.

THE SECRETARY: Calendar Number 1546, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8567A, an act to amend the Insurance Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Balboni, an explanation has been requested.

SENATOR BALBONI: Yes, Madam President. This bill would amend the Insurance Law to expand those who could be covered by group life dependency coverages.

The bill would allow life insurers in New York to offer more options to employers for dependent coverage under group life contracts.

Existing law, believe it or not, prohibits National Guard groups from being offered these types of insurance policies. In addition to which, existing law prevents parents from listing their stepchildren and foster children as group life insurance beneficiaries. And existing law prohibits individuals from listing domestic partners, disabled people, or elderly people dependent upon them, from listing them as group life insurance beneficiaries.

And, lastly, the average cost of a burial in 1998 was between $8,000 and $10,000. And according to a 1999 report from the General Accounting Office, New York's existing limit is $4,000. And this would change that limit to meet the realities of today's burial costs.

Thank you, Madam President.

SENATOR PATERSON: Would Senator Balboni yield for a question?

SENATOR BALBONI: Yes, Madam President, I do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, therefore both the stepparent and biological parent of a child could list the particular child, the same way both parents could on each their individual group policy?

SENATOR BALBONI: That is correct.

SENATOR PATERSON: Thank you, Madam President.

SENATOR BALBONI: Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1551, by Senator Alesi.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1551.

THE SECRETARY: Calendar Number 1551, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11551, an act to amend the General City Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1540, by Senator Nozzolio.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1540, by Senator Nozzolio.

THE SECRETARY: Calendar Number 1540, by Senator Nozzolio, Senate Print 5428A, an act to amend the Judiciary Law, in relation to the salary of the Monroe County surrogate's judge.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Just briefly on the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Just as a personal note, this is a man who I ran against in 1999 for the very judgeship that this salary increase entails. It is with enthusiasm and respect that I'm going to vote in favor of this salary adjustment, which it seems to me is only fair to the people of Monroe County.

And, quite frankly, Ed Calvaruso and I waged a vigorous and I think difficult campaign is the best way to describe it, but

he was the voter's choice. And he should be paid fairly with other upstate Surrogate Court judges.

I commend Senator Nozzolio for bringing the bill to the floor. It's the right thing to do.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1538, by Senator Balboni.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1538, by Senator Balboni.

THE SECRETARY: Calendar Number 1538, by Senator Balboni, Senate Print 4015,

an act to amend the General Business Law and the Penal Law, in relation to operating an aircraft while intoxicated.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT McGEE: Senator Balboni, an explanation has been requested.

SENATOR BALBONI: This legislation before us would create a new crime, actually, of flying while intoxicated.

Now, strange as that sounds, believe it or not, we have not been able to find -- certainly there is no state statute, and we've not been able to find any federal statutes that specifically prohibit flying while intoxicated or under the influence of drugs.

So this bill essentially would take the law as it relates to DWI in the operation of a motor vehicle and apply it to flying aircraft.

And of course, as we all know, the -- it is absolutely amazing to think that given the physics involved -- of course you can all relate back to your high school

physics class that talked about velocity versus mass equalling energy. And of course velocity is at the -- is times two, so it's much more important in the equation than mass. And therefore when you have a plane that goes very fast through the air, it's much more dangerous, obviously, than a vehicle of a similar weight.

And what does that have to do with this bill? Nothing.

(Laughter.)

SENATOR BALBONI: Other than the fact that this is a serious loophole. And let me just -- I mean, it's amazing to think that people would actually try to fly while intoxicated.

But let me -- first of all, everybody in the chamber should realize how popular flying has become over the last decade. And a testament to that is if you take a look at any New York aviation sites, you can see the number of small airports throughout the state.

Well, Aviation News, December 1999, in Sarasota, Florida, a visibly intoxicated

pilot was overheard arguing with two friends who tried unsuccessfully to talk him out of flying his light twin back home to Naples at 3:15 in the morning on December 12th. Miami Center at Fort Myers approach were quoted as saying that the pilot was incoherent during the 45-minute flight.

Luckily, the pilot nevertheless landed safely, but was immediately escorted to the county jail by sheriff's deputies -- this is in Florida. Authorities said the pilot's blood alcohol level was nearly triple of what would get him arrested for driving on the roads.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield to a couple of questions?

ACTING PRESIDENT McGEE: Senator Balboni, will you yield?

SENATOR BALBONI: Yes, I do.

SENATOR DOLLINGER: Senator, do you have any evidence that this has ever happened in New York State?

SENATOR BALBONI: Yes, we do.

SENATOR DOLLINGER: Could you provide me with that? Through you, Madam President, if he'll yield to a second question.

SENATOR BALBONI: While there have been no recent front-page incidents with regard to flying while intoxicated, the potential for a midair collision or other tragedy remains.

In May of last year, a 21-year-old intoxicated pilot buzzed a tower in Miami International Airport. The month before that, the pilot took off from Mattituck, New York, and landed on a highway in Maryland which he mistook for a nearby airport.

SENATOR DOLLINGER: Through you, Madam President, if Senator Balboni will continue to yield.

ACTING PRESIDENT McGEE: Senator Balboni, will you continue to yield?

SENATOR BALBONI: I do, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Through you, Madam President, do you have any proof that he actually was intoxicated in New York? I mean, he took off from Mattituck and he lands in Maryland. But was he actually drinking in New York, or was he in someone else's airspace?

SENATOR BALBONI: I do not know the answer to that.

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

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

SENATOR BALBONI: Yes, I do, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: Doesn't the Federal Aviation Administration have an elaborate penalty system for those who are engaged in dangerous practices in flight? And isn't this completely preempted by federal law?

SENATOR BALBONI: Counsel informs

me -- and we've done extensive research on this -- that in fact the only mechanism that is currently in federal law is the revocation of a license, not a criminal penalty, believe it or not.

SENATOR DOLLINGER: So through you, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT McGEE: Senator Balboni -

SENATOR BALBONI: I yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: If that's the case, isn't the whole field preempted under federal law, under the preemption doctrine, that this is a federal area in which the federal system of control regulates it and any attempt by the state would be considered inappropriate under the supremacy clause?

SENATOR BALBONI: As I'm sure that you're familiar, the federal regulatory scheme covers licensing.

As far as safety goes, that is within the bailiwick of the state law.

SENATOR DOLLINGER: Through you, Madam President, just one other point of clarification, if Senator Balboni will continue to yield.

ACTING PRESIDENT McGEE: Senator Balboni, one more point of clarification.

SENATOR BALBONI: Yes, Madam President, I yield.

SENATOR DOLLINGER: But, Senator Balboni, you say that we can do this as part of our safety powers over flight. But isn't it a fact that the FAA has -- all the safety regulations for small planes, for airports, are all dictated by the Federal Aviation Administration?

SENATOR BALBONI: That is not true. Existing state law does in fact cover the operation of state airports.

And in fact, your concern might be as to interstate flights. But I assure you that from Point A to Point B within the state, it's solely within our jurisdiction.

And you could have multiple jurisdictional enforcement of a criminal statute should it go from one state to the

next.

SENATOR DOLLINGER: Through you, Madam President, just briefly on the bill.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Senator Balboni always is on the cutting edge, whether it's -- in this case it looks like he's on the wing of a new flight, as we try to rein in those who may be consuming alcohol while flying airplanes in the state.

At least my understanding -- and I appreciate his response to the questions. But at least my understanding is this is virtually controlled soup-to-nuts by the Federal Aviation Administration. And I would think that imposing a criminal penalty on things that occur in flight is probably exclusively under the federal jurisdiction, and we may not have the power to do it.

However, I'm not going to vote against this bill. I think it sends a message that nobody should be flying an airplane while under the influence of any stimulant, be it drugs or alcohol. It just seems to me that

makes good sense.

But my guess is that when all of this comes through the final end product, Senator Balboni's bill will be exactly that, it will be a message. It may not be effective, because this seems to me to be an area exclusively within the province of the federal government. And that's where all of the restrictions on pilots and licensing and penalties and inappropriate conduct in the air should come forth.

This bill is obviously taking wing in New York, but I think it will eventually be grounded in a hail of federal law, Madam President.

(Laughter.)

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Senator Stavisky.

SENATOR STAVISKY: I just have one quick question for the sponsor.

ACTING PRESIDENT McGEE: Senator Balboni, will you yield for one quick question?

SENATOR BALBONI: Yes.

SENATOR STAVISKY: Does this apply to all classifications of pilot's licenses?

SENATOR BALBONI: Yes. Well, I'm sorry, it applies to every pilot, not necessarily -- if they operate a plane and they're intoxicated, they would then come under the restrictions of this law.

And just to respond, it's hard to prove a negative, Senator Dollinger, but there is no federal statute that provides for a criminal penalty of flying while intoxicated. There is none. There are federal regulations that talk about the revocation of a license, but there are no federal statutes.

And even if there were, we would still not be precluded from passing a criminal statute, because what if the federal prosecutor sought not to prosecute? We have that all the time, where there's a federal statute and there's a state statute and it covers the same conduct.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1543, substituted earlier today by Member of the Assembly Smith, Assembly Print Number 10597, an act to amend the Criminal Procedure Law, in relation to designating.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT McGEE: Senator Volker, an explanation has been requested by Senator Dollinger.

SENATOR VOLKER: Madam President, this is a group of people, by the way, who I used to have quite a few dealings with. This is the fire investigation unit of the Buffalo Fire Department.

I'm not sure how many there are now, but there never was very many of these people. As somebody who was nearly killed in an arson fire myself, and who worked pretty closely with the fire investigators of the Buffalo Fire Department, we had a lot of arsons years ago that was worse.

But what's happening today, and one of the reasons they want this, has to do with the fact that with fewer police officers around, frankly, with the security situation we have, many of these people are at fire scenes with no police. Because -- and especially in some pretty tough areas of the city of Buffalo.

What they're saying is -- and it really isn't as much a matter of firearms, it's a matter of having more authority. And they've become very nervous because they have no more authority than a private individual. And being a peace officer does give them at least the color of authority, additional authority in the event that something occurs while they're investigating a fire.

ACTING PRESIDENT McGEE: Senator

Dollinger.

SENATOR DOLLINGER: Would Senator Volker yield to a question, Madam President?

ACTING PRESIDENT McGEE: Senator Volker, will you yield?

SENATOR VOLKER: Sure.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: The peace officer status allows certain powers, including one I believe is to carry a firearm in certain circumstances.

Is there anything about this particular arson unit in the Buffalo Fire Department that would require them or that would necessitate the wearing of a weapon at the scene of a fire?

SENATOR VOLKER: Yeah, the answer is yes.

But let's put this in perspective. This does not allow the use of firearms. These peace officer bills, all they do is mean that you can short-circuit the licensing process for a, you know -

SENATOR DOLLINGER: Okay.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: But through you, Madam President, if he'd yield to the question of do they need them.

And they get to short-circuit the process of getting a weapon, making it easier. But do they need them at the scene? Is there evidence, in your judgment, that they do?

SENATOR VOLKER: Well, I must be honest with you, I know a couple of fire investigators that were shot at.

And you must remember one thing. As I say, one of the interesting issues here is that as there are fewer police officers in most of our major cities -- and that's particularly true in Buffalo, where we're just having layoffs -- what normally happens is in an arson fire or even in a warehouse fire or whatever it is, in a bad neighborhood, the police are usually hanging around there.

Well, the problem is that the police now, because they're so busy and there's fewer of them, they're not able to hang around as much. So that a person who is

doing a fire investigation may well be there for a day or two afterwards, where there's no law enforcement people anywhere in the area. And frankly, they feel somewhat uncomfortable. There have been assaults on fire investigators.

And needless to say, there is one other issue, and that is the issue that some of these fires are clearly mob fires, shall we say, or fires that were ordered by someone or -- fiscal fires, is what I call them. We used to have a name for them which I won't use here. But they're clearly fires that didn't happen automatically.

And the only reason -- and they've been suggesting this would be a good idea. It's really not the firearms, by the way, that they want this for, I happen to know. Because some of them do carry weapons now, they have their pistol licenses and so forth. It's really more a matter of authority and the ability, for instance, to make an arrest if someone does come after them or something.

SENATOR DOLLINGER: Through you, Madam President, just briefly on the bill.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I've voted yes, I've voted no on a proliferation of police officers.

I do have a dream, though, Madam President. I have a dream that the proliferation of peace officers coming down from the north part of the state will run into the contagion of partial property tax exemptions coming from the southern part of the state, and there will be this little legislative war between the two.

And the resolution will be, Senator Volker, that peace officers will be able to give partial property tax exemptions. We'll solve both problems at the same time.

I'll vote aye, Madam President.

SENATOR VOLKER: Madam President.

ACTING PRESIDENT McGEE: Senator Volker.

SENATOR VOLKER: I just want to say that I'll guarantee you that my peace officers will have a better chance at getting real property exemptions than people without

peace officer status.

(Laughter.)

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, please go to Supplemental Calendar 55B, noncontroversial.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1558, Senator Skelos moves to discharge, from the Committee on Health, Assembly Bill Number 219B and substitute it for the identical Senate Bill Number 4946A, Third Reading Calendar 1558.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1558, by Member of the Assembly Kaufman, Assembly Print Number 219B, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1560, by Senator Gentile, Senate Print 5418A, an act authorizing the City of New York.

ACTING PRESIDENT McGEE: 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 McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1561, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number -

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT McGEE: Lay the bill aside.

THE SECRETARY: Calendar Number 1563, by Senator Farley, Senate Print 7470, an act to amend the Social Services Law and the Public Health Law, in relation to the provision.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1564, Senator Volker moves to discharge, from the Committee on Rules, Assembly Print Number 11521 and substitute it for the identical Senate Print Number 7487, Third Reading Calendar 1564.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1564, by the Assembly Committee on Rules, Assembly Print Number 11521, an act to amend the Correction Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1566, by Senator Bonacic, Senate Print 7654, an act to amend the Tax Law, in relation to certain tax rates.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1567, by Senator Hannon, Senate Print 7682, an act to authorize the Village of Garden City, in the County of Nassau.

ACTING PRESIDENT McGEE: 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 McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1568, by Senator Kuhl, Senate Print 7690, an act to amend the Education Law, in relation to prohibiting.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: Lay the bill aside.

THE SECRETARY: Calendar Number 1569, by Senator Larkin, Senate Print 7691, an act to amend Chapter 444 of the Laws of 1997.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays,

2. Senators Duane and Stachowski recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1570, by Senator Spano, Senate Print -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1571, by Senator Stafford, Senate Print 7713, an act to amend the Executive Law, in relation to including.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1572, by Senator Johnson, Senate Print 7715, an act to amend the General Business Law, in relation -

SENATOR MONTGOMERY: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1573, by Senator LaValle, Senate Print 7726, an act to amend the Education Law and the Social Services Law, in relation to the regulation of the practices.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2002.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1574, by Senator LaValle, Senate Print 7727, an act to amend the Education Law, in relation to defining the practice of psychology.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 19. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1575, by Senator Johnson, Senate Print 7737, an act to amend the Vehicle and Traffic Law, in relation to seizure and forfeiture.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1576, by the Senate Committee on Rules, Senate Print Number 7746, an act in relation to temporarily allowing providing medication.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

Senator Skelos, that completes the noncontroversial reading of Supplemental Calendar B.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 1568, by Senator Kuhl.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1568.

THE SECRETARY: Calendar Number 1568, by Senator Kuhl, Senate Print 7690, an act to amend the Education Law, in relation to prohibiting bullying on school property.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT McGEE: Senator Kuhl, an explanation has been requested.

SENATOR KUHL: Thank you, Madam President.

Just to remind the members, last year we passed a bill that's called the SAVE legislation, which was a major piece of legislation dealing with providing safety for our students in our schools. And it was a result of a variety of hearings and input from school districts and all the people who were involved in that particular aspect of providing education to our students.

One of the components of that piece of legislation provided for a standard of conduct to be adopted by each school district in this state. And there are over 800 of them, a variety of different types of districts in this state.

What we have done in this particular proposal is to address the issue that has come to our attention of, quote, unquote, bullying. This particular bill defines what is bullying and it defines how that is to be dealt with at the school level.

And it deals with it just like violations of the code of conduct that is developed by each school district across this state.

In addition to that, one of the things that we have been hearing from schoolteachers and superintendents and principals is the manner in which the administration and, more importantly, schoolteachers are dealt with by not only students but people, parents, in a variety of different settings.

So what we have done is develop a new crime, that being aggravated harassment of teachers or other school personnel, and made that a Class A misdemeanor. So that if a parent gets physically abusive at a parent-teacher meeting with a teacher, that is now, under this statute, a violation of the criminal sanctions for which that person can be sent to jail for up to a year.

So there are two components to this piece of legislation. One is dealing with the issue of bullying, and that's defined in the language here, and also the mistreatment of not only teachers but school personnel.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like to just ask Senator Kuhl one question.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MONTGOMERY: Senator Kuhl, your legislation, it refers to children in the school or just only to adults?

SENATOR KUHL: No, it deals - the bullying issue deals with children in the school.

SENATOR MONTGOMERY: In the school, thank you.

SENATOR KUHL: And it's only public schools, Senator.

SENATOR MONTGOMERY: Only public schools.

SENATOR KUHL: Only public schools.

SENATOR MONTGOMERY: It doesn't

cover the private schools?

SENATOR KUHL: No.

SENATOR MONTGOMERY: And would you give me again the -- what is the penalty? You said a Class A misdemeanor?

SENATOR KUHL: No, no, no, no. No, no. You misunderstood me.

There are two components to this bill. One deals with bullying, okay, and that is dealt with the same way that some sort of misappropriate conduct would be dealt with. And that is set up in the system of each individual school district.

But there also is a crime that is created by adopting this statute dealing with aggravated harassment of school personnel, which includes teachers. That is a Class A misdemeanor for which a person can be sentenced to a year in jail.

SENATOR MONTGOMERY: Thank you, Senator.

Madam President, just briefly on the bill.

ACTING PRESIDENT McGEE: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes, thank you. I would like to remind my colleagues that we have already passed legislation which is euphemistically referred to as the School Safety Act, which includes and covers what I believe Senator Kuhl's issue is in that legislation, and in fact establishes the - moves the crime of harassment or any other kind of attack on a -- assault by a student or an adult on school grounds at school as, I think, a D felony.

So we have changed that from a misdemeanor to a felony. So we already have in statute an opportunity to in fact arrest or have arrested or cause to be arrested and charged with a violent felony a student or a parent or any other adult in the school.

So I'm not sure why this is necessary and what further protection the teachers need, since we already have this in law. So I'll be voting no on this legislation.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Senator Duane.

SENATOR DUANE: Thank you, Madam President. On the bill.

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: I commend Senator Kuhl for putting this bill on the table. As many of you know, I've introduced a bill called the Dignity for All Students Act, which -- of which this bill, the Schools of Safe Harbor Act, contains some of the elements.

The problem of harassment in schools is a very, very important one for us to address. Girls in school reported a very, very high level of being sexually harassed at school. Nearly half of all students are the victim of biased comments or offensive racial comments. Anti-Arab and anti-Muslim bias incidents and harassment is on the rise.

And of course there is the problem of the enormous number of homophobic incidents and remarks in schools. Just interestingly, a large number of those comments are not directed at students who identify as gay, but rather towards students who are perceived to

be gay. So in fact this kind of legislation protects all students from harassment and bias.

The bill doesn't include the problem of harassment by teachers towards students, which unfortunately is a problem in school. In fact, about a third of all harassing comments reported in schools towards students come from teachers and not from other students.

I think that it's terrific that this bill recognizes the category of sexual orientation. I think it would be better if it also included gender identity and expression as well as race, religion, gender, sexual orientation, and disability.

I think that there should be teacher training involved in the bill. I think that the Department of Education should be required to put forward a plan to help implement safety in schools which includes protected categories.

And what I would look forward to - because the Assembly has passed a version of the bill that's the same as my version of the

bill, the Dignity for All Students Act. But I would look forward to working with Senator Kuhl on crafting legislation which meets the needs and intention of both houses.

I agree with Senator Montgomery, the bill that I've introduced, the Dignity for All Students Act, does not include any criminal element. Senator Kuhl's bill does create the crime or put in law the crime of aggravated harassment of teachers, school personnel, and school board members, and makes it a Class A misdemeanor.

I think that if we need that, it doesn't belong in this bill. I think that this bill should be a preventive measure. In fact, that is what the Dignity for All Students bill seeks to do, is to prevent problems in schools for teachers and other school personnel, as well as students, before it begins.

I'm going to vote no on this, basically in solidarity with the legislation that I've introduced. But I am, as I say, very hopeful that Senator Kuhl and I and other members in the Senate can work together, along

with members of the Assembly, to find a bill that will be agreeable to all of us and which does provide for the safest possible schools in the state.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will Senator Kuhl yield to a couple of technical questions?

ACTING PRESIDENT McGEE: Senator Kuhl, will you yield for some questions?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Senator, I'm looking at -- this is one of the dangers of lawyers reading these bills. I'm looking at the definition of bullying.

The conduct that is prohibited under this bill as bullying, isn't all that a form of harassment? I mean, aren't -- with the exception of sort of the conditions, and it talks about slurs. I don't know that that's in the state harassment statute.

But certainly the physically striking, engaging in physical conduct that threatens another with harm, this is all part of our harassment statute, is it not?

SENATOR KUHL: Well, Senator, when you and I were growing up in school, I never had anybody, a fellow student, say to me "You're a big harasser." They said "You're a big bully." So what we've tried to do was to take that contemporary language and actually define it as best we can.

And we know that because we had this experience growing up in public school. You've seen friends who were bullied. You've probably been bullied yourself. You may even have been the bullier, because you look like you were -

SENATOR DOLLINGER: I was bullied more often.

SENATOR KUHL: -- you look like you were a fairly substantial, hardy young man during those school years, so you might have been on that side of it. I'm not accusing you of anything, but I'm just saying -

You know, so what we tried to do

was to use that contemporary language and actually define it. And I think we've done a pretty good job of covering all the types of instances that occur in the public high schools today as best we could.

SENATOR DOLLINGER: Secondly, the disciplinary actions that a school district can engage in, are those the same types of five-day suspensions without a hearing and then an additional five days with a superintendent's hearing?

SENATOR KUHL: Yes.

SENATOR DOLLINGER: There's no - that's the section that's referenced there? I know it references specific portions of the Education Law. I just wondered, is that the system we're tying this discipline into?

SENATOR KUHL: The answer is yes. We haven't deviated from those -- all those opportunities of disciplining a child in any way with regard to this particular type of antifriendly conduct.

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

ACTING PRESIDENT McGEE: Senator Kuhl, will you continue to yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: Is there any requirement in this bill that if the school district concludes that the conduct was a crime that they would have an obligation to report it to the police?

SENATOR KUHL: No.

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

ACTING PRESIDENT McGEE: Senator Kuhl, will you continue to yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Do you think that would be appropriate under the system that we're designing here? That if they concluded that the bullying was more than what you and I might consider bullying but it rose to the level of actually being a crime, that

they would have an obligation to actually report it for purposes of criminal prosecution?

SENATOR KUHL: We really didn't attempt to address that issue, Senator. What we tried to deal with was the issue of bullying. That's been identified for the last couple of years as being really antisocial behavior. And so what we tried to do was build that into the code of conduct in a specific way that wasn't done in the SAVE legislation.

But I would expect, Senator, if some school official found in their determination that there was a crime, that they would forward it to the public authorities.

SENATOR DOLLINGER: Through you, Madam President, if the sponsor will yield to one other question.

ACTING PRESIDENT McGEE: Senator Kuhl, will you continue to yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: And you may have explained this earlier to Senator Montgomery. I was trying to pay attention, but I want to make sure I understand.

The bill excludes nonpublic schools.

SENATOR KUHL: Yes, that's correct.

SENATOR DOLLINGER: Why does it exclude nonpublic schools? They all have - according to my recollection, they're required by the SAVE legislation to have a code of conduct. They're required to have in place the same kinds of procedures for providing a safe school environment.

SENATOR KUHL: No, that's where you're mistaken, Senator.

This addresses and just couples with what we did in the SAVE legislation. Those nonpublic schools were not included in that legislation. So what we tried to do is just to carry our control over the public schools one step further dealing with one specific issue, and that is the bullying issue.

SENATOR DOLLINGER: Thank you, Madam President. I thank Senator Kuhl.

I'm going to vote in favor of this bill. I'm sympathetic to Senator Duane's comments with respect to the Student Dignity Act. I will vote for that bill if it someday comes to the floor. But I think this is a first step in dealing with a problem that unfortunately, I'm sure as Senator Kuhl knows, the bullying is clearly a problem.

The great danger in what we've experienced in our public schools throughout this nation is that unfortunately those who are bullied tend to come back to school armed with weapons to extract revenge on the bullier. And what we have is a cycle of violence that reaches its peak, as it did in Colorado when those who have been victimized by the bully come back prepared to take their revenge with, instead of slurs and epithets, with automatic weapons or dangerous weapons.

I think this is a good step in the right direction. As I said, I think when the bill that Senator Duane is working on comes to the floor, I will even more enthusiastically

embrace it. But as a first step, this goes in the right direction.

Thank you.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: I've just got one very, very quick question. Through you, Madam President. Why are the nonpublic schools -

ACTING PRESIDENT McGEE: Senator Kuhl, do you yield for Senator Stavisky?

SENATOR STAVISKY: One question.

ACTING PRESIDENT McGEE: For one question.

SENATOR KUHL: Yes.

SENATOR STAVISKY: Why are the nonpublic schools exempted?

SENATOR KUHL: Essentially because we didn't include them in the SAVE legislation.

ACTING PRESIDENT McGEE: Senator Kuhl cannot hear himself speak. Can we please have some quiet in the chamber.

Thank you.

SENATOR KUHL: Senator, we did

not include them in the legislation that we did last year. And that is primarily because they're not bound by any of these codes of conduct that we pass here. They're nonpublic schools.

SENATOR STAVISKY: Thank you.

ACTING PRESIDENT McGEE: Senator Hevesi.

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

ACTING PRESIDENT McGEE: On the bill.

SENATOR HEVESI: Madam President, I support this bill. As many of my colleagues, I believe that Senator Duane's bill will similarly go a long way to doing what we all really want to do here, which is protect children in New York State. And this bullying legislation is really the way to go.

The cases of explosive violence invariably are a consequence of this form of bullying. But what often goes unnoticed for so long are the cases where people suffer in silence as children and it permeates their lives and their personalities and does lasting

harm. So protecting children is the key.

But, Madam President, it's 3:00 o'clock on the last day of session. I suspect that we will only be here for another four or five hours. And if that's the case and we don't take legislative action on several other issues, we will be grossly negligent in protecting children in New York State.

And the issue that we need to take up, as urgently if not more urgently than Senator Kuhl's legislation to protect children, is this issue of clergy abuse and what we need to do to protect children.

Madam President, yesterday in the Daily News there was a story about a grand jury report that came out of Westchester County, and I have the report in my hand. And I'd like to reference it because it specifically calls on us, the New York State Legislature, to take specific legislative action. And we're not going to do it, I don't believe, Madam President, and it's a travesty.

So this grand jury in Westchester County met for three months, in April, May,

and June of this year, on 15 separate occasions, heard from scores of witnesses and victims of abuse, and reviewed thousands of pages of documents and came up with four legislative recommendations for us. And by the way, the abuse that they heard, this grand jury, occurred in our Senate districts.

Here are the recommendations. Number one, amending the New York Criminal Procedure Law to eliminate the statute of limitations where the victim of a sex offense is a minor.

Now, we did that in this house. Senator Skelos brought the bill to extend from age 23 to 33 the age that a victim can report abuse to be pursued criminally. This report recommends that the statute of limitations be eliminated completely. I don't know where the Assembly is on this. This is not a political, partisan issue. Where is the Assembly on this issue? I don't know.

The second recommendation that was made, amending the New York Social Services Law to require that clergy members or other employees or officials of a religious

institution must immediately report to law enforcement authorities any allegation of sexual abuse and/or misconduct toward a minor and provide felony sanctions for all mandated reporters who fail to do so.

Now, we took a stab at this one, Madam President. Senator Saland brought this bill earlier in the session. As I have said before, not a great bill. It didn't mandate that the reporting go to law enforcement, even though every allegation of sexual abuse towards a minor is by definition a crime. And I'm not sure whether it had felony-level penalties for failure to report.

But where is the negotiation? I know that the Assembly had a bill. Their bill I liked better. It was more strict. But where is the negotiation on this?

Number three, the grand jury reports that we should amend New York penal law to provide criminal penalties for any individual or organization that allows an employee with a known record of child sexual abuse or misconduct access to minors. We haven't done that.

In fact, according to a recent television report that I saw, there are five states where individuals are pursuing criminal charges against the Catholic Church using RICO statutes, a pattern of organized crime, for their failure and their willful intention of suppressing evidence and obstructing justice in these cases. We haven't done that.

And, finally, amending the New York Civil Practice Law and Rules to prohibit confidentiality agreements when settling claims of sexual abuse and misconduct involving minors. We haven't done that either.

These things are essential that we do. Much like Senator Kuhl's bill to protect children from bullying, if we don't do these things, you know what's going to happen, Madam President? I'm going to give you an example of what's going to happen.

If we don't mandate the reporting by the end of this session, here's what's going to happen. What's going to happen is exactly what has been happening, and here's what the grand jury said has been happening:

In none of the cases reviewed by the grand jury in which the religious institution received an allegation of child abuse or misconduct was the information reported to law enforcement. In none of the cases.

As a result, the prosecution of these offenses is barred by New York State's statute of limitations. Every victim and family member who testified stated that the religious institution never recommended that they report the abuse to law enforcement officials. And the evidence piled up not only how the church didn't compel the individuals or suggest the individuals report the crimes, but they took great action to prevent them from doing so.

Madam President, we are going to pass this bullying legislation today to protect children, but the Assembly is nowhere on the statute of limitations. It's a disgrace. And we are nowhere on a watered-down version of a clergy notification bill, of which the Assembly has a stronger version, and there's no negotiations because there's no conference committee.

And we don't have a piece of legislation which would criminalize the actions of the Catholic Church here in New York State which, documented, time and time again over the past 20 or 30 years have taken allegations of sexual abuse against children, those members of the clergy against whom the allegations were made, put them in rehab under the guise of having a problem with alcohol or substance abuse, and six months later put them in another facility, didn't tell the congregants of that facility that this individual had a history of complaints against them, and then that member of the clergy went and raped children.

That's disgusting and disgraceful. And there's nothing illegal about it under New York State law currently. How do we not pass that law?

And finally -- and this was a novel approach, I haven't heard this discussed very much -- prohibiting the confidentiality agreements in civil settlements. That's a good idea as far as children are concerned of abuse, because the Catholic Church in many

instances bought the silence of victims. And what that does, in addition to being an injustice to the victim itself, everybody else out there, who if exposed would be protected against these priests, these potential victims became actual victims.

Madam President, there are four solid things emanating from a grand jury report that was just released that will go so far, and they're so simplistic in their applications, so necessary, as documented through the media, through these reports, through evidence, and through our collective common sense, that if we don't take this action this session we have been grossly negligent in this chamber.

So I support Senator Kuhl. I support everybody else in here who's interested in protecting children. Let's do this already. And to the Assembly, move on statute of limitations. Let's go. This is not Democrat or Republican. This is protecting children.

So I support Senator Kuhl's legislation, Madam President, but urge the

leadership in this house and the leadership in the other house and the Governor to get together and act on this life-and-death issue. I'm not going to be silent as this session expires and we don't protect our kids. It's wrong.

I'll be supporting this bill, though.

ACTING PRESIDENT McGEE: Senator Saland.

SENATOR SALAND: Thank you, Madam President.

I'm not quite sure how germane the comments dealing with the clergy bill may have been to Senator Kuhl's bill. But inasmuch as they were raised, let me assure this chamber, and particularly Senator Hevesi, that there have been ongoing negotiations virtually daily for the better part of the past week. Those negotiations are going on even today. The Assembly is involved, the Governor is involved, and certainly the Senate is involved.

And whatever characterizations you may have heard, with regard either to the

process or what has occurred to this point, certainly do not reflect the reality of what has occurred, nor do they have any basis whatsoever in fact, nor is there any reason to interject, I believe, the comments regarding this very, very serious issue into Senator Kuhl's efforts to pass this legislation.

But I would like to certainly lay to rest this idea that certainly neither this house nor the other house is seeking to close and I would hope and reasonably expect that that will be accomplished before we leave here today.

ACTING PRESIDENT McGEE: Senator Kuhl.

SENATOR KUHL: I was looking to close debate.

ACTING PRESIDENT McGEE: Senator Hevesi, do you have another question?

SENATOR HEVESI: Yes, thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: Madam President, very briefly.

I had no desire to interject this discussion within the context of Senator Kuhl's bill, except that it is about protecting children. But there's no public process regarding this legislation. I have no say over the control of what legislation comes to the floor. There have been no hearings about this.

I am not privy, as I don't believe any of my colleagues are -- on this side of the aisle, at least -- to any conversations that may be happening in terms of a negotiation on this or any other issue between this house and the other house and the Governor.

And I therefore want to be vocal about this issue, Senator Saland, because I know you care about it and I care about it. But I think to suggest that it's untoward of me to bring this issue up in the context of a bill which does deal with protecting children is a bit unseemly in and of itself.

I will use every opportunity that I have to be vocal about issues that I can be vocal about when I think there's an injustice.

And with several hours left in session, I'm not going to relinquish that opportunity.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

Just in light of Senator Hevesi's comments, I do want to note that I'm in the process of drafting legislation which would prohibit that kind of confidentiality, both in the cases to which the Senator referred to before and also agreements which may be made between school boards or a school and what happened in terms of bullying or some other kind of harassment of students, so that a school district and a school would not be able to cover up that sort of incident and people would know about it, so there would be more tools available, again, to prevent it in the future.

And as I said, the legislation would also cover the other horrible incidents which Senator Hevesi has referred to. So I look forward to working with him on it both as a senator and as a private citizen.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Duane.

Senator Kuhl to close, please.

SENATOR KUHL: Yes, thank you, Madam President.

I certainly appreciate the support that is being generated from the other side of the aisle, particularly from Senator Dollinger and Senator Hevesi.

And I wanted to kind of remind Senator Montgomery, who seemed to have some concern that this was a bill that was duplicitous, that in the SAVE legislation last year that we adopted we did create a felony offense for assaulting a teacher. But there is nothing that specifically talks about harassing a teacher or a school board member or other school personnel specifically.

So what we did in this legislation was to talk about the crime of aggravated harassment of teachers, school personnel, and school board members when an individual intends to harass them or annoy them or alarm them. So it specifically addresses that issue

that occurs at parent-teacher conferences, at school board meetings, which are meant to really derail from the actual employment, if you will, for a very limited sum of zero dollars, that all of those school board members put forth their public service. So that is the specific type of situation that is specific to those members.

Now, this is meant to deal with the issue of bullying and also the issue of harassing school personnel or teachers. And we have done, I think, very, very succinctly, in defining what is bullying by saying it means threatening, stalking, or seeking to coerce or compel a person to do something, engaging in verbal or physical conduct that threatens another with harm, including intimidation through the use of epithets or slurs. That's the type of unacceptable conduct that we're attempting to deal with.

And I did not tell you and nobody asked whether or not this particular bill was supported by any of the people in that community. And it is. School boards are endorsing this proposal. And, more

importantly, the New York State United Teachers support this. And I wanted to read from their memo and statement of support, because I think it's a very concise statement of why we all should support this proposal.

They say: "Bullying in schools is widespread and has negative consequences for the entire school community and for the right of students to learn in a safe environment without fear. It is a serious problem that can dramatically affect the ability of students to progress academically and socially.

"This type of behavior must not be tolerated in our schools. Students need a safe environment in school in order to concentrate on academic progress and personal growth. They should never have to be preoccupied by the threat or the actual occurrence of verbal or physical bullying.

"Victims of bullying are more likely to skip school or drop out entirely. Moreover, they are more likely to engage in high-risk behavior, such as drug use, alcohol abuse, and even suicide. In some cases,

victims of bullies may even become aggressive toward others.

"The unhealthy school atmosphere created by such behavior is detrimental to all students. This bill, the Schools of Safe Harbor Act, will strengthen Project SAVE by adding provisions that prohibit acts of bullying and harassment of pupils and school personnel on school grounds. This is a significant step toward meeting our commitment to ensure our public schools are safe havens for the entire school community."

And they say "The New York State United Teachers strongly urges the enactment of this bill."

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: I was just going to explain my vote.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. Just briefly. Hopefully I can stay within the two minutes. I know that I have to.

I am going to continue to oppose this legislation. And I fully understand Senator Kuhl's attempt. I certainly don't blame him for trying to address the issue of bullying and other kinds of harassment.

I think, however, that this is a very sad statement for us to be in -- allowing ourselves to be put in a position that we attempt to regulate every single behavior on the part of young people by threatening to punish them with imprisonment.

And this bill also includes parents. And it says very clearly in the legislation that anyone who acts with intent to harass, annoy, or alarm. So if I have a teacher conference with my child's teacher and

I annoy her or him because they don't like the questions that I ask or that I become upset and I alarm them -- because I do talk loud, everybody knows that, and I tend to be very excited -- I can be arrested and charged with a misdemeanor and I could spend a year in jail because I became upset with my child's teacher in school or the principal or some other person.

And we are putting children in harm's way with this legislation. Let's not deceive ourselves. All of this behavior that is referred to as bullying, some of it is simply aggressive boy behavior. Every one of us have called our friends names. We have called them all kinds of names. We still do call each other names. I call people names all the time. Am I bullying them? Am I dangerous to them? Does it require that I be arrested for that?

So I think this is just going a little bit too far, and I am going to continue to vote no. Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 56. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

Senator Gentile, I'm sorry.

SENATOR GENTILE: Yes, Madam President. If I might, I'd ask for unanimous consent to be recorded in the negative on Supplemental Calendar 55B, Calendar Number 1566.

ACTING PRESIDENT McGEE: Without objection.

Senator Skelos.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to Supplemental Active List Number 1 and take up Calendar Number 1470, by Senator Balboni.

ACTING PRESIDENT McGEE: Supplemental Calendar Number 1, Number 1470.

The Secretary will read.

THE SECRETARY: Calendar Number 1470, by Senator Balboni, Senate Print 7518A, an act to amend the General Municipal Law and Chapter 272 of the Laws of 1939.

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

Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, please call up Calendar Number 1471, by Senator Fuschillo.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Not to interrupt, I just wonder if I could vote no on a particular bill, 1533.

ACTING PRESIDENT McGEE: Without objection.

Senator Maltese.

SENATOR MALTESE: Madam President, I request unanimous consent to vote in the negative on 1533.

ACTING PRESIDENT McGEE: Without objection.

The Secretary will read.

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

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Please call up

Calendar 1472.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1472, by Senator Skelos, Senate Print 7636A, an act to amend the Public Authorities Law, in relation to increasing.

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

Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Please call up Calendar Number 1473, by Senator Hannon.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1473, by Senator Hannon, Senate Print 7698, an

act to amend the Real Property Tax Law and the Nassau County Administrative Code.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

Senator Skelos.

SENATOR SKELOS: Please recognize Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. If the sponsor would just yield to one question about -- I know this clears up an historic problem with property tax exemptions and property assessments in Nassau County.

Does this in any way affect the problems that have occurred with respect to partial property tax exemptions?

SENATOR HANNON: Senator, what we are trying to do here is allow the assessment review commission sufficient time, and more than sufficient time than is ordinarily the case in any of the other assessing jurisdictions in the state, to go through the assessment rolls, determine if there are any grievances that can be settled, and to restore

an equity to those assessments.

What we have done is change a number of dates along the way, so that those reforms are far-reaching. And in fact, that is why there is a sunset in here after a decade for that. So we would go back to the historic procedures.

It was thought, first of all, there was not a great deal of chance to go into the exemption process, but it was also thought that to take other changes would be far too much. We need to go to the essential goal. I know that it has been a concern of yours, and frankly it's one that I share with you, of a goal that I'd like to get to.

But the major, overarching goal was to take this system as it currently exists, which is a drain on taxpayer resources in the county, reform that so we can go further in the future. So the short answer, directly, is no, we were not able to do that in this piece of legislation.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Through you,

Madam President, just briefly.

I accept Senator Hannon's explanation. I think this is -- I'm not from Nassau County, but I'm familiar with its assessing practices. Anything that gets to the goal of reforming those, improving that very difficult issue, since it involves the real property tax base and who is going to pay what and how they're going to pay their fair share -- if this process gets us closer to doing that in Nassau County, I'm all for it.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 1577, by Senator Hannon.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1577.

I'm sorry. Senator DeFrancisco.

SENATOR DeFRANCISCO: I had just gotten up in order to request unanimous consent to be recorded in the negative on 1533.

ACTING PRESIDENT McGEE: Without objection.

The Secretary will read.

THE SECRETARY: Calendar Number 1577, by Senator Hannon, Senate Print 7774, an act to amend the Real Property Tax Law and the Nassau County Administrative Code.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

Senator Skelos.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2002.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, to explain my vote.

Today the New York State Assembly and Senate are approving a four-part legislative package designed to facilitate Nassau County's fiscal recovery. I'm very proud that Nassau County's representatives in the State Legislature possess a long record of

partnering across party lines in service of our shared constituency.

Together we have diligently sought to address the county's ongoing fiscal situation and ensure the continuation of vital services for local residents. As such, these new laws will empower the county to take such actions deemed necessary to restore its fiscal health while including crucial protections for taxpayers.

Following the conclusion of the state legislative session, we will continue to analyze other proposals and work to develop a comprehensive solution that addresses the county's needs and remains responsive to the express concerns of the ratepayers and Nassau County residents.

And I'd also like to thank Tracy Lloyd, in my office, who has worked diligently and hard for many, many weeks and months to see that this legislation has come to the floor for a vote today.

And I believe the Assembly will be passing the bills later today and we will have, hopefully, the Governor's signature

shortly thereafter.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I ask unanimous consent to be recorded in the negative on Calendar Number 1533, Senate Bill 475A.

ACTING PRESIDENT McGEE: Without objection.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: If we could go to Supplemental Calendar 55B and take up Calendar Number 1576. It's a Rules bill that Senator LaValle will be responding to if there are any questions.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1576.

THE SECRETARY: Calendar Number

1576, by the Senate Committee on Rules, Senate Print Number 7746, an act in relation to temporarily allowing.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT McGEE: Senator LaValle, an explanation has been requested by Senator Dollinger.

SENATOR LAVALLE: Senator Dollinger, the best way I can explain this bill is it is a work-in-progress bill. And what we're doing statutorily is allowing some procedures to move forward in the Office of Children and Family Services' daycare centers dealing with medications and the standards and the procedures that that medication will be administered.

If you will notice, in the bill it has a legislative findings and intent. And you can just read through that, and it will tell you that the Legislature intends that existing practice be clarified to enable the providing of medication and treatment to

children in such settings in a safe, practical, appropriate and lawful manner.

At the same time, what we are saying here -- this bill sunsets in June of 2003, and at the same time indicates that the regulations to establishing such standards are to be in place by April 1, 2003.

What we want to do with the standards for medication and who administers that medication is to ensure that wherever practical, those individuals who are licensed would be administering the medications.

And also, as you see when you read the legislative findings, it talks about recordkeeping and other kinds of procedures that we feel need to be bolstered and increased. But at the same time, we need for things to move forward. And I think the -- as you're reading, you can see the findings talk about that, that we need things to move forward. But at the same time, by April 1, 2003, we need new standards to be in place.

You will also note, as you're reading, that we intend the Office of Children and Families will be bringing in licensed

professionals, parents, daycare providers, et cetera, to make sure that, as stakeholders, that they have the input into actually developing these standards.

I have now talked long enough for you to have read that, and hopefully I brought you through your readings in an accurate and complete manner.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, if Senator LaValle will yield for a question.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: The major reason why I laid this bill aside, Senator LaValle, was because it did have that work-in-progress feel to it.

And my question deals with, was Title VIII of the Education Law construed by a court or by some regulatory agency to prohibit the providing of medications to children under the rules?

SENATOR LAVALLE: Yes, under the -- the answer is yes, under the Nurse Practice Act, by the State Education Department that, as you know, licenses nursing and has a Board of Nursing. So yes, it was the State Education Department.

SENATOR DOLLINGER: So through you, Madam President, if Senator LaValle will continue to yield for a question.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: So in essence what we're saying is even though the Department of Education has concluded that we may have intended some restrictions, we actually didn't intend those restrictions and we want to give them the broad authority to allow medications to be dispensed by a variety of healthcare practitioners, including nurse practitioners?

SENATOR LAVALLE: Well, I think we want to look at the whole field to make sure, as the findings talk about, that we want to make sure that those who may be doing so

outside of the licensed profession are individuals who are doing it in a safe manner.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, I appreciate Senator LaValle, who always can bring a work in progress and give it definition on the floor of the Senate.

I'm going to vote in favor of this bill. I'm still not quite sure I fully understand it, but at least as I see it, it says we've started to do something that we want to continue -- even though someone somewhere has said maybe we didn't intend to have that happen, we would like to continue to have it happen because it reaches that laudable goal that's articulated in the legislative findings about making sure that kids that go to daycare get proper medications.

So I think this is a classic example, Madam President, of at times we send a message to our agencies about what we want to have happen; they get the message garbled, either because it's inconsistent with

something we've done previously or there is other legislation at the state or federal level that may confuse them; they come out with a ruling that says to us, wait a second, that's not what we intended.

I have no problem doing what Senator LaValle suggests, which is going back to them and saying: This is what we really want you to do, we'll be absolutely clear, at least in the short term. Do a study, figure out what the right thing to do is, but don't stop a practice that we think benefits kids in daycare.

Under those circumstances, I vote yes.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, on Supplemental Calendar 55A would you please call up Calendar Number 1535.

ACTING PRESIDENT McGEE: The Secretary will read, on Supplemental Calendar 55A, Calendar Number 1535.

THE SECRETARY: Calendar Number 1535, by Senator Leibell, Senate Print 3248A, an act to amend the Education Law, in relation to adjusting.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1548, by Senator Morahan.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1548, by Senator Morahan, Senate Print 7354C, an act in relation to authorizing the builder of a wastewater treatment plant.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT McGEE: All those in favor of accepting the message of

necessity will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if you would recognize Senator Wright for several motions.

ACTING PRESIDENT McGEE: Motions and resolutions.

Senator Wright.

SENATOR WRIGHT: Madam President, on behalf of Senator LaValle, on page number

I offer the following amendments to Calendar Number 553, Assembly Print Number 6942D, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR WRIGHT: On behalf of Senator Skelos, I wish to call up Print Number 75, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 46, by Senator Skelos, Senate Print 75, an act to amend the Navigation Law.

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

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

SENATOR WRIGHT: Madam President,

I now offer the following amendments.

ACTING PRESIDENT McGEE: The amendments are received and adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are a number of substitutions at the desk, if we could make them at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: On page 13, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 10196 and substitute it for the identical Senate Print Number 2362A, Third Reading Calendar 348.

On page 25, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 11094 and substitute it for the identical Senate Bill Number 5672, Third Reading Calendar 731.

On page 37, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 8330A and substitute it for the identical Senate Print Number 5302A,

Third Reading Calendar 968.

On page 38, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 11085B and substitute it for the identical Senate Print Number 7144B, Third Reading Calendar 983.

On page 39, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 6167 and substitute it for the identical Senate Print Number 2404, Third Reading Calendar 999.

On page 40, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 6790 and substitute it for the identical Senate Print Number 1244, Third Reading Calendar 1009.

On page 44, Senator Velella moves to discharge, from the Committee on Rules, Assembly Print Number 10203 and substitute it for the identical Senate Print Number 2176A, Third Reading Calendar 1122.

On page 47, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Print Number 9640 and substitute it for the identical Senate Print Number 6762,

Third Reading Calendar 1156.

And on page 49, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Print Number 11618A and substitute it for the identical Senate Print Number 7158A, Third Reading Calendar 1252.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please go to Supplemental Active List Number 1, noncontroversial.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 30, by Senator McGee, Senate Print 4339, an act to amend the Real Property Tax Law, in relation to increasing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

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

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Balboni, to explain his vote.

SENATOR BALBONI: The significance of this bill that's going to pass right now, if the Governor signs this bill this will be the only bill, the only bill this session that becomes a part of the terrorism package. This is it. Nothing else. But at least we'll get one.

And at this time I'd like to thank

Senator Dean Skelos for all the work that he's done with me on this issue.

Thank you, Madam President. I vote yes.

SENATOR PATERSON: Madam President, I'm sorry. We're on the bill, aren't we, Madam President?

SENATOR BALBONI: We're on the roll call.

SENATOR PATERSON: We're on the roll call?

ACTING PRESIDENT McGEE: We're explaining our vote, Senator Paterson.

SENATOR PATERSON: Well, Madam President, certainly I vote yes as well. I mean, if Senator Skelos and Senator Balboni went to all that work, I'm certainly in support of it.

But it was interesting that the City of New York did give us a memo, so did NYCOM. They didn't think it was necessary. I was going to ask Senator Balboni why they felt that way, because I didn't understand why that would be the case. But I didn't realize we were on a roll call.

I vote aye, Madam President.

ACTING PRESIDENT McGEE: Thank you.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 659, by Member of the Assembly Magee, Assembly Print Number 3948D, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 120th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 744, by Senator Morahan, Senate Print 4737B, an act to amend the Military Law, in relation to public employees.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 789, by Senator Volker, Senate Print 5374, an act to amend the Court of Claims -

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 832, by Senator Libous, Senate Print 7284, an act to amend the County Law, in relation to the assigned counsel.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 943, by Senator Seward, Senate Print 6701A, an act to amend the Insurance Law, in relation to the producer.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 53. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 983, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11085B, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the

last section.

SENATOR DOLLINGER: Lay it aside please, Madam President.

ACTING PRESIDENT McGEE: Lay the bill aside.

THE SECRETARY: Calendar Number 1013, by Senator Leibell, Senate Print 5088, an act to amend the Town Law and the County Law, in relation to title.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3 -

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1122, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 10203, an act to amend the Administrative Code of the City of New York, in relation to allowing.

ACTING PRESIDENT McGEE: The bill is laid aside waiting for the home rule.

THE SECRETARY: Calendar Number

1143, by Senator Maltese, Senate Print 5852C, an act to amend the Administrative Code of the City of New York, in relation to increasing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1144, by Senator Maltese, Senate Print 6101B, an act to amend the Retirement and Social Security Law, in relation to deputy sheriffs.

ACTING PRESIDENT McGEE: 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 McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1350, by Senator Spano, Senate Print 7583, an act to amend the Education Law, in relation to a maintenance of effort.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 348, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 10196, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

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

Senator Skelos.

SENATOR SKELOS: Madam President, please call up Calendar Number 983, by Senator Farley.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 983, by Senator Farley.

THE SECRETARY: Calendar Number 983, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11085B, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Farley, an explanation has been requested.

Can we please have some quiet so that Senator Farley can explain the bill for Senator Paterson.

SENATOR FARLEY: Thank you.

This is a bill that I've worked on

for five years which has already passed the Assembly, unfortunately for me. It passed earlier here in this house, unanimously, earlier this year.

It's a bill that's really a forerunner to something that is supported by the physicians, by almost everyone, to allow volunteer physicians, particularly those that are retired, to establish a free clinic for uninsured inner-city residents.

This B version was a bill -- we passed it, over in the Assembly they made some modest amendments to it, didn't mean anything, really, and it's come back here. They have since passed the B version, I think unanimously.

And these free clinics will be staffed by volunteers, mostly retired doctors that have been successful in other states. This is a model I think that you're going to see adopted throughout the state.

It's been endorsed by the Medical Society. They're very interested. The New York State Catholic Conference of Volunteer Physicians, St. Clare's Hospital Family Health

Center, the Ellis Hospital in Schenectady, Sunnyview Hospital of Schenectady, the Family Health Services, the Hamilton Hill Forum, the Bethesda House -- that's a shelter that will house the volunteer project.

This program could be expanded to other parts of the state. I think -- it's a bill that I'm very proud of, even though I won't get the chapter. But I urge its passage.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: I am, Madam President, sorry that Senator Farley had to work on this for five years, because it's such a great idea I would think that it would illuminate anyone that heard about it.

I just have a question with respect to the rules and regulations that are waived in the bill and whether or not it would have any impact on public safety. In other words, we're not going to waive any opportunity of a victim to bring action in a court, are we?

SENATOR FARLEY: This requires that the volunteer program, Senator Paterson,

provide malpractice insurance coverage for the volunteers, that the program obtained local funds to pay for the malpractice insurance. And that was one of the problems before.

It directs the health commissioner to approve a program in Schenectady which will be run by a nonprofit entity. They have to report annually to the state health commissioner.

Senate Finance has determined that there are no significant costs to this proposal. I think it's really an all-plus situation.

SENATOR PATERSON: Madam President, it seems to me that as long as none of the rules or regulations would be waived that would affect the standard of care of any of the patients, then we all really owe not only our vote to Senator Farley, but our congratulations, because this is a tremendous program that will really benefit the uninsured.

SENATOR FARLEY: Thank you.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we take up Calendar 1350, please.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1350.

THE SECRETARY: Calendar Number 1350, by Senator Spano, Senate Print 7583, an act to amend the Education Law, in relation to a maintenance of effort.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Spano, an explanation has been requested by Senator Paterson.

SENATOR SPANO: Madam President, this bill extends the maintenance of effort provisions that were established in the law

for New York City to the other fiscally dependent school districts in the state, particularly meaning Yonkers, Buffalo, Rochester, and Syracuse.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, Senator Dollinger laid this aside. He is around here if we can just stand at ease for a moment.

ACTING PRESIDENT McGEE: Pardon me? I can't hear you, Senator Paterson.

SENATOR PATERSON: I really didn't want you to hear me, Madam President.

(Laughter.)

SENATOR PATERSON: Senator Dollinger is laid aside temporarily, Madam President.

ACTING PRESIDENT McGEE: Senator Spano.

SENATOR SPANO: Can you please lay my bill aside temporarily.

ACTING PRESIDENT McGEE: Your bill is laid aside temporarily. You're very gracious, Senator Spano.

Senator Paterson.

SENATOR PATERSON: I agree, Madam President. I wouldn't want the record not to reflect that about Senator Spano.

ACTING PRESIDENT McGEE: The record will reflect that. Thank you, Senator Paterson.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Can we please take up Calendar 1013, by Senator Leibell.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1013, by Senator Leibell.

THE SECRETARY: Calendar Number 1013, by Senator Leibell, Senate Print 5088, an act to amend the Town Law and the County Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Leibell, an explanation has been requested.

SENATOR LEIBELL: Yes, Madam President. This bill amends Section 291 of the Town Law and Section 222 of the County Law to provide for the improved maintenance and

care of publicly dedicated cemeteries. In doing such, it specifies that it would specifically upgrade local care and maintenance requirements and ease the administrative requirements for dedicating a cemetery to a locality.

SENATOR PATERSON: Madam President, if Senator Leibell would yield for a question.

ACTING PRESIDENT McGEE: Senator Leibell, will you yield for a question from Senator Paterson?

SENATOR LEIBELL: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, the thought is well placed. I just wanted to know if there's any great amount of funding that's involved in putting this into effect.

SENATOR LEIBELL: Counsel and I were just discussing this, and the obligation is already there for the municipalities. So this should not lead to any increased spending.

SENATOR PATERSON: Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Madam President, could we now call up Calendar 1350 again.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1350 again.

THE SECRETARY: Calendar Number 1350, by Senator Spano, Senate Print 7583, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Will the

sponsor yield to a question, Madam President?

ACTING PRESIDENT McGEE: Senator Spano, will you yield for a question?

SENATOR SPANO: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Senator Spano, as you know, the City of Rochester, one of the Big Five school districts, has an agreement with the school district under which they, by agreement, by contract, fund a certain amount of appropriation each year to the school district.

Could you tell me the effect of this bill on that contract between the city and the school district? Does this prohibit any change in that agreement?

SENATOR SPANO: I'm not sure of the specific provisions of the agreement that exist with Rochester. But as long as the minimum level of spending that is prescribed in the statute is addressed, it would not inhibit the ability of the Rochester School District or the municipality from reaching any

other agreement to go in addition to that.

What we want to do here is make sure that we have a very basic maintenance of effort provision that's in the law.

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

ACTING PRESIDENT McGEE: Senator Spano, will you continue to yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: In Rochester and Monroe County, Senator Spano, we have a complicated sales tax formula for distribution of sales tax which is actually allocated to the city and eventually finds its way to the school district.

How does this bill impact the sales-tax portion of contributions by the city to the school district?

SENATOR SPANO: The sales-tax portion would be excluded under the provisions of this bill. We have similar provisions in Westchester for the county sales tax and

distribution, as well as Buffalo. And those would be excluded.

SENATOR DOLLINGER: Through you, Madam President, if Senator Spano will yield to a question.

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

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The sponsor continues to yield.

SENATOR DOLLINGER: Is the effect of that exclusion that if the amount of sales tax revenue goes down because of natural economic factors -- reduction in sales, volume of sales -- that the city contribution would be permitted to go down by the same amount as the reduction in the allocation of the sales tax?

SENATOR SPANO: What we have put together in this bill is a safety net in the event that if the total city revenues -

ACTING PRESIDENT McGEE: Senator Spano, one moment.

Please take your conversations out of the chamber. Thank you.

Senator Spano.

SENATOR SPANO: Senator Dollinger, we have a safety net written into our proposal that would provide for a percentage reduction that's consistent with the decline in the general revenues of the city.

SENATOR DOLLINGER: A final question, Madam President, if Senator Spano will continue to yield.

ACTING PRESIDENT McGEE: Senator Spano, will you yield for one final question?

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Does the language of this bill that affects the Big Five cities -- I know we did one for the City of New York. Does this bill mirror the language for the City of New York?

SENATOR SPANO: Yes, this is language that mirrors -- with the small exceptions of the STAR program and the issues of the county sales tax as they relate to the Big Four, Senator Dollinger, not the Big Five.

Just the Big Four. And it's basically the same language as exists for the City of New York, with those two exceptions.

SENATOR DOLLINGER: Through you, Madam President, just on the bill briefly.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I know that in the City of Rochester there's an enormous concern about the funding of the school district. And it seems to me that as we consider potentially a spin-up of $20 million in additional aid from the state that would go through the city, it seems to me that despite what I know are objections from those in the City of Rochester to this concept, it seems to me that in order to effectuate an improvement in education in our urban areas, we have to say to the cities, the Big Four -- and including the City of New York, which we've already said it to -- we have to say that additional funds for education must end up in our classrooms and in the hands of educators.

Under those circumstances, Madam President, I'm going to vote in favor of this

bill. I think it's -- it may to some extent impinge on prerogatives among mayors in the big cities, but from my point of view it seems to me that we've got to have some way to be assured that the strenuous efforts of this Legislature to improve education in our urban areas is at least in no way impeded or in no way reduced by actions by the city to remove appropriations.

So under those circumstances, Madam President. I'm going to vote in favor of this bill.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: I just have one question on the bill.

ACTING PRESIDENT McGEE: Senator Spano, will you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR STAVISKY: This, I assume, mirrors, as you said, the governance bill that we passed I guess two weeks ago.

However, it talks about an amount

not being less than. Is there any kind of - in other words, it's providing a floor. Is there any kind of ceiling that is provided?

SENATOR SPANO: No. We are consistent with the same language as New York City and its fiscal year ending June 30, 2003.

SENATOR STAVISKY: Madam President, on the bill, very briefly.

ACTING PRESIDENT McGEE: Senator Stavisky, on the bill.

SENATOR STAVISKY: I think that is a flaw in the governance bill that we passed, that it does not increase when revenues increase.

I'm going to support this bill, but I think -- at least I would hope that maintenance-of-effort legislation would mirror the economy when it's doing well as when we're in periods of economic strife.

Thank you.

ACTING PRESIDENT McGEE: Senator Hevesi.

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

ACTING PRESIDENT McGEE: Senator

Spano, will you yield for a question?

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you. Through you, Madam President.

I didn't raise this concern regarding maintenance of effort when we did the New York City governance bill, and I probably should have. But let me raise it now. And when I do it like this, maybe if you could tell me if the following situation that I'll lay out for you is a concern of yours.

Let's say the City of Rochester gets a one-time cash infusion, maybe pursuant to a tobacco settlement or something like that, of a substantial amount of money - $25 million, $50 million. That's one-shot money. If you have this type of maintenance of effort, theoretically, the way I'm reading it, if the City of Rochester wanted to put that money as a one-shot into education, the city would be required to fund that in perpetuity, even though there's no consistent source of revenue.

And if that's true, it would actually serve as an impediment to the City of Rochester using that money for one-shot educational expenses, and that's a concern of mine.

Is that a concern of yours? Is that a viable problem?

SENATOR SPANO: We expect that if we have a good economy, the cities put a significant increase in terms of aid to education into our educational system, which brings them up, that if then the economy goes sour or as a result of the money that they gave was a one-shot money and it goes down, this is why we put the safety net in there that would provide for a percentage reduction that's consistent with the decline in the general revenues of that municipality.

That's exactly why those provisions were written into this, to safeguard against that possibility.

ACTING PRESIDENT McGEE: Senator Hevesi.

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HEVESI: Thank you, Madam President.

It doesn't really safeguard against it, does it? What it really does is it says to me, if I'm the mayor of Rochester, I'm not going to put this newly found, one-shot $25 million pursuant to, for example, the tobacco settlement into education, because next year I can't pay for the $25 million increase that I now have locked in. How am I going to pay for it? So I'm not going to put that money into education.

I mean, isn't that a real problem with this and, by extension, with the city's maintenance-of-effort law, which I supported?

SENATOR SPANO: It would not be a problem, because they would have less revenues, the city government would then have less revenues to give to education. As a result of the fact that they don't have -

because they have that declining revenue, there would be that percentage reduction that would be commensurate in terms of aid to education that's prescribed in the bill.

What we are trying to do here is just get away from the disturbing trend that we're seeing in these large city school districts where they're not maintaining that basic level of funding and then, as we give additional aid to education, whether it be through the STAR program or direct aid to education, that it goes directly to the kids.

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

ACTING PRESIDENT McGEE: Senator Spano, will you continue to yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HEVESI: Thank you, Madam President.

In the situation that I've outlined, only if the aggregate revenue for the municipality dips below the previous fiscal year's level would you have a situation

where the city would not be responsible for continuing to put the newly found 25 million hypothetical dollars from last year into the budget.

But every municipality invariably, unless you're in ultimate fiscal crisis, is going to see an aggregate baseline increase in their revenue. I mean, it almost always happens unless you are in a horrible, horrible recession.

So again, you know, I may vote against this bill. And I should have spoken out against the city's bill for this exact reason. This could actually serve as an impediment to putting money in. And I'll - let me give you another similar line of thought and just have you respond to it and then we'll leave it at that.

Even if you didn't have this one-shot, even if it wasn't newly found one-shot revenue, if I'm a mayor and I'm concerned about other priorities in other fiscal years, if I know that by increasing the education budget by a large amount in one year I will be negating other priorities in

subsequent years, it may actually have an uncalculated purpose here, or result, which is that the mayor of the city decides or the city council decides they're not going to put as much money into education.

Isn't that a valid concern?

SENATOR SPANO: Not at all, Senator Hevesi. As a matter of fact, the opposite is true.

I believe that without the maintenance-of-effort provision in the statute that you could see mayors or local governments reducing their level of education to the city and paying for other city services as a result of it. What this does is put a check and balance in the system to make sure that does not in fact happen.

So I think the opposite would be true. If we're going to make an argument for maintenance of effort, we need a true maintenance of effort that will make sure that there's a baseline for our educational system. Without that, the local governments can do anything they want in terms of their commitment or lack of commitment to the

educational system.

SENATOR HEVESI: Okay, on the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Madam President, as we discuss this, I think I'm going to vote against this bill. And when Senator Velella passed his initial school governance package, where most of my Democratic colleagues voted against it, I actually voiced a concern about the maintenance of effort should the City of New York go into a fiscal crisis. That was addressed by the city's governance bill and is addressed here.

But I really do think it is a valid concern that if you had newly found one-shot revenue, that this requirement of a maintenance of effort could actually be a deterrent to a mayor from putting money into education, if he knew that he wouldn't have the money in future years because it was a one-shot and so he'd have to then take money out of some other area to fund the one-shot that he put into education.

Similarly, although I don't know if this is true on the second issue, but it could be true, I could see a situation where a mayor or a city council says the following: Well, we have an additional $10 million this year. We want to maintain some type of flexibility with the use of this money for priorities in future years. If I give $8 million of the $10 million to education, that money is now gone forever. I can't contract, I can't do anything else except to fund that amount above the base amount that we had the previous year.

And I am concerned -- though I'm sure Senator Spano wouldn't do this, and I don't think I would -- that there might be a mayor out there who might say: You know what, I don't want to lock up my money like that. And as a result, a mayor who might otherwise be inclined to fund education with $8 million of that $10 million decides not to do it because he knows that he can never again fund education to a lesser amount than that amount.

So that, and the issue of the one-shot revenue not coming back into the city, which would absolutely mean that General

Fund revenue would have to be taken from somewhere else to fund that educational priority, in my opinion certainly would prevent a mayor or some municipality from putting one-shot, newly found revenue into education when there are tons of one-shot noneducation purposes that could be funded.

So I'm actually going to oppose this, Madam President. I'll be against this bill.

ACTING PRESIDENT McGEE: Anyone else wishing to speak on the bill?

Read the last section.

THE SECRETARY: Section 3. This act shall take effect July 1.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. There will be an immediate meeting

of the Rules Committee in the Majority Conference Room.

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

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Can we now go to Calendar 5374, by Senator Volker.

ACTING PRESIDENT McGEE: 5374? What's the calendar number?

SENATOR MORAHAN: It's Calendar 789.

ACTING PRESIDENT McGEE: Thank you, Senator Morahan.

The Secretary will read.

THE SECRETARY: Calendar Number 789, by Senator Volker, Senate Print 5374, an act to amend the Court of Claims Act.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT McGEE: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Madam President,

this is a bill, an attorney general's program bill, at the request of the attorney general.

It involves a rather unique problem, in a way, between the attorney general and mostly district attorneys or employees of district attorneys across the state, where they have been involved in a case and have had discussions with district attorneys, and usually it's assistant district attorneys about a case, and then an action is brought against that office -- that is, against the district attorney's office -- or against some -- it could be a police agency also, but very often it's a district attorney's office.

And the problem is that the attorney general then is caught between his representation of the state and his discussions with the district attorneys and/or law enforcement officers. And the major question is, does he or does the district attorney -- I mean the attorney general, I'm sorry, because an assistant attorney general is what it amounts to -- are those communications privileged, or are they subject

to disclosure and evidence at a trial? The attorney general is caught in a bind.

And what this bill seeks to do, and there have apparently been conflicting cases as to whether the attorney general, his discussions and his conversations with such law enforcement people are privileged or not or whether he is subject to disclosure.

And what this bill says basically is that those kinds of communications with district attorneys, prosecutors, or law enforcement officers, where it relates to the case involved and obviously where the law enforcement people are talking with the attorney general on the basis of dealing with the case, that those conversations are privileged and are not subject to disclosure.

Apparently the Trial Lawyers -- and I have not seen their memo -- have put a memo out against it. I assume it's because they obviously would like to get the maximum amount of evidence that they can.

But when you think of it, it puts the attorney general in an extremely difficult position, in that he or she would be caught

between the discussions with the law enforcement people, and the representation there, and then the person that's involved in the claim.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, if the sponsor will yield to a question.

ACTING PRESIDENT McGEE: Senator Volker, will you yield for a question?

SENATOR VOLKER: Sure.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Senator, I'm willing to concede that this bill has a clear appropriateness with respect to communications between the attorney general and the district attorney's office and its personnel; in essence, counsel to counsel.

But what I'm concerned about is the bill goes further than that. It says that a communication between the attorney general and any law enforcement officer -- city, county, town, village or wherever -- is also going to

be shielded.

And it just seems to me that you have the attorney general which is conducting an investigation about improper conduct by the police or conducting an investigation about a civil rights action that could be brought, and they're communicating with people who are clearly not their client. I mean, as you know, there would be no attorney-client privilege because they're not employed by the State of New York. And the attorney general is conducting an investigation in which he asserts that he's doing it simply to find out information about conduct.

Under those circumstances, you have the attorney general which could be prosecuting the same officers, could be defending the same offers, could be simply determining whether they're witnesses. And all that happens, as you know better than anyone, relatively early in the investigation. You don't know whether there are going to be claims, you don't know who the claimants are going to be, you don't know who has what rights. You're sorting all that out.

But I just don't -- I think the bill goes too far. And I'd be interested in your reaction about why include all these local law enforcement people who will have their own counsel in the scope of the privilege.

SENATOR VOLKER: I guess I interpret this differently. If the scope of the investigation of the attorney general is civil rights or directly at law enforcement officers, then I don't think this applies.

I think this is supposed to apply in cases where the attorney general is in conversations with law enforcement people and with the district attorneys in relation to the case against someone else.

If it's directly against a law enforcement agency -- for instance, civil rights -- there is no privilege. Because what privilege would there be? The discussion is part of an investigation, an investigation into, for instance, activities by a police officer, for instance, or even a district attorney, I suppose. Certainly none is that is privileged, because that's part of the case

in general.

I think what the attorney general, as I understand it, is talking about here is that a lot of times there are investigations -- say, there might be mob investigations, or it may be a trucking - let's say it's a trucking firm or a garbage firm or whatever, where the attorney general cooperates with the district attorney and they look into overall crime activity.

Then, as the case is proceeding, then the individual involved then brings an action against the attorney general -- or, rather, against the district attorney and against the police officers involved. Now he wants to bring in the attorney general, who has been really part of the investigation, as part of his claim as to what they have been discussing.

If the initial claim was actually against a police officer or the district attorney or whatever, this -- there's nothing privileged about this, because clearly that's the case itself. So I don't see where that would even apply.

This is intended to deal with third-party -- as I understand it, with third-party claims against law enforcement people and against the district attorney and so forth, not where the claim is directly against the police department or district attorney or whatever, because that is actually -- that's actually the claim itself.

SENATOR DOLLINGER: Just on the bill, briefly, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I thank Senator Volker for his explanation.

Whenever I face these bills, Madam President, especially with Senator Volker's leadership in the Codes Committee, we try to unravel this very complicated can of worms of who represents who during these investigations, especially if they're brought under the Unjust Conviction Act, which would be a postconviction remedy available to an individual who believes that the police have conspired against him, there's been nefarious conduct, either by the state or local police

or in conjunction with the state police, that has produced an unjust conviction.

But my concern, Madam President, the reason why I'm going to vote against this bill, is because it seems to me that the attorney general has a wide authority in the investigation of both criminal activity and generally under his broad powers under sections including, among others, Section 63 of the Executive Law, which provides broad authority for the attorney general to conduct investigations on almost anything.

And it seems to me that what happens is the attorney general is acting more as an investigator -- not as a prosecutor, not as a decision-maker -- but he's gathering evidence and gathering information. And it seems to me that if he does that in the course of his duties that there should be some availability for someone who has raised a claim of unjust conviction to go back to the initial stages of the investigation to determine what the attorney general found out during the course of that investigation.

It may be the only way for a

claimant to find out what actually happened. Because, quite frankly, police investigations for unjust conviction are, at least in my guess, one of the most difficult cases to prove. A plaintiff will have an enormously difficult time. And without access to communications and evidence gathered by the attorney general in his initial review of the case, in his initial investigation, you may not have the ability to bring a claim.

So I guess I look at this as a close call, Madam President. I understand the purpose for which Senator Volker sees this bill. But given the broad reading that says any written or verbal communication between the attorney general and the employees of the town -- that would include even an inquiry. Did the attorney general actually conduct an inquiry? Did he ask any questions?

That inquiry, that simple letter in which the attorney general writes and says "We have concerns about the quality of the conviction and the police work and other aspects of this conviction," it would seem to me that's privileged and would not be

available to the plaintiff to even figure out whether the attorney general started an investigation. It's a very broad section.

Madam President, I'm going to reluctantly vote no. I understand the need and the confusion that arises when these claims are brought in the early stages of investigations. But it seems to me that cutting off the plaintiff from any communication between the attorney general as an investigator in cases of police misconduct is just too broad to countenance and, frankly, too broad to merit my vote.

ACTING PRESIDENT McGEE: Senator Volker.

SENATOR VOLKER: Madam President, I guess I look at this legislation quite a bit differently. I would agree with you, what you just said. But I don't see where this cuts off the investigation of the attorney general. All it cuts off is the written or verbal communications between the attorney general and the officers and so forth.

Investigations would still be reached. If the attorney general did an

investigation as part of this, and even made some allegations, then I think those allegations could be subject to evidentiary receipt, even whether there's legislation passed or not.

And the second thing, remember that this is a Court of Claims issue. This basically is where an action is brought by a third party against officers, meaning the district attorney or the State of New York. It's the State of New York, really, is what it is.

So the difficulty here is if you don't give some latitude to the attorney general, that doesn't mean that all his evidence is not subject to being reached. But what it does mean is that communications between law enforcement agencies have to have some sort of privilege. Otherwise, when you think of it, you'd be in a situation where you'd have virtual chaos. And that, by the way, has generally been the rule.

Now, if the person is bringing a civil rights action against a police officer or whatever, it presents a very interesting -

I'm not so sure that that wouldn't necessarily be reachable. And I think the attorney general could be brought in, but could not be brought in concerning his written communications with those people. But he could certainly be brought in to show whatever investigation that he made as part of this case.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Dollinger and Paterson recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President. Could we now return to the Senate Supplemental Calendar 55B and take up

Calendar 1559.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1559.

THE SECRETARY: Calendar Number 1559, by Senator Velella, Senate Print 5195B, an act to provide for a study.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR MORAHAN: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Madam President, can we go to Supplemental Calendar Number 2 and read the noncontroversial calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 409, by Senator Spano, Senate Print 5346, an act to amend the Labor Law, in relation to the cancellation.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number

839, by Senator Trunzo, Senate Print 6083A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 991, by Senator Padavan, Senate Print 4331A, an act to amend the General City Law, Chapter 772 of the Laws of 1966, relating to enabling.

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

Read the last section.

THE SECRETARY: Section 25. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1120, by Senator Maltese, Senate Print 1544A, an act to amend the Retirement and Social Security Law, in relation to employee contributions.

ACTING PRESIDENT McGEE: 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 McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

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

The Secretary will read Calendar

Number 1565.

THE SECRETARY: Calendar Number 1565, by Senator Saland, Senate Print 7516A, an act to amend the Executive Law, in relation to establishing.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes, is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MORAHAN: Thank you, Madam President. I move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect September 1, 2002.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1565: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

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

Senate Print 1894A, by Senator Libous, an act to amend the General Business Law;

2000, by Senator Stachowski, an act to amend the Penal Law;

2124B, by Senator Nozzolio, an act to amend the Judiciary Law;

2382A, by Senator Larkin, an act to amend the Family Court Act;

2492, by Senator Kuhl, an act to amend the General Municipal Law;

2516A, by Senator Seward, an act to amend the Judiciary Law;

3334C, by Senator Volker, an act to amend the Education Law;

3759, by Senator Velella, an act to amend the Civil Practice Law and Rules;

3918B, by Senator Stafford, an act to amend the Executive Law;

4167A, by Senator Skelos, an act to amend the Social Services Law;

4503B, by Senator LaValle, an act to amend the Education Law;

4655B, by Senator Skelos, an act in establish;

5602A, by the Senate Committee on Rules, an act to amend the Education Law;

5638A, by Senator Saland, an act to amend the Social Services Law;

5673A, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

5693B, by Senator Breslin, an act in relation;

6280B, by Senator Volker, an act to amend the Civil Practice Law and Rules;

6295, by Senator McGee, an act to amend the Education Law;

6523A, by Senator Leibell, an act to amend the Tax Law;

6592C, by Senator Wright, an act to amend the Public Service Law;

6858B, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

6865A, by Senator Velella, an act to amend the Vehicle and Traffic Law;

6925A, by Senator Volker, an act to amend the Penal Law;

7272, by Senator Leibell, an act to amend the Retirement and Social Security Law.

7314C, by Senator Espada, an act to amend the Private Housing Finance Law;

7341, by Senator Espada, an act to amend the Executive Law;

7541, by Senator Nozzolio, an act to permit;

7591A, by the Senate Committee on Rules, an act to amend the County Law;

7597, by Senator Wright, an act to amend Chapter 519;

7598A, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

7602, by Senator Stafford, an act to amend the Real Property Tax Law;

7605A, by Senator Skelos, an act to amend the Executive Law;

7608A, by the Senate Committee on Rules, an act to amend the Public Authorities Law;

7634, by Senator Volker, an act to amend the County Law;

7642, by Senator Hoffmann, an act to amend the County Law;

7646A, by Senator Morahan, an act to amend the Real Property Tax Law;

7650, by Senator Kuhl, an act to amend the County Law;

7665, by Senator Bonacic, an act to repeal.

7668, by the Senate Committee on Rules, an act to amend the County Law;

7701, by Senator Rath, an act to amend the Public Authorities Law;

7719, by the Senate Committee on Rules, an act to amend Chapter 57;

7720A, by Senator Larkin, an act to amend the General Municipal Law;

7721A, by Senator Marchi, an act to amend the General Municipal Law;

7760, by Senator McGee, an act to authorize;

7763, by Senator Morahan, an act to amend Chapter 672;

7769, by Senator Espada, an act to amend the Vehicle and Traffic Law;

And 7784, by Senator Espada, an act to amend the Education Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes. Can we please move to accept the report of the Rules Committee, Madam President.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we have a little order in the house.

ACTING PRESIDENT McGEE: Senator Morahan wants some order in the house.

SENATOR MORAHAN: Madam President, could we now go to Supplemental Calendar 55C and have the noncontroversial reading of that calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1580, by Senator Libous, Senate Print 1894A, an act to amend the General -

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1581, by Senator Stachowski, Senate Print 2000, an act to amend the Penal Law, in relation to the definition of assault in the second degree.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first day of November.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1582, by Senator Nozzolio, Senate Print 2124B, an act to amend the Judiciary Law, in relation to establishing a second County Court judgeship.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1583, by Senator Larkin, Senate Print 2382A,

an act to amend the Family Court Act and the Judiciary Law, in relation to providing for an additional Family Court judge.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1584, by Senator Kuhl -

SENATOR KUHL: Lay it aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1585, by Senator Seward, Senate Print 2516A, an act to amend the Judiciary Law, in relation to increasing the number of Supreme Court justices.

ACTING PRESIDENT McGEE: Read the

last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2003.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1586, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7126C and substitute it for the identical Senate Bill Number 3334C, Third Reading Calendar 1586.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1586, by Member of the Assembly Lentol, Assembly Print Number 7126C, an act to amend the Education Law, in regulation to decisions.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1587, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 7336 and substitute it for the identical Senate Bill Number 3759, Third Reading Calendar 1587.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1587, by Member of the Assembly Weinstein, Assembly Print Number 7336, an act to amend the Civil Practice Law and Rules, in relation to fixed fees of sheriffs.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1589, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Print Number 8340A and substitute it for the identical Senate Bill Number 4167A, Third Reading Calendar 1589.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1589, by the Assembly Committee on Rules, Assembly Print Number 8340A, an act to amend the Social Services Law, in relation to the applicability.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1590, by Senator LaValle, Senate Print 4503B, an act to amend the Education Law, in relation to permitting an accredited dental residency.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2003.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1591, by Senator Skelos, Senate Print 4655B, an act to establish the Baldwin-Grand Canal repair and maintenance district.

ACTING PRESIDENT McGEE: There is

a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1592, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9029A and substitute it for the identical Senate Print Number 5602A, Third Reading Calendar 1592.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1592, by the Assembly Committee on Rules, Assembly Print Number 9029A, an act to amend the Education Law and others.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1595, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Print Number 9299B and substitute it for the identical Senate Print Number 5693B, Third Reading Calendar 1595.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1595, by the Assembly Committee on Rules, Assembly Print Number 9299B, an act in relation to permitting the reopening of the optional twenty-year retirement plan.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1597, by Senator McGee, Senate Print 6295, an act to amend the Education Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1598, by Senator Leibell, Senate Print 6523A, an act to amend the Tax Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1600, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 11448 and substitute it for the identical Senate Print Number 6858B, Third Reading Calendar 1600.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1600, by the Assembly Committee on Rules, Assembly Bill Number 11448, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT McGEE: 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 McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1601, by Senator Velella, Senate Print 6865A, an act to amend the Retirement and Social Security Law, in relation to time within.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1602, by Senator Volker, Senate Print 6925A, an act to amend the Penal Law and the Arts and Cultural -

SENATOR MORAHAN: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1605, by Senator Espada, Senate Print 7341, an act to amend the Executive Law, in relation to facilitating.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1606, by Senator Nozzolio, Senate Print 7541, an act to permit the reopening of the optional twenty-year retirement plan.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1607, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Print Number 11669A and substitute it for the identical Senate Print Number 7591A, Third Reading Calendar 1607.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1607, by the Assembly Committee on Rules, Assembly Print Number 11669A, an act to amend the County Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1608, by Senator Wright, Senate Print 7597 -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1610, by Senator Stafford, Senate Print 7602, an act to amend the Real Property Tax Law, in relation to railroad real property.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1611, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Print Number 7340A and substitute it for the identical Senate Print Number 7605A, Third Reading Calendar 1611.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1611, by Member of the Assembly Silver, Assembly Print Number 7340A, an act to amend the Executive Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1616, by Senator Kuhl, Senate Print 7650, an act to amend the County Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1617, by Senator Nozzolio, Senate Print 7663 -

SENATOR MORAHAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1618, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Print Number 10678 and substitute it

for the identical Senate Bill Number 7665, Third Reading Calendar 1618.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1618, by Member of the Assembly Stringer, Assembly Print Number 10678, an act to repeal subdivision 1 of Section 2004.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect July 1, 2003.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1619, by the Senate Committee on Rules, Senate Print Number 7668, an act to amend the County Law, in relation to wireless communications.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1620, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 11412B and substitute it for the identical Senate Bill Number 7701, Third Reading Calendar 1620.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1620, by the Assembly Committee on Rules, Assembly Print Number 11412B, an act to amend the Public Authorities Law.

ACTING PRESIDENT McGEE: Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Point of

order, Madam President. Since that bill affects Monroe County, I've been through the four packets that are on the four desks next to me, and that bill isn't included in the packet.

ACTING PRESIDENT McGEE: My understanding is, Senator Dollinger, it's in the front of the packet. It's out of order. It is in the front of the packet.

SENATOR DOLLINGER: It's not in the same sequence?

ACTING PRESIDENT McGEE: That is correct.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT McGEE: You're welcome, I'm sure.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1621, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Print Number 11733 and substitute it for the identical Senate Print Number 7719, Third Reading Calendar 1621.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

SENATOR MORAHAN: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1625, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 11454 and substitute it for the identical Senate Bill Number 7763, Third Reading Calendar 1625.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1625, by the Assembly Committee on Rules, Assembly Print Number 11454, an act to amend

Chapter 672 of the Laws of 1993.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR DUANE: Madam President.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Madam President, I'd like to be recorded in the negative on Calendar Number -- the one about HIV and the water police, Calendar Number 1603.

ACTING PRESIDENT McGEE: Without objection, you'll be recorded in the negative on Calendar Number 1603.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd like unanimous consent to be recorded in the negative on 789 and 943.

ACTING PRESIDENT McGEE: Without objection.

Senator Duane, 1603 had no home-rule with it. The bill was laid aside.

SENATOR DUANE: Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we now have the controversial reading of the Supplemental Calendar 55C.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1580, by Senator Libous, Senate Print 1894A, an act to amend the General Business Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT McGEE: Senator Libous, I believe an explanation has been requested.

SENATOR MORAHAN: Will you lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill

is laid aside temporarily.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President, please take up Calendar 1599.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1599.

THE SECRETARY: Calendar Number 1599, by Senator Wright, Senate Print 6592C, an act to amend the Public Service Law, the Public Authorities Law and the Real Property Tax Law.

SENATOR MORAHAN: Is there a message of necessity at the desk, Madam President?

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MORAHAN: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT McGEE: Senator Wright, an explanation has been requested.

SENATOR WRIGHT: Thank you, Madam President.

The bill provides for the concept of net metering as it relates to methane digester technology, which is used in agricultural applications. The bill would allow for net metering whereby the generation of electricity using agricultural waste would produce a revenue that would be credited against the electrical bill or accrued against the cost of the electric bill.

There are obvious pluses from the standpoint of the economics of the agricultural application. There are pluses from the standpoint of the environmental applications. So it's a win-win in both

instances.

SENATOR PATERSON: Call the last section, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Please call up Calendar Number 1608.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1608, by Senator Wright, Senate Print 7597, an act to amend Chapter 519 of the Laws of 1992.

SENATOR DUANE: Explanation.

SENATOR WRIGHT: Lay it aside for the day.

ACTING PRESIDENT McGEE: The bill

is laid aside for the day.

Senator Morahan.

SENATOR MORAHAN: Can we go to the main calendar and call up Calendar 359.

ACTING PRESIDENT McGEE: From the main calendar, the Secretary will read Calendar 359.

THE SECRETARY: Calendar Number 359, by Senator Marcellino, Senate Print 6076A, an act to amend the State Finance Law.

SENATOR MORAHAN: Is there a message of necessity at the desk, Mr. President?

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

SENATOR MORAHAN: May we move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Mr. President, we are trying to locate this bill. We don't see it on the original calendar. Am I mistaken? Is that where it is?

ACTING PRESIDENT MEIER: It's on the original calendar.

SENATOR LIZ KRUEGER: No, it's not.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Mr. President, I withdraw my request for an explanation.

ACTING PRESIDENT MEIER: Very well. Thank you, Senator.

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: Yes, Mr. President. There will be an immediate meeting of the Majority in the Majority Conference Room, and the Senate will stand at ease till about 6:00 o'clock.

ACTING PRESIDENT MEIER: Immediate conference of the Majority in the Majority Conference Room.

Senator Mendez.

SENATOR MENDEZ: Mr. President, there will be an immediate meeting of the Minority Conference, Room 314.

ACTING PRESIDENT MEIER: Immediate meeting of the Minority Conference in the Minority Conference Room.

The Senate will stand at ease until 6:00 p.m.

(Whereupon, the Senate stood at ease at 5:35 p.m.)

(Whereupon, the Senate reconvened at 6:21 p.m.)

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Is there some housekeeping at the desk?

ACTING PRESIDENT MEIER: Yes, there is, Senator.

SENATOR KUHL: Can we return to motions and resolutions.

ACTING PRESIDENT MEIER: Order of motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President. On behalf of Senator McGee, I offer the following amendments to Calendar Number 1624, Senate Print Number 7760, and ask that said bill retain its place on 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 Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Stafford, on page number 10 I offer the following amendments to Calendar Number 269, Senate Print Number 5574B, and ask that said bill retain its place on 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 Kuhl.

SENATOR KUHL: I move to adopt the Resolution Calendar at this time.

ACTING PRESIDENT MEIER: The question is on the adoption of the Resolution Calendar. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

Senator Kuhl.

SENATOR KUHL: Yes, now could we proceed to do the controversial reading of the Supplemental Calendar 55C, starting with Bill Number 1580, by Senator Libous.

ACTING PRESIDENT MEIER: With regard to Calendar 55C, the Secretary will resume the controversial reading of the calendar.

THE SECRETARY: In relation to Calendar Number 1580, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 7742A and substitute it for the identical Senate Bill Number 1894A, Third Reading Calendar 1580.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1580, by Member of the Assembly Klein, Assembly Print Number 7742A, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

SENATOR PATERSON: Explanation.

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

SENATOR LIBOUS: Thank you, Mr. President.

This bill is a bill that's familiar to us. And as often happens in our house, things come back new and improved and better refined, and that's what's happened with this piece of legislation.

This bill very simply is a bill that will help the economy of New York State. It deals with car rental companies. It removes the hundred-dollar cap. It creates for those companies to provide optional rental insurance. It will reduce car rental rates in New York State.

And we have made it a pro-consumer bill because we've made some changes and amendments to it so that the consumers will be properly notified, to the effect where the

attorney general has even signed off on some of its stipulations.

ACTING PRESIDENT MEIER: Read the last section.

Senator Paterson.

SENATOR PATERSON: Thank you. Would Senator Libous yield for a question.

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

SENATOR LIBOUS: Mr. President, I know that Senator Paterson would like me to yield for a question because he would like me to do that. So I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator Libous, I was wondering how you feel about the effect of this bill on consumers, since the liability, at least from my reading, seems to be switched from the automobile companies to the consumers on this bill.

SENATOR LIBOUS: Actually, Mr. President and Senator Paterson, it does not. But I'd be happy to spend some time, if it would help you, to explain that to you,

Senator.

Basically, under current law, if you rent a car in New York State and you smash up that automobile, you are liable for a hundred dollars. Now, that seems to me pretty ridiculous. If you rent a tuxedo and destroy it, you're liable for the cost of the tuxedo. If you rent a VCR or a television and destroy it, you're liable for the full cost of the VCR or the television.

What this does is it allows consumers in New York State to purchase optional insurance if they're not covered by their credit card or by their car insurance policy.

What this ultimately does, Mr. President, is it helps the economy of New York State. Because we have lost, oh, so many businesses in this area. And we've lost millions of dollars to the purchasers of cars, to these businesses that have gone out of business. And we've lost thousands of employees. And certainly this legislation will help to alleviate that problem.

ACTING PRESIDENT MEIER: Senator

Paterson.

SENATOR PATERSON: Mr. President, if Senator Libous, who seems to understand the bill very well, would yield for a question and share some more of his wisdom.

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

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Mr. President, as I understand the bill now, if a person goes to a rental car company, in the past the rental car company had to buy insurance to accommodate the cost of doing business to rent cars to the consumer.

If we're going to shift the burden to the consumer and insurance is now going to accrue to the consumer, my question is, exactly how does this benefit the consumer in the long run, as Senator Libous just stated?

Because I would think that if the insurers now are going to the consumers, that the premiums are actually going to go up. I

don't see any way that there can actually be a savings that would come from this shift in responsibility.

I agree with Senator Libous that the consumer has to be more responsible. But in this particular way, number one, I don't see what the consumer gets from it, and then, number two, I don't see how it would prevent insurers from raising the premiums since the consumer's record can never be equal to the reliability of the actual rental car company.

SENATOR LIBOUS: Mr. President, I'm very happy that Senator Paterson asked that question. And I'd be happy to answer that question for him.

First of all, what this does is it spreads the responsibility, as I said, to the consumer. As I said in my opening remarks, and I continue to state -- and I would think that everyone in this chamber would agree with me -- it is somewhat ridiculous to think that you can rent a car in New York State -- by the way, the only state where you can rent a car and be liable for only up to $100, turn around, rent that car that could be a $35,000

car, total the car and come back and, under present law, be responsible for $100. That makes absolutely no sense to me. The only state in the country where that takes place.

By removing the cap and providing the opportunity for people to buy optional insurance -- and that optional insurance is going to be very inexpensive. It's $9 for a vehicle that's $30,000 or less, and $12 for a vehicle that's over $30,000. And as I said, Mr. President, it is optional. And certainly if you're using a credit card, you're already covered on your credit card, both American Express and Visa, and you're already covered if you're presently holding an automobile policy in the State of New York.

Now, those of you who understand the insurance industry and understand insurance, certainly if someone is a high risk -- well, not everyone shares the responsibility in paying for that high risk, but basically those who have a difficult time getting insurance because of their record pay a higher premium than those of us who have a good record.

Certainly that is going to persist in this case where it is going to be on the burden on the insurance that the person holds or the credit card or certainly the optional insurance that they purchase.

Mr. President, it has been proven in the state of Illinois, and I'd be happy to share some statistics, that actually the cost of renting vehicles has decreased substantially in the state of Illinois. And we believe that that will happen here in the state of New York because it's happened in a variety of states across the country who have passed similar legislation.

And again, how does it help the consumer from a cost perspective? We believe that the responsibility is important here on this issue, and that the cost of renting a vehicle will diminish and be reduced significantly.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. I thank Senator Libous. His answers are quite detailed and they are

persuasive. I don't know if I'm entirely convinced, but maybe if we move to another issue we can find a resolution that might make me more comfortable.

As you recall, Mr. President, in 1988 we passed the Vehicle Rental Protection Law. And when we passed that law, we were really trying to stop a lot of the rental companies from claiming that there were damages to the automobiles when they were brought back by the consumer. And this was something that was going on rampantly.

Also, the consumers would come in and pay this insurance that they didn't really need because their regular insurance would cover it or the automobile dealer's insurance could cover it. They didn't need this insurance, but they were going out and buying it.

And I thought that the law we passed in 1988 was pretty effective.

My question to Senator Libous is, how do we prevent ourselves from going back to that scenario that we had to reverse 14 years ago where now we're allowing the rental

protection companies to charge from $9 to $12 a day?

Now, you annualize that figure, $9 to $12, that's almost $4,300 -- $4,300 a year that the consumer might be paying for collision damage. Even in Brooklyn, which has the highest rates probably that I can think of around the state, it would only be a few hundred dollars a year in insurance.

So how is this, again, going to help the consumer if we pass this legislation?

SENATOR LIBOUS: Mr. President, I will be more than happy to restate the answer to the question that I gave Senator Paterson earlier.

Senator, first of all, well over 60 percent of the cars that are rented in New York State are rented by people from out of New York State. So let's talk about how it helps the 40 percent who rent cars in New York State. It will. It will help them by reducing the cost of rental cars in this state.

And I have some statistics here I would be happy to share with you, Senator and

Mr. President. And the average price in New York airports is about $75.19. In contrast, Newark, to rent a car, is $50.31, Chicago is $49.11, San Francisco is $45.75, Dallas is $45.94, Los Angeles is $46.85, Orlando is $44.88, and Las Vegas is $34.17.

Now, what stood out, Mr. President, in those numbers that I read? What stood out was that in New York airports, $75.19.

Now, Mr. President, all of these other states lifted their caps and provided optional insurance for car rental companies. And in every state -- almost every state - the cost to rent a car dropped significantly. That is the savings, Mr. President, to the consumer. That is the savings to the 40 percent of New Yorkers that rent cars in New York State.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, Senator Libous has been very patient. If he would indulge me for one last question.

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

SENATOR LIBOUS: I would be honored, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Mr. President, I'm going to demur to Senator Libous's complaint. Which means that I'm going to act as if what Senator Libous is saying is right -- and I know he believes it's right, and it may prove to be -- which is that the cost of the renting a car diminishes, the cost goes down. If these factors of shifting the burden, in a sense, in some respects from the renter to the consumer is correct, it will send the price down. Theoretically.

How do we have an assurance that this decrease, this savings gets passed along to the consumer? Suppose the cost of renting a car doesn't go down. It doesn't have to go down. And there are those that even with the added margin might not reduce it. What is in this bill that in a sense -- I wouldn't ask for a guarantee, but I sure would need an assurance to vote for this bill -- that would make that cost be reduced to the average

person that goes out to rent a car no matter where they live, but particularly for New York State residents?

SENATOR LIBOUS: Mr. President, thank you. Mr. President, that's why Senator Paterson is the Deputy Minority Leader. He is quite astute, and he brings to the floor a very good question that I would enjoy answering at this point in time.

Yes, I have shared with you, Mr. President, Senator Paterson, that the rates will be reduced. And I not only believe that, but I back that up on factual data that has been provided me by other states.

And to make sure that that actually works in New York State, Mr. President, we have provided in this law a five-year sunset. Because I, like many of my colleagues, and I'm sure like Senator Paterson -- and this is really, Senator, I think the issue that you're looking for. This will give us the opportunity, over the next five years, to evaluate the success of this proposal so that we will be able to move it further for another five years or maybe for indefinite period of

time.

So, Mr. President, I am quite pleased that Senator Paterson did ask that question, because it is very important, I think, when you are moving forward on legislation like this that at the end of a period of time you can come back and show the results. And I believe that the results will provide us in five years that we can move forward with renewing this legislation.

ACTING PRESIDENT MEIER: Senator Brown.

SENATOR BROWN: Thank you, Mr. President. Mr. President, through you, if Senator Libous would answer a couple of questions.

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

SENATOR LIBOUS: Yes, I would, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR BROWN: Thank you, Mr. President. Thank you, Senator Libous.

In looking at the legislation, it seems like one of the provisions is to increase the fine for a violation of discrimination on the basis of a credit card from $500 to $1000, and it adds religion and sex to the list of prohibited discriminatory acts with regard to car rentals. Is that correct, Senator Libous?

SENATOR LIBOUS: That's correct.

SENATOR BROWN: Now, I certainly, you know, don't want to see any kind of discrimination in car rental. But I was wondering why expressly is religion and sex added to the prohibited discriminatory acts. Isn't that covered generally right now?

SENATOR LIBOUS: Mr. President, Senator Brown makes a good point.

And it is covered under the General Business Law, but it is just reinforced. The discrimination acts in this bill are the same that are in current law. We've changed nothing. We're just reinforcing that issue.

SENATOR BROWN: Thank you, Senator Libous.

ACTING PRESIDENT MEIER: Senator

Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. Through you, if the sponsor would yield.

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Yes, I would, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Senator. I wanted to go back to several issues, but I'll go back to an issue that -

SENATOR LIBOUS: Mr. President, there's an awful lot of noise in here.

ACTING PRESIDENT MEIER: That point is well taken, Senator Libous.

Could we have some order in the chamber.

SENATOR LIZ KRUEGER: Senator Paterson raised the issue of pricing. You had raised before the argument that this bill would lower costs for consumers. But I have some data that shows in fact New York's rental costs are not higher than the region in

general. And I will use myself as an example and then some other examples.

I rent a car to come here every week -

ACTING PRESIDENT MEIER: Excuse me just a second, Senator Krueger.

Senator Kuhl.

SENATOR KUHL: Senator, please excuse the interruption.

Would you announce to the members that there will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room, Mr. President.

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

Senator Krueger, you have the floor.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Senator, I'll repeat myself. Senator Paterson raised the issue -- started to raise the issue of pricing. You referenced that in fact our costs were higher than other

parts of the country. I have some data from the year 2001 that shows in fact New York's costs overall are approximately parallel to other states in the region, and cities and towns.

But I was going to use myself as an example. I rent a car every week to come up here. I live on the Upper East Side of Manhattan, where most people agree it's one of the more expensive sections of the state of New York on most consumer price measures. I pay about $45 a day to rent that car on the Upper East Side of Manhattan to come up, and I don't get any special arrangements because I'm a legislator.

But when I looked into the data of what the costs are, I found that if in fact I lived in the Bronx, at least with the Hertz Car Company, I would be charged a supplemental fee of an additional, I believe, $56 a day - I'm just pulling out my numbers. And if I lived in Brooklyn -- I'm sorry, let me just find it. I have too much paper here.

If I lived in the Bronx, I would pay an additional $56 per day on top of the

$45 I was paying. If I lived in Queens, I would pay an additional $16 per day. If I lived in Brooklyn, I'd be paying an additional $34 per day.

I do think there is discrimination in the pricing on rental cars. And I think in fact the fact that I come from Manhattan results in my paying a lower fee than if I was living in the other three boroughs. Staten Island and Manhattan don't pay these supplements.

And I don't believe that these increased costs relate to the bill that you have in hand but, in fact, are representative of the reason that this Legislature passed the consumer protection bill around rental car issues when we did. And it was based on exploitation and discrimination by some of the large car companies.

I don't think they've fixed the problems, based on the numbers that I'm seeing. And I don't understand how your bill is going to help us address that, because in fact it's going to give these auto rental companies more opportunity to, in my opinion,

exploit people who perhaps don't have private auto insurance or live in the poorer boroughs of New York City.

SENATOR LIBOUS: Mr. President, I certainly respect the Senator's opinion.

SENATOR LIZ KRUEGER: Oh, okay. Thank you. But you don't have a response to that. So the fact is -

SENATOR LIBOUS: Did the Senator ask me a question, Mr. President?

SENATOR LIZ KRUEGER: Yes, I was wondering how you thought your bill was going to decrease the discriminatory pricing practices -

SENATOR LIBOUS: Oh, I'm sorry. Mr. President, I'm sorry. Sure. Sure.

SENATOR LIZ KRUEGER: -- we're already seeing that, in theory, were supposed to be addressed by a stronger consumer protection law, and yet this would weaken that law.

SENATOR LIBOUS: No, you're talking two different laws.

And certainly this will not weaken that law. What this will do is take those

prices -- at least, Mr. President, I believe that it will take those prices that you recited -- and certainly I respect the fact that you have data, but I believe that the data I have is correct also, so I'm going to form my opinion and debate based on the information that I have. But I certainly respect the information that you have.

The only thing that I would add, Mr. President, is that if those are the rates that you're paying, that, as I said earlier, I honestly believe that this legislation will reduce those rates further. Because what it will do is it will put the responsibility where it should be if a car is damaged or totaled, and therefore the business will not be responsible for it, the person who creates the damage through either insurance coverage or optional insurance purchase or through the credit card will be responsible.

Now, Mr. President, I again, for the life of me, can't understand why we don't want to make people responsible for their actions in this state when every other state has that.

So again, my philosophy here is that the price of renting a car will decline, and I believe that that's how it will help the consumer. And that is my opinion, Mr. President and Senator.

SENATOR LIZ KRUEGER: Thank you.

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

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

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Senator Libous.

Do you think that passing this bill will raise insurance rates in the auto insurance rate world? You say this will lower the cost of renting cars.

SENATOR LIBOUS: Well, you know, Mr. President and Senator Krueger, that seems to be an issue that no one can give me an answer to. We've even asked the experts at the State Insurance Department.

Certainly some insurance companies will tell you that that would be the case. But then again, I go back to my original argument and say why. Because if consumers are already paying for that in their auto insurance rates, then why would they raise it? We're paying for it now. We just want to get what we're paying for.

And so I see no reason why the rates would go up. And I have no data before me or -- I have many opinions. But I honestly believe that if we're already paying for it as owners of automobiles, why in heaven's sake would we have to pay more? I don't see it happening.

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

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

SENATOR LIBOUS: Absolutely. Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Senator

Libous, I am also not an expert or an actuary on auto insurance. But I have here, and I'm happy to share them with you, letters and documents from the AAA, the Alliance of American Insurers, Allstate, the Consumer's Union, Eagle Insurance, the Independent Insurance Agents Association, the National Association of Independent Insurers, New York Central Mutual, New York Insurance Association, the Professional Insurance Agents of New York, Progressive Insurance, and State Farm Insurance, all telling me that in fact passage of this bill will increase auto insurance rates, not just for people who rent cars but for the entire universe of people who have auto insurance in this state.

So that certainly does raise a question to me. But I agree, we can agree not to know on this. I just wanted to highlight that there's an awful lot of people who are in the insurance industry who think that this bill would increase auto insurance. But that wasn't my question, and I apologize.

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

SENATOR LIBOUS: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Senator Libous. I appreciate it. This is - it's a complex bill.

You mentioned before that you believed that the number of rental car sites in New York State shrunk because this legislation was passed. I don't quite get the correlation that we passed a consumer protection law and as a result we lost car rentals. Can you explain that to me?

SENATOR LIBOUS: Mr. President, Senator Krueger, I'm glad you asked that, because I wanted the opportunity to explain it.

Quite simply -- and if I too could go through my data that I have here. Mr. President and Senator Krueger, basically what's happened in New York State over the years is that because of the fact that you can rent an automobile and be liable only for a hundred dollars, when you total that

automobile, someone has to pay for it. The damages were absorbed by the business who rented the car.

Let me share with you some statistics that I have that would bear out the fact that it has been very detrimental to the economy of New York State, and it has also hurt the revenue of this state. And I'd like to take an opportunity and share that with you.

At one time in this state we had some 572 locations or businesses that rented cars. We're down to 210 locations, a decrease of almost 65 percent. And that number may be even lower since the time that I prepared these statistics.

At one time there were 120,000 rental cars in the state of New York. Today there are only 86,000 rental cars in the state of New York. More than 2,200 full-time rental car jobs have been eliminated, Mr. President, because of the fact that these businesses have gone out of business because of the cost and liability to the companies. And, you know, these are statistics that are pretty damaging.

The other point, Mr. President, is that the Department of Motor Vehicles has lost well over $2 million in registration fees from these cars. And the New York State auto dealers have shared with me that the dealers have lost some $575 million in vehicle purchases from the rental car industry.

So, Mr. President and Senator Krueger, as I said when I first took the floor this evening, that I not only believe that this is the right thing to do, but this bill is an economic development bill. I believe that when this bill becomes law and when the Governor puts his signature on this legislation that the number of car rental places in New York State will increase, the number of employees and jobs will increase, the amount of revenue that the State of New York will receive through licensing fees will increase, and I believe that the number of cars purchased from the automobile dealers throughout this state will increase. Therefore, by purchasing more cars, they'll have to hire more people, because they'll be busier than they are.

And I just think there's nothing but upside, Mr. President and Senator Krueger, to this legislation.

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

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

SENATOR LIBOUS: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Senator. I'm sorry, you still haven't convinced me that there's nothing but upside to the bill.

SENATOR LIBOUS: Mr. President, I hope I can continue to have the opportunity to try.

SENATOR LIZ KRUEGER: But I appreciate that.

Senator Libous, I listed before a long list of companies who argued this would drive up our auto insurance rates for everyone. And you've mentioned that there's a universe in the rental car industry who think

that in fact this is a good bill for them. And I've seen some of these materials also. And it seems -- you know, it's the big ones, Hertz and Avis. And I don't want to exclude others; I'm just looking for the memo of groups who are supporting this while we speak.

But based on your analysis before about we lost many of the car rental locations, we didn't lose the big guys, we lost smaller independents. Maybe it's not a fair question, but I'll ask you: Why does Hertz and Avis care whether smaller car rental locations went out of business? If anything, it helps their companies. So why would they support a bill that they argue would potentially bring more competition in against them here in New York?

SENATOR LIBOUS: Well, Mr. President, Senator Krueger, I think you would have to ask Hertz or Avis, Senator, that question. And they would probably answer it better than I could for their standpoint.

Maybe I should requalify the fact that I am sponsoring this legislation and believing this legislation not because of

Hertz and Avis or the car rental industry in general but, as I said, I think you understand that I truly believe and am very passionate about the fact that this is an inequity in our system. And that it just becomes, to me, a matter of personal responsibility.

And beyond that personal responsibility, it is an economic development issue, it is an issue of free enterprise. And that's my belief, and I feel very strongly about that.

Now, if I could, Mr. President, I would just like to add I know that the Senator mentioned Hertz and Avis and some of the car companies that supported this bill. But I have a few other memos of support that I would like to share with the Senator.

One is from the Independent Automobile Dealers Association. And certainly, as I referenced earlier, this is an issue that's important to them. One is from the Hotel Association of the City of New York, and they sponsor this -- or they support the bill.

Let me see what else we have. I

have one from the Long Island Association which is supporting this. And I have one, believe it or not, Mr. President, from the statewide Stop DWI organization supporting this legislation.

So, Mr. President and Senator, I hope that helps. I'm not sure if you had all of those memos in support. I just wanted to take an opportunity to share them with you.

SENATOR LIZ KRUEGER: Thank you, Senator Libous.

Mr. President, on the bill, please.

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I want to thank Senator Libous for going through so much information with me. I think to some degree what we've got is not enough facts and a lot of hypothesis. We have the argument that this will increase jobs in the rental car industry and decrease prices. We have the argument that in fact our prices aren't significantly higher than anywhere else now.

And in fact, where we see the price

variations and the extreme price variations, it's really based on discriminatory practices based on zip codes. Some people who live in some zip codes of this state end up paying over double what people who live in other zip code areas are.

We have debate over whether or not this is going to increase the cost of auto insurance, with an awful lot of the entities who work in the auto insurance industry telling us yes, it's going to increase auto insurance.

What I am sure about is it will increase prices to consumers who, through no fault of their own, will end up having to pay higher costs for damage to cars. It will reverse the position of the State Legislature, who attempted to address and redress discriminatory practices in the auto rental industry throughout the '80s and '90s. I have reports here that even as late as 1998 we were finding continued practices of discrimination in the car rental business in this state.

I don't believe we have the evidence to argue that this act, when it was

passed, resulted in a decrease in the auto rental company business. Lots of other factors have gone on between 1988 and today. Clearly, one of them is a change in policy between the larger auto rental companies and some of the larger car manufacturers to do sort of bulk selling of large quantities of automobiles that would get piled up. I mean, I think that basically the industry has become more efficient and they are not leaving as many pileups of cars in lots waiting for renters.

I do think that a five-year sunset clause on this bill is not acceptable. We ought to know the answers before we put the bill into place. We should have the Insurance Department have mandates on review and certification before we change this. We should make sure that in this bill, if it was to pass -- and I will not be able to support it tonight -- we would have clarification so that people didn't incorrectly misunderstand and believe they had to purchase these CDWs, collision damage waivers, which translate at, by the way, $9 a day to $3,300 a year or, at

$12 a year, to $4,400 a year, just for collision damage waivers.

We need to have an assurance of an end of discriminatory policies by the car rental companies, I think, before we could even imagine entering into a change in the consumer protection deal that we went into in good faith in this state. And we need a lot more answers to the questions that both of us have raised before I could be comfortable doing such damage to consumer protections in the rental car industry.

So I will be voting no. I hope others will join me in voting no.

Thank you very much for your answers to my questions.

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.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1580 are Senators Alesi, Andrews, Balboni, Bonacic, Brown, Duane, Espada, Farley, Fuschillo, Hassell-Thompson, Hevesi, Johnson, L. Krueger, LaValle, Morahan, Onorato, Oppenheimer, Padavan, Paterson, A. Smith, M. Smith, Stachowski, Stavisky, Trunzo, Velella. Also Senators Marcellino and Dollinger in the negative. Ayes, 34. Nays, 27.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR KUHL: Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Can we continue with Calendar Number 1613, please.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 839.

ACTING PRESIDENT MEIER: Without objection, Senator Fuschillo will be recorded

in the negative on Calendar 839.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Likewise, I'd like unanimous consent to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Marcellino will be recorded in the negative on Calendar Number 839.

The Secretary will read Calendar 1613.

THE SECRETARY: Calendar Number 1613, by Senator Volker, Senate Print 7634, an act to amend the County Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2 -

ACTING PRESIDENT MEIER: Senator Kuhl.

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

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

SENATOR KUHL: Move we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Morahan will be recorded in the negative on Calendar 839.

Senator Farley.

SENATOR FARLEY: I'd like to be in the negative on 839.

ACTING PRESIDENT MEIER: Without objection, Senator Farley will be recorded in the negative on Calendar 839.

Senator Kuhl.

SENATOR KUHL: Could we take up Calendar 1614, please.

And could we have a little order in the chamber. We've got a lot of members walking around and making noise.

ACTING PRESIDENT MEIER: Could we have order in the chamber.

For one thing, by the way, it's very difficult to determine who wants to be recognized and who is just merely standing and milling around.

So we need order in the house. And I'd request cooperation from people who'd like to go home at a decent hour tonight.

The Secretary will read Calendar

1614.

THE SECRETARY: Calendar Number 1614, by Senator Hoffmann, Senate Print 7642, an act to amend the County Law, in relation to wireless communications.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Balboni, why do you rise?

SENATOR BALBONI: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 839.

ACTING PRESIDENT MEIER: Without objection, Senator Balboni will be recorded in the negative on Calendar 839.

Senator Bonacic.

SENATOR BONACIC: Ditto.

ACTING PRESIDENT MEIER: You're requesting to be recorded in the negative on Calendar 839, Senator?

SENATOR BONACIC: Yes. Thank you, Mr. President.

ACTING PRESIDENT MEIER: Without objection, Senator Bonacic will be recorded in the negative with regard to Calendar 839.

Senator LaValle.

SENATOR LAVALLE: May I have unanimous consent to be recorded in the negative on Calendar Number 839.

ACTING PRESIDENT MEIER: Without objection, Senator LaValle will be recorded in the negative on Calendar 839.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, may I join my colleagues in the back row and be recorded in the negative on Calendar Number 839.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the negative on Calendar 839.

SENATOR ANDREWS: Mr. President.

ACTING PRESIDENT MEIER: Senator Andrews.

SENATOR ANDREWS: I would like to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Senator Andrews, without objection, will be recorded in the negative with regard to Calendar 839.

Senator Alesi.

SENATOR ALESI: Thank you. I ask unanimous consent to be recorded in the

negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Alesi will be recorded in the negative on Calendar 839.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, Mr. President. I ask unanimous consent to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Malcolm Smith will be recorded in the negative on Calendar 839.

Senator Maltese, why do you rise?

SENATOR MALTESE: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 839.

ACTING PRESIDENT MEIER: Without objection, Senator Maltese will be recorded in the negative on Calendar 839.

Senator Wright.

SENATOR WRIGHT: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Wright will be recorded in the negative on Calendar 839.

Senator, a number of other senators want to be recognized. Give us a second to complete something, please.

Senator Kuhl.

SENATOR KUHL: Do we have order now?

ACTING PRESIDENT MEIER: We have a semblance of order, Senator. I think we can proceed.

SENATOR KUHL: All right. Do we have some other members who wish to change votes?

ACTING PRESIDENT MEIER: Yes, we do.

SENATOR KUHL: Why don't we take care of that right now, clear that up and go on.

ACTING PRESIDENT MEIER: Very well.

Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. Chairman. I would appreciate unanimous consent to be recorded in the negative on Calendar Number 839.

ACTING PRESIDENT MEIER: Without

objection, Senator Mendez will be recorded in the negative on Calendar 839.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I'd like to request unanimous consent to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Stachowski will be recorded in the negative on Calendar 839.

Senator Libous.

SENATOR LIBOUS: Mr. President, could I have unanimous consent to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Libous will be recorded in the negative on Calendar 839.

SENATOR KUHL: Can we get some order in the chamber, and we will continue our business.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Now, would you have the Secretary call up Calendar Number 1627.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1627.

THE SECRETARY: Calendar Number 1627, by Senator Espada, Senate Print 7784, an act to amend the Education Law, in relation to payment of tuition and fees.

SENATOR HASSELL-THOMPSON: Explanation.

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

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

SENATOR KUHL: Move we accept the message.

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.

Senator Espada, Senator

Hassell-Thompson has requested an explanation of 1627.

SENATOR ESPADA: Thank you, Mr. President.

This bill addresses a compelling need. It's a Governor's program bill which would allow undocumented residents, except nonimmigrant aliens of New York, to once again pay in-state tuition and fees at the State University of New York -- SUNY -- City University of New York -- CUNY -- and community colleges, as long as they meet any number of criteria outlined in the bill.

And furthermore, it also provides for an affidavit that would state that said student has filed an application to legalize their immigration status, or will do so, to be eligible for the benefits spelled out herein.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: This

is a difficult one for many of us. And I'm fairly sure that we're going to be debating this for a few minutes.

My first concern was about students who are not able -- who are citizens who might not be able to extract this benefit, until I remembered the numbers of cases that come to my office. I live in a district that has a high predominance of people from the Caribbean as well as Latino students. And one of the things that we have tried to encourage, through our young people, is to get a good education, go to school.

But many of their families have come to my office for assistance with issues of immigration. And these issues are very extensive, in that they have applied and they have been on the waiting list, some as long as five years, and some longer. Some of the children have grown up in our school districts and their parents are still awaiting the opportunity to receive their citizenship.

One of the things that concerns me a great deal is if these young people are accepted into our college institutions and are

further penalized because, through no fault of their own, that because of paperwork, because of backlog in INS, that we are not able to facilitate their ability to pay in-state - many of whom also come from families who are all working-class families, but getting a college education financially is difficult from the outset. For them to have to pay an out-of-state rate would probably mean that many of them would not be able to go to college at all.

So from that perspective, I have declared that I must, based upon the constituency that I serve, I must support this bill.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. Would Senator Espada yield to a question?

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

SENATOR ESPADA: Yes, of course.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PADAVAN: Senator Espada, one of the conditions that would allow an undocumented alien to enter City University is to pass a GED examination; correct?

SENATOR ESPADA: Under this bill?

SENATOR PADAVAN: Yes.

SENATOR ESPADA: One of the conditions is -- and I'll just read, so that we can be totally accurate -- "attended an approved program for GED exam preparation in the state, received a GED issued within the state, and applied for" -- and I read "and - "and applied for admission into SUNY or CUNY within five years from the receipt of that GED."

SENATOR PADAVAN: So therefore the answer is yes; am I correct?

SENATOR ESPADA: The answer is as I read it, sir.

SENATOR PADAVAN: Well, it's yes, they could still sit for the GED test, pass it, and then apply for SUNY or CUNY and receive a resident tuition bill.

SENATOR ESPADA: Within five years of receipt of the GED, yes.

SENATOR PADAVAN: Within five years.

SENATOR ESPADA: Yes.

SENATOR PADAVAN: They could do it the following day; am I correct?

SENATOR ESPADA: Yes.

SENATOR PADAVAN: Okay. Thank you, Senator.

Now, one of the other questions I'd like to ask you is that the bill specifies that an illegal alien must file an affidavit at that point in time that they will seek to legalize their status. Am I correct?

SENATOR ESPADA: Or that they will file such an affidavit upon becoming eligible to do so.

SENATOR PADAVAN: But they have to file an affidavit saying that they're going to do that; right? Am I correct?

SENATOR ESPADA: When they become eligible, yes.

SENATOR PADAVAN: Now, Senator, is it not true that most undocumented aliens would find it impossible, short of amnesty, to establish a legal residence without first

returning back to their country of origin and seeking a visa?

SENATOR ESPADA: I think that the issue of residency is not germane to this bill. What is germane to this bill is the criteria that has been set forth in it to qualify for this benefit. Namely, that one which we just discussed, but also having attended a New York high school for more than two years or receipt of a Regent's diploma and having obviously been admitted to SUNY or CUNY.

I may just add, inasmuch as I sense where this may be going, that 47 percent of those freshmen who entered the 2001 class who are the ones that would immediately, upon us passing this, get this benefit were born outside of the United States. And many of them, many of them, as articulated by Senator Thompson, have resided in New York State for a very long time.

I mean specifically, just so that we can again put a human face to this, we're talking about individuals that may have parents who are domestic workers who

themselves haven't been able, because of the backlog that was referenced earlier, which is years and years long -- they now have a child who has attended public school and now wants to attend our public institutions of higher learning, had been getting this benefit up until -- if they were in CUNY, up until January of this year.

And what this legislation simply does is it reintroduces that fairness, that equity back into a population who had the benefit all along, up until January of this year.

SENATOR PADAVAN: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Padavan, on the bill.

SENATOR PADAVAN: First, let me say residency is at the core of this issue in many, many different ways. And, secondly, that fairness looms very high, in my mind's eye, as to why this is a terrible bill. And I'll explain.

First, let's go back to the federal statute that triggered this whole sequence of

events, the 1996 Illegal Immigrant Reform and Immigration -- I wonder if you could close this door open over there, Senator. Thank you.

It says, and I'll quote it correctly: "An alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a state for any postsecondary education benefit unless -- unless -- a citizen or national of the United States is eligible for such benefit."

Now, what does that mean? That means if a youngster comes across the George Washington Bridge and attends City College and today that youngster is paying a nonresident tuition, then an undocumented alien, under that federal law, should also be paying a nonresident tuition. Unless you give the youngster from New Jersey the resident tuition, which we're obviously not about to do. So you talk about fairness, that's right in front of you, for openers.

Now, talk about another issue of fairness. In this country there are over

500,000 youngsters from all over the world attending private colleges and universities with student visas. In New York State, between private and public colleges, there are 50,000 -- 17,000 in City University and SUNY, based on some data that Senator LaValle and his committee were able to develop on that subject.

Now, these are youngsters who are here, and we welcome them with open arms, because I think that having foreign students come to our colleges and universities, learning about our form of government, returning back home is an enrichment globally. And I support it. And we should all support it. They enrich themselves and they enrich the student body by virtue of what they bring to it.

What an affront to them to say that someone can come into this country illegally, take a GED test and then apply to CUNY and not only be admitted, but be admitted with a resident tuition. And that's what this bill provides. And I think that's terribly unfair.

Now, we have had some recent

federal enactments. In a matter of weeks, the president has put into law by his signature saying we must now track students coming into this country with visas because of the events of 9/11 and other security concerns. We must know that they indeed are attending the college or university, that they continue to reside in that college or university and, if they leave it, where do they go. A very stringent tracking mechanism is currently being put in place.

According to a CUNY internal audit of their own, there are over several thousand illegal immigrants in City University. This is not my number, it's their number. How do you track them? Do you know where they come from? Do you know what courses they're studying? The answer is no. Because there is no way to track someone who is not on that screen, who doesn't have a student visa, who's unidentifiable unless you go back to the application.

Now, I'll draw your attention, if some of you have ever looked at a CUNY application, there's a section that says are

you a citizen, yes/no. If no, what is your immigration status, what is your visa number, et cetera, et cetera. Well, apparently thousands are leaving that blank or saying no and then leaving the rest out. And absolutely nothing, absolutely nothing is being done about it.

I know I stand at risk of being labeled xenophobic by virtue of drawing attention to this fact. And that's happened more than once, and I've gotten used to it. It bothers me, however, to the degree that I believe, as a second-generation immigrant, as many of you are, who came to this country, my grandparents, legally -- and in the city of New York today, millions coming from all over the world, legally, with green cards, seeking citizenship in many cases.

And there isn't a week goes by that we don't have at least a half a dozen people in my office for whom we are advocating with INS to expedite generally citizen applications, fingerprinting and all the things they go through.

What an affront to all of them to

say, You don't have to do any of that, just get here and then we'll sign you up for a college education and you'll pay a resident tuition and no one is going to know who you are, where you are, where you came from.

Now, obviously what Senator Espada says is correct, the overwhelming percentage of these young people who are undocumented are of no danger to this country. But I suggest to you it only takes a few, as we found out, to be up to no good. At least we should know who they are, where they're coming from, and what they're doing.

The part of this bill that talks about having gone to high school here and all of that I have no problem with, because that identifies some roots. And in that case I would also suggest that seeking legal status and filing an affidavit might have some validity. And I say "might." But I think it still presents a problem.

There are major holes in this legislation. The affidavit means nothing, because they're never going to get it. They're never going to get legal status unless

they go back to that country they came from. And this whole dialogue that Senator Espada talks about having gone to high school and all that, all well and good until you get to the last item, the GED, which is a walk-in test. And there's no age limit. It could be 25 years old. Come here, take the GED test and enroll under this provision if it were law.

So I would say to you, my colleagues, with all due respect to the sponsor and I'm sure his proper motivation, to do this would be a major mistake.

Thank you.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, I'm certainly not going to repeat what has been said.

But it seems to me that 150 years ago when City College was founded, it was founded for the sons and daughters of the immigrant families that came to this country in the 19th century. And the children attending the high schools, the public high schools of New York City, those who go on to

either the community colleges, the four-year institutions at CUNY and SUNY I think deserve no less than the sons and daughters of the nineteenth-century immigrants deserved.

From what I understand, three-quarters of the undocumented freshmen went to public high school in New York City. Many of them live in my Senate district. I represent a district that has 50 percent Latino and 25 percent Asian population.

As I understand it, the reason for the differential between in-state and out-of-state tuition, the differential was due to the concept that people who live in the city are paying taxes, New York City taxes and state taxes. And this tax money, part of it goes to support our public institutions. And that I think is why we had the differential, because out-of-state people are obviously not paying our taxes.

I think this is a terrific bill. And the reason I think it's a terrific bill is that it offers the opportunity for young people to make it in our society. We've heard a lot of talk about prisons and upstate

employment opportunities as prison guards. But it seems to me it's a lot better and a lot cheaper to send a kid to college and to make an investment in that young person's future. And I certainly suggest to my colleagues that that's the least we can do for the young people of tomorrow.

Thank you.

ACTING PRESIDENT MEIER: Senator Mendez.

SENATOR MENDEZ: Mr. President, I also happen to believe that this is a very important and necessary bill.

I was shocked when I heard my dear colleague Senator Padavan describing the situation with the most nefarious thoughts. Like what we're dealing about is residency. My dear Senator Padavan, the analogy that you use about people from New Jersey crossing over the bridge and getting -- and paying for no residence, well, that's fine. That's a true situation.

But the children, the youngsters that we're talking about, many of them have been in the United States since the age of two

or three years old. And they have gone -- I have seen them in my district, in kindergarten, very shy, because probably the parents have told them that they shouldn't say anything at an early age.

And they have gone through that public school system, and now they are ready to go to college. I think that they're deserving of not to have the tuition free, but of paying based on a true fact, and that true fact is that they are residents of New York State.

So I want to inform my colleagues that the Senate of the United States is expected to pass Senate Bill 1291 that is called an agreement, a bipartisan agreement by Senator Orrin Hatch, a Republican, and Senator Richard Durbin, a Democrat from Illinois, to provide relief to immigrant students. Specifically, the agreement would provide immigration relief to undocumented young people of good moral character and who have spent five years or more in the United States.

I'll tell you, Mr. President, by the time that these youngsters go to college,

they already, they already have become very Americanized. Okay? So they do not present a danger.

I think it's the decent public policy for all of us to follow.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Brown.

SENATOR BROWN: Yes, thank you, Mr. President.

I just wanted to clarify the point that nonimmigrant aliens are not illegal immigrants. As Senator Mendez says, these are children in some cases who were actually born into this country. They have been living in this state, in some cases, for all of their lives, and attending school from the earliest levels through graduation from high school, and intend on attending college in the SUNY or CUNY system.

I think it makes sense, I think it's good public policy for us to allow these students who have lived in this country the opportunity to get a higher education and raise their ability to support themselves and

to be contributing members to society.

Further, there's a provision in this piece of legislation, and I just want to read it, that students who do not have lawful immigration status through this legislation will be required to file an affidavit stating that the student has filed an application to legalize their immigration status or will file such an affidavit upon becoming eligible to do so.

So I think that passing this legislation is good public policy. I think these students in many cases are people who have been in our state all along, who have been in our school system. And I think that this is not a means of somebody illegally taking something that they don't deserve out of our state, but giving young people who have lived here all of their lives the opportunity that we all want for our children; that is, to further themselves, get a quality education, and become contributing members to our society.

So I urge all of my colleagues to support this piece of legislation. Thank you.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I was surprised that Senator Padavan didn't point out that there are 487,000 individuals who immigrated to this country since September 11th. And there is obviously a concern about the immigration policy of this country.

So while I don't think Senator Padavan suffers from xenophobia, I don't even know what xenophobia is.

There is an attempt, I think, in this legislation to reward people who have come to this country and done everything we've asked them to do. They may be nonresident immigrants, but they have complied with all the regulations due upon them. They apparently are striving for citizenship and wanting to be part of this country and America's values.

And I think particularly in light of some of the issues that Senator Padavan pointed out, this is specifically the reason that we would want to encourage those who want

to come to this country, since we all -- well, most of us wanted to come here.

And the fact is that we really should take, I think, a different point of view. And if you'd read American history, every new group that came to the shores of this country was oppressed.

So we're happy that Senator Espada is continuing the work that we've been trying to accomplish here in the Minority Conference. On May 16, 2002, Assemblyman [sic] Schneiderman offered this same legislation really as an amendment to a budget bill that was offered in this conference and was supported by Jobs for Justice, an organization out of New York City that promotes there to be a tuition for nonresident immigrants.

So I think it kind of establishes the necessity for this type of bill, and I certainly encourage its passage.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect July 1, 2002.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

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

SENATOR BALBONI: Mr. President, I have attended several meetings in Washington, D.C., relative to the immigration policy of this nation in regards to the security of our great country. And I think that this bill is getting caught up in that discussion.

As I read this bill, this bill does not change any immigration requirements as it relates to who is an illegal alien, who is a resident alien. What this says is that if you come to this country and you apply for tuition at these institutions, irrespective of the other credentials that you may have received in regard to immigration, then you're not to be charged a different rate. That is the issue.

I don't believe that this issue has anything to do with tracking foreigners in this nation for security concerns. As a matter of fact, if you check with the federal

government, they're about to come out with a new regulation, the SEVIS program, that's going to require all universities that accept foreign students to track foreign students through a computer database. And if you don't do it, if you don't comply, then you lose the ability to have foreign students attend your university.

So this is really the issue of whether or not we give immigrants a leg up, the same opportunities for education as we do to the people that are already in this nation. That's a separate bill. I'm going to support this.

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

Senator Oppenheimer.

SENATOR OPPENHEIMER: I think the bottom line here is that many of these parents would love to become citizens, and I think the problem lies with our immigration service. And I think maybe we can all fire off some notes saying that some changes have to be made there at the federal level.

I'm voting yes.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1627 are Senators Bonacic, DeFrancisco, Fuschillo, LaValle, Leibell, Libous, Maltese, Marcellino, Maziarz, McGee, Padavan, Stachowski, Volker, and Wright. Also Senator Nozzolio. Also Senator Rath. Also Senator Farley. Ayes, 44. Nays, 17.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Nozzolio.

SENATOR NOZZOLIO: I request unanimous consent to be recorded in the negative on Calendar Number 839, Bill Number 6083A.

ACTING PRESIDENT MEIER: Without objection, Senator Nozzolio will be recorded in the negative on Calendar 839.

Senator Gonzalez.

SENATOR GONZALEZ: Mr. President, I request unanimous consent to be recorded in

the negative on 839.

ACTING PRESIDENT MEIER: Without objection, Senator Gonzalez will be recorded in the negative on Calendar 839.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May we now go to Supplemental Active List Number 3 and do a noncontroversial reading of that active list.

ACTING PRESIDENT MEIER: Senator Maziarz is up again, Senator. May I recognize him?

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: Thank you, Senator.

Senator Maziarz, why do you rise?

SENATOR MAZIARZ: Thank you very much, Senator Kuhl.

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

SENATOR MAZIARZ: Mr. President, I'd like unanimous consent to be recorded in the negative on Calendar Number 839.

ACTING PRESIDENT MEIER: Without objection, Senator Maziarz will be recorded in

the negative on 839.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. We'd like to begin with Calendar Number 67, which is currently on the starred calendar.

I'd make a motion to remove the sponsor's star on Calendar Number 67.

ACTING PRESIDENT MEIER: So ordered.

SENATOR KUHL: And then, with unanimous consent, we'd like to have the reading of that bill.

ACTING PRESIDENT MEIER: Without objection.

The Secretary will read Calendar 67.

THE SECRETARY: Calendar Number 67, by Senator Saland, Senate Print 3434A, an act to amend the Domestic Relations Law and the Family Court Act.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Explanation, Mr. President.

SENATOR KUHL: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 160, by Member of the Assembly Glick, Assembly Print Number 4945C, an act to amend the Agriculture and Markets Law and the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 781, by Senator Leibell, Senate Print 7215, an act to amend the Administrative Code of the City of New York and the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, earlier in this Supplemental Calendar Number 3, with respect to Calendar Number 67, I asked that the bill be laid aside for an explanation. I'd like to withdraw that, Mr. President, if I may.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 67.

THE SECRETARY: Calendar Number 67, by Senator Saland, Senate Print 3434A, an act to amend the Domestic Relations Law and the Family Court Act.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1165, by Senator Mendez, Senate Print 2504A, an act to amend the Election Law, in relation to requiring certain voter registration cards.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Senator Mendez, an explanation has been requested. Lay the bill aside.

THE SECRETARY: Calendar Number 1252, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11618A, an act to amend the Real Property Actions and Proceedings 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, 61.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Did we pass 1252?

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR KUHL: Move to reconsider the vote by which the bill passed the house.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

THE SECRETARY: In relation to Calendar Number 1252 -

(The Secretary called the roll.)

THE SECRETARY: -- ayes, 61.

SENATOR KUHL: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

The Secretary will continue to read.

SENATOR KUHL: Mr. President.

ACTING PRESIDENT MEIER: Senator

Kuhl.

SENATOR KUHL: I'd like to move to reconsider the vote by which Calendar Number 67 passed the house.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

THE SECRETARY: In relation to Calendar Number 67 -

(The Secretary called the roll.)

THE SECRETARY: -- ayes, 61.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

SENATOR KUHL: Now if we can go to Calendar 1384 and continue on the noncontroversial reading of Supplemental Number 3.

ACTING PRESIDENT MEIER: The Secretary will continue the noncontroversial reading, beginning with Calendar 1384.

Senator Kuhl.

SENATOR KUHL: Mr. President, I

understand that Calendar Number 1384 is high on the calendar.

ACTING PRESIDENT MEIER: That's correct.

SENATOR KUHL: So we'll need to go to 1442.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1442.

THE SECRETARY: Calendar Number 1442, by Senator Skelos, Senate Print 6318B, an act to amend the Labor Law, in relation to establishing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Saland.

SENATOR SALAND: Mr. President, I request unanimous consent to be recorded in

the negative on Calendar 1627.

ACTING PRESIDENT MEIER: Without objection, Senator Saland will be recorded in the negative on Calendar 1627.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like unanimous consent to be in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 839.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, thank you, Mr. President. I too would rise to request unanimous consent to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator Hassell-Thompson will be recorded in the negative on Calendar 839.

Senator Johnson.

SENATOR JOHNSON: Mr. President, I request unanimous consent to be recorded in the affirmative on Calendar Number 1580.

ACTING PRESIDENT MEIER: Without objection, Senator Johnson will be recorded in

the affirmative on Calendar 1580.

Senator Seward.

SENATOR SEWARD: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1627.

ACTING PRESIDENT MEIER: Without objection, Senator Seward will be recorded in the negative on Calendar 1627.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I understand that this is a very busy time, and a lot of members are coming and going. But could we have the members try to concentrate on the bills when they're here and cast your vote if you're going to vote in the negative.

And we would like to pass some bills and end today before midnight. So this kind of disruption doesn't allow us to proceed or -- so can we continue now with the calendar.

And I'll ask all the members, if you wish to change a vote or record another vote, please wait until the end of the session and do it then, because you may have a couple

more votes that you want to change then, rather than disrupt the proceedings of the house.

Now, the Secretary will call up Calendar Number 1593.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1593.

THE SECRETARY: Calendar Number 1593, by Senator Saland, Senate Print 5638A, an act to amend the Social Services Law and others, amending the Social Services Law and the Tax Law.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: We need to get the bill on the floor first.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, is there a message on Calendar Number 1593 at the desk?

ACTING PRESIDENT MEIER: There is a message.

SENATOR KUHL: Move we accept the message.

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.

Lay the bill aside.

The Secretary will continue to read.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. We have now several bills off the regular calendar we'd like to take up.

Could you call up Calendar Number 733, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 733.

THE SECRETARY: Calendar Number 733, by Member of the Assembly Gantt, Assembly Print Number 9934A, an act in relation to establishing a pilot study.

ACTING PRESIDENT MEIER: Read the

last section.

SENATOR HEVESI: Explanation.

SENATOR KUHL: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

SENATOR KUHL: Mr. President, would you now call up Calendar Number 658.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 658.

THE SECRETARY: In relation to Calendar Number 658, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 7199A and substitute it for the identical Senate Bill Number 3954A, Third Reading Calendar 658.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Kuhl.

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

ACTING PRESIDENT MEIER: Yes, there is.

Senator, we've substituted a live Assembly bill so we can proceed at this time.

Read the last section.

SENATOR HEVESI: Explanation, please.

THE SECRETARY: Calendar Number 658, by -

SENATOR KUHL: An explanation was asked for. Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator Kuhl.

SENATOR KUHL: Mr. President, could you call up Calendar Number 686.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 686.

THE SECRETARY: Calendar Number 686, by Senator Balboni, Senate Print 6933A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Is there a message at the desk, Mr. President?

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the

message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Now, Mr. President, can you call up Calendar Number 1295.

ACTING PRESIDENT MEIER: The

Secretary will read Calendar 1295.

THE SECRETARY: Calendar Number 1295, by Senator Wright, Senate Print 7139B, an act to amend the Vehicle and Traffic Law, in relation to issuance.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

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 first day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, can we now call up Calendar Number 1432.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1432.

THE SECRETARY: Calendar Number 1432, by Senator Kuhl, Senate Print 7527B, an act to authorize the conveyance of certain real property.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message 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 5. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Can we now call up Calendar Number 553. This is on your regular calendar.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 553.

THE SECRETARY: Calendar Number 553, by Member of the Assembly Abbate, Assembly Print Number 6942D, Senate Reprint 21000.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: I move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

SENATOR HEVESI: Explanation.

SENATOR DOLLINGER: Lay it aside.

SENATOR KUHL: Lay the bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. We're going to go back and try to accommodate some of the messages that have come through on the bills.

We're going to start out on this supplemental list with Calendar Number 67. A message has now arrived. Then we're going to be going back to the Supplemental Calendar Number 2 and take up, in this order, Calendar Number 1588, Calendar Number 1604, Calendar 1623, and Calendar 1626.

And again, these will be noncontroversial readings. So with that, can we now take up Calendar Number 67, which is again on Supplemental Number 3 Active List.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 67.

THE SECRETARY: Calendar Number 67, by Senator Saland, Senate Print 3434A, an act to amend the Domestic Relations Law and

the Family Court Act.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

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 3. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1588, by Senator Stafford, Senate Print 3918B, an act to amend the Executive Law, the State Technology Law, and the State Finance Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message 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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1604, by Senator Espada, Senate Print 7314C, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read 1623.

THE SECRETARY: Calendar Number 1623, by Senator Marchi, Senate Print 7721A, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message 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.

SENATOR DOLLINGER: Explanation, Mr. President.

I withdraw the explanation.

SENATOR KUHL: Read the last section.

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read 1626.

THE SECRETARY: Calendar Number 1626, by Senator Espada, Senate Print 7769, an act to amend the Vehicle and Traffic Law and the State Finance Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message 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 3. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, can you call up now Calendar Number 733.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 733.

THE SECRETARY: Calendar Number 733, by Member of the Assembly Gantt, Assembly Print Number 9934A, an act in relation to establishing a pilot study.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. 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, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, can you call up Calendar Number 658.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 658.

SENATOR KUHL: On the regular calendar. Regular calendar now.

THE SECRETARY: Calendar Number 658, substituted earlier today by Member of the Assembly Davis, Assembly Print Number 7199A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR HEVESI: Explanation.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Could we lay that bill aside temporarily, Mr. President.

ACTING PRESIDENT MEIER: 658 will be laid aside temporarily.

Senator Kuhl.

SENATOR KUHL: For the benefit of the members, and so that we can provide some order, we would next like to go to Senator Mendez, but I see she's not here.

So we'll take up Calendar Number 1252, by Senator DeFrancisco, then Senator Saland's 1593, then we'll go back to Calendar Number 1165, by Senator Mendez, in that order. On debate.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1252.

THE SECRETARY: Calendar Number 1252, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11618A, an act to amend the Real Property Actions and Proceedings 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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read Calendar Number 1593.

THE SECRETARY: Calendar Number 1593, by Senator Saland, Senate Print 5638A, an act to amend the Social Services Law and others, amending the Social Services Law and the Tax Law.

SENATOR DOLLINGER: Mr. President, could we just have on explanation on this bill, please.

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

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is the Governor's Child Support Enforcement Improvement Act. What this bill would do would be to dramatically improve child support collection and enforcement in our state.

It will strengthen criminal

penalties for so-called deadbeat parents, increase the amount of child support received by custodial parents, increase the pass-through from the current $50 to $100, and provide more extensive health coverage than is currently provided for by way of application to the Family Court, with the court also being required to consider, where appropriate, that a parent also attempt to access either Child Health Plus or medical assistance.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Just one brief question, Mr. President. I haven't had a chance to review the bill -

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: We've increased the criminal penalties for nonpayment of child support; is that correct?

SENATOR SALAND: Yes. There will

be -- if you're $2,000 in arrears or six months without making payments, there will be a misdemeanor penalty, A misdemeanor. If you're $10,000 in arrears, or two years, it would be an E felony. And $50,000 or five years would be a D felony.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Saland will yield just to one other question.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: I'm going to vote for this bill, Senator Saland. I just want to see what is our experience with increased criminal penalties for deadbeat dads or deadbeat parents.

Is there any evidence that suggests that criminal penalties actually result in an increased return to the custodial parent? I mean, does it actually -- what we want them to do is pay their bills, not send them to jail.

SENATOR SALAND: Well, I can - let me first say that over the course of the past seven-plus years, Governor Pataki has been certainly not merely keenly interested but very proactive in attempting to increase support collections in New York State. And they have increased dramatically under a number of initiatives that we in this house have helped to move as part of some of the Governor's program bills and other measures as well.

The response with regard to the impact of criminal penalties on support collections, I don't know if anybody could collect that data.

I do know, for instance, my counsel, as recently, I believe, as today, had a situation in which somebody faced with time under the existing deadbeat dad provisions suddenly and miraculously managed to come up with $5,000.

There have been other, more highlighted cases I have seen reported in the media where some person had been substantially in arrears, perhaps tens of thousands in

arrears, and when confronted with the apparent choice of being trudged off to be incarcerated somewhere or coming up with the money, they managed to come up with the money.

So yes, there certainly have been reported incidents in which it seems to have worked. Unlike the prior system before we imposed some criminal penalties.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, the explanation is satisfactory.

Mr. President, I accept Senator Saland's episodic evidence of this. I'm just always concerned that we increase the penalties, we threaten to send people to jail, but they don't actually get the cash. The key thing is to recognize those support obligations and get them paid and get cash flowing to the custodial parent.

So with that in mind, Mr. President, I'll let the bill go.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 55. This act shall take effect immediately.

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

SENATOR DUANE: I have a question, if the sponsor would yield.

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

SENATOR SALAND: Yes, Mr. President.

SENATOR DUANE: Through you, Mr. President, if the family is on public assistance and the father does not pay child support, then a penalty -- and they're $10,000 in arrears, then potentially the father can go to jail; is that correct?

SENATOR SALAND: Yes, that's correct.

However, a bill we did earlier today makes that pretty well unlikely. Because while the statute talks in terms of a minimum $25 obligation, in response to a Court of Appeals case, Rose versus Moody, we have effectively said that the court can recognize that there are circumstances in which people

are unable to, where they may be receiving public assistance, to meet that obligation.

So while theoretically that's possible, and there may be some cases in which it may occur, I think it's highly unlikely.

SENATOR DUANE: And through you, Mr. President, if the sponsor would 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 DUANE: If the family is not receiving public assistance and the father again does not make -- is $10,000 in arrears and doesn't make their payments within I believe it was a year, potentially can that father go to jail?

SENATOR SALAND: The parent, be it the father or mother, that would be responsible for that support obligation, when he or she is able to do so -- because the section of the law says there has to be the

ability to do so -- but when they are able to do so, yes, if they refuse or fail to, they run the risk of a criminal penalty.

Keeping in mind that what this is about really is trying to make people respond to their support obligations. And that in the scheme of things, your obligation to your child or children I would think would be a priority and shouldn't have to compete with things perhaps such as, you know, paying for your credit card bills for dinners or perhaps, you know, a car payment.

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

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: The point I'm trying to get at is, is there a difference if the family that's not being supported is on -

SENATOR SALAND: Mr. President, I

can't hear Senator Duane.

ACTING PRESIDENT MEIER: Members, I'm going to ask you, please, so that we can get through the remaining bills, to extend some courtesy to the members trying to debate a bill.

Senator Saland, you have the floor.

SENATOR DUANE: And through you, Mr. President, the point that I'm trying to find out is, is there a difference in the way the court can treat the deadbeat depending on whether or not the family that's not getting the assistance is on public assistance or not?

And I ask that question because it sounded like, and when I looked at this, that if the family is not on public assistance, the person not paying the support cannot go to jail. But if the family is on public assistance, the person not paying support can go to jail.

SENATOR SALAND: No, Senator Duane, the language in the bill again refers to the fact that the person who has not made their payments has to have the ability to make those payments. So certainly that's a

relevant consideration.

And also, as a matter of course, the obligor, the person responsible to make those payments, has the ability to seek a downward modification. And if there's been a change in circumstances, that person has the ability -- whether they will be successful, certainly that's up to the court.

So (a) you have to have the ability to pay; (b) you have to have refused to pay before you can find yourself with a criminal penalty imposed upon you.

And again, ability to pay is part of the language in the statute.

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

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: But is there a difference if the family is on public

assistance or not on public assistance?

SENATOR SALAND: Every case would turn on its facts. If the family went on public assistance because in fact the obligor was not meeting his or her obligation, yes, it might well be.

If, at the time that the support obligation arose, the family was already on public assistance, then in that case it might not be. In the prior case, it might well be.

Because if the family finds itself in a situation where out of desperation they have resorted to public assistance when previously they might have had a more substantial lifestyle, then the obligor assumedly, at least at that time, had the ability to pay and for whatever reason has not or has refused to pay.

And you would think that as a matter of public policy and absent a very good reason for that person not having paid, the state has an interest in securing those payments and, if necessary, resorting to a criminal penalty.

SENATOR DUANE: Mr. President, on

the bill.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: It sounds like this bill says that if because an adult is not paying support and forces their family to go on public assistance, then the person that's not paying support could go to jail.

However, if the person is not paying public support, is not paying their support and the family does not go on public assistance, then the parent will not go to jail.

So it seems to me that those who have other means and would not be forced to go on public assistance, that the deadbeat in that case would not go to jail. And so whether someone goes to jail or not should not depend on what the financial circumstances are of the family. A deadbeat is a deadbeat, and so they should be treated equally.

So I object to someone who may be poor who can't pay potentially going to jail, as opposed to someone who's wealthy and refuses to pay will not go to jail. Unless I

totally misunderstood what the explanations were. So if it's the way I've said it is, I'm voting no. But I hope that maybe I can get a better clarification about that.

Thank you.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Senator Saland.

I think that Senator Duane, as do I, wants to vote for the bill. So if you don't mind, I'm going to try to just play out I think the example he was trying to give - but the hour is late, and we've all been dealing with a lot of bills. If you don't mind.

If Senator Duane was my ex-husband and Senator Hassell-Thompson -- everyone in the audience please be quiet -- and Senator Hassell-Thompson was our child -- this can work, okay? Humor me. Thank you. All right, so Senator Duane is my ex-husband, Senator Hassell-Thompson is my child. He owes child support to me.

I think the question was would the courts treat him differently in penalties if Ruth and I were on public assistance versus if we weren't on public assistance.

SENATOR SALAND: No, the obligation has nothing to do with your status whatsoever. It really depends on the circumstances surrounding the obligor, in this case Senator Duane.

If he had attempted to make payment and didn't have the ability to make those payments any longer, perhaps had sought a downward modification to reduce his support obligation, the likelihood, I would think, on those facts would be that there would be little or no likelihood that he would run the risk of a criminal penalty.

If, however, he chose to willfully ignore his support obligation, did not seek a downward modification -- again, it's his status, his acts, not anything to do with his family -- he would then find himself at risk as his arrears accumulated and/or the period of time over which he had not made a payment continued to run. And depending on the length of that time, the amount of that arrears, that would determine what the criminal penalty would be.

And the criminal penalty, as I mentioned earlier -- I said anecdotally, and Senator Dollinger said episodically -- has shown itself to be effective. That somehow or other, when faced with the prospect of serving some time, people seem to suddenly find that they have the ability at least to make some substantial payment, if not an entire payment, against their outstanding obligation.

And again, it's all about the obligor, not about his or her spouse or about the children. It's the willful failure or refusal to have met the support obligation that gets that person into that situation.

SENATOR LIZ KRUEGER: Thank you, Senator.

Mr. President, on the bill briefly.

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you for the clarification.

I am comfortable voting for this bill, and I hope that my colleagues will also. Thank you. Thank you for the clarification.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 55. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR MONTGOMERY: Yes, Mr. President. I just would like to say although I have, as always, concerns about the risk of having people spend time in prison because they didn't pay their child support, unfortunately, I certainly am going to support

this bill because it has really good things in it.

I think Senator Saland has really looked at a very important issue. And that is that in many instances I have found that we are creating a situation where men become impoverished because the law does not take into consideration the impact of the child support orders on them vis-a-vis their own low income. So this seems to do that, and also addresses a number of other important issues.

So I thank you, Senator Saland, Mr. President, for this. And I'm going vote yes.

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

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, would you inform the members that 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.

The Secretary will read Calendar 1165.

THE SECRETARY: Calendar Number 1165, by Senator Mendez, Senate Print 2504A, an act to amend the Election Law, in relation to requiring.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT MEIER: Senator Mendez, Senator Hevesi has requested an explanation of Calendar 1165.

SENATOR MENDEZ: Thank you, Mr. President. One of the -

ACTING PRESIDENT MEIER: Excuse me, Senator Mendez. There should be two people talking. That's the people debating the bill.

Senator Mendez, you have the floor.

SENATOR MENDEZ: Thank you.

You know, Mr. President, one of the most positive public policies here in the state of New York regarding the Election Law

is that no identification is required when you go to register and no identification is required when you go to the polls.

Many, many years ago, it was a very different situation, because in different states the people who held the power, whether they were Democrats or Republicans, would pass legislation that would in fact prevent people from registering and voting by demanding, whether it is a poll tax or whether it is some form of identification or birth certificate or what have you.

And I strongly believe that the public policy should be, for all of us Americans, to ensure that every single American citizen that is entitled to register and to go to the polls does in fact do that.

This is a very simple bill. This bill, what it does is that it would make it possible for a person, when he goes or she goes to register, to ask the Board of Elections to provide them with a voting card, but with a photo of him or herself on that voting card. I think that that would make it more possible for people who do not own cars

to register and vote.

For example, we know that in the City of New York less than 50 percent of the city residents of voting age have licenses, less than 50 percent. Of those 50 percent, 77 percent of them are white individuals who own cars, 60 percent are Asians that own cars, 44 percent are African-Americans, 41 percent Latinos. And I'll tell you, Mr. President, the disabled, the disabled, very few of them do have driver's licenses.

So by doing this, this bill will not penalize, from a fiscal point of view, local government. And it would be at the request of the voter.

So that's the essence of the bill. And it will spur the working people to get registered, to go and vote, because that identification card could serve as an identification, something to identify themselves like, for example, all of us who have a driver's license, we have no problems in identifying ourselves. Why? Because the driver's license, with our photo there, is considered good enough. This simply would be

happening with the voting card.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

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

SENATOR MENDEZ: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I was curious by the explanation that the purpose of this bill is to provide identification for an individual who might not be able to -- or who might not have a driver's license. The sponsor's memo says the following: "After the controversial presidential election of 2000, we're all too aware of the potential for voter fraud." It goes on to talk about voter fraud.

So I just want to clarify, does the sponsor believe that this legislation will do anything to crack down or inhibit, in any way, voter fraud?

SENATOR MENDEZ: Well, I think actually -- I'll tell you a little story. My own parish, the priest over there was away on his vacation. Election time came, and he discovered that somebody else voted for him. And he came and he told me: "How could this happen?" And I said, "Well, there are some people that do not respect the law."

So what this is -- I think that this will encourage more political participation. And if we take into consideration the fact that since 1960, my God, we are a representative democracy. Since 1960, the people that vote in this wonderful country of ours has been going down, the number of voters down, down, down.

If we do not do something to increase political involvement at least mainly at the voting level, you know what's going to happen? The decisions of our country are going to be made by very few people.

And you know that in the City of New York, traditionally, traditionally, I've been told, at least many, many years ago, that all kinds of things occurred. I'm not saying

that they do now. I do remember, however, before the Voting Rights Bill of 1964, Puerto Ricans practically were not allowed to register and vote unless they would go and take a literacy test with a reading level in English that many couldn't pass.

So I think that this is a good bill. I hope that after all these questions you end up supporting it.

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

ACTING PRESIDENT MEIER: Senator Mendez, do you yield?

SENATOR MENDEZ: Yes, yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I'm confused by this. I'm very confused by this. This bill does not require the Board of Elections or anybody, for that matter, to check anybody's photo ID card. And you stated in your opening statements that you thought one of the best -- Mr. President, could we have some order in the chamber,

please.

ACTING PRESIDENT MEIER: Senators, could I ask you please to extend some courtesy to the members debating the bill. Could we have some order in the chamber.

Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President.

And you stated earlier, through you, Mr. President, that one of the best policies in New York State is that there is no requirement to present any form of ID at the polling place.

So how could this bill in any way affect political participation?

SENATOR MENDEZ: It will affect the political participation -- first, let me tell you that the bill, the bill -- first of all, the present legislation is that people, to register, they don't have to identify themselves, you know. And to go into a polling place and vote, you just have to say your name and your address, they look, and they get the buff card.

Okay? That has not changed. The only difference -- but when they register, they get a voting card. All that this bill does is to permit the voter to request to have his or her photo placed over there. And the voter will pay for that photo.

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

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

SENATOR MENDEZ: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: I understand what this bill does. But in my reading of this, this bill in no way affects the political process.

If you have a photo that you allow somebody, if they request it, to be part of an identification but nobody presents that identification when it's time to vote -- and you yourself said in your explanation you don't want any requirement for ID to be presented -- how could this bill do anything other than, at a cost to the City of New York,

provide somebody with an ID for some purpose unrelated to politics or elections or anything?

SENATOR MENDEZ: Let me tell you something, my dear Senator -- what's the name? Hevesi. Hevesi. Let me tell you something. The voter will pay for his or her photo.

You know what happened in last year's elections in the City of New York that I couldn't believe that it was happening in my district? The same inspectors had been working there for over 15 years. All these Puerto Ricans -- they knew their voters, year after year. All these Puerto Ricans go there to vote, and suddenly the buff cards wasn't there. And they -- and they -- and the inspectors, knowing these people, they didn't allow them to vote. It was incredible.

But anyhow, anyhow, Senator Hevesi, I am not saying that this bill will be the cure-it-all for all those kinds of mishappenings that occur at times in election time. I'm not saying this will cure it all. What I'm saying is that it is an option that the voter could have. In the same manner that

you and I use a driver's card for identification in other situations, they can use that also for identifying themselves, and that that will be appreciated so much by them that they would then tend to participate more. That is what I feel.

SENATOR HEVESI: Mr. President, I'll speak on the bill.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR MENDEZ: Thank you.

SENATOR HEVESI: Mr. President, I'm the ranking Democrat on the Senate Elections Committee. And, you know, I have great respect for Senator Mendez. But this is one of the more strange bills that I have seen.

This bill would -- and there are a slew of problems with it, and so I'll just articulate them instead of going through the painstaking process of eliciting the responses to the questions that I already know the answers to.

This bill is very simple. It says that an individual in New York City, if they

want, can at their own expense provide photographs to the Board of Elections, which then can put that photograph on a piece of identification.

There is no requirement in the bill that everybody have it or that anybody check it when you go in to vote. In other words, it does nothing. There is no reason for this legislation. There is no purpose for it. In fact, Mr. President, if somebody attempted to check one of the photo ID cards pursuant to this bill -

ACTING PRESIDENT MEIER: Senator Mendez.

SENATOR MENDEZ: Will he yield for a question?

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

SENATOR HEVESI: I'd be happy to yield for a question.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MENDEZ: Thank you, Mr. President.

Do you remember the motor-voter

bill?

SENATOR HEVESI: Yes.

SENATOR MENDEZ: What did it do?

SENATOR HEVESI: The motor-voter bill was -- I'm glad you asked me that question, because let me go in a circuitous way and tell you why I was going to bring the motor-voter bill up myself.

The motor-voter bill, early in the Clinton administration, changed the policy in the New York City Board of Elections. Prior to which -- and I'm not sure, Mr. President, whether Senator Mendez is aware of this -- the New York City Board of Elections did not give out voter identification cards, which they currently do. For 15 years, up until the time of the motor-voter law, the Board of Elections in New York City did not give out photo identification cards.

Mr. President, the reason why the Board of Elections did not give out those cards, which they currently do, is because the United States State Department asked the New York City Board of Elections not to, because these identification cards were the

number-one fraudulent means that individuals were using to apply for passports.

And so this is another reason why this bill is really a bad idea, particularly in the current climate where we have people who may be involved in terrorism or what have you. We have a huge problem with individuals being tracked in this country from coming from other countries. And to provide a form of ID -- and that's all this bill would do, because it doesn't have anything to do with elections -- to provide a form of ID for these individuals, which we already know has been used fraudulently, and that's why its use was discontinued until the motor-voter law required it, that would be a huge mistake.

So yes, I'm familiar with it, Senator Mendez.

SENATOR MENDEZ: Well, I'm glad.

Mr. President, I just want to mention I had my registration since the '60s. I had my voting card. And everybody that goes and registers today to the Board of Elections, they get a voting registration identification card. Everybody does.

SENATOR HEVESI: Currently.

SENATOR MENDEZ: Yes. And for way back. Okay, thank you -

SENATOR HEVESI: I'm sorry, Mr. President, not for a 15-year period.

SENATOR MENDEZ: Thank you.

SENATOR HEVESI: Thank you.

Thank you, Mr. President. Let me continue on the bill.

So not only does this bill not do anything, you have additional problems with it, including the one I just outlined for you. Why in the world would we want to go and start issuing identification, photo ID to people when the Board of Elections for 15 years, at the request of the U.S. State Department, didn't do it because that is what people used to commit fraud when applying for passports? It's just -- it's ludicrous to suggest that we would want to go and do this now.

So the bill does nothing. It in no way influences the political process. It opens up the door for potential fraud. And finally, Mr. President, the deputy director of the New York City Board of Elections is

vehemently opposed to this bill, the general counsel of the New York City Board of Elections is vehemently opposed to this bill.

And let's talk about the cost for a second. Mr. President, there are 3.7 million registered voters in the City of New York. I have cost estimates from the Board of Elections. Despite the fact that the photograph would be provided by the individual, the Board of Elections has informed me that the cost would be, at a minimum, $3 per voter if we enacted this. So let's take a look at the numbers, then.

Assuming -- and we'd have to assume this -- that every single New York City voter who is registered to vote right now wanted a card, at a cost of $3 each, the total cost would be $11,100,000.

ACTING PRESIDENT MEIER: Senator Mendez.

SENATOR MENDEZ: Will he yield for a point of clarification?

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

SENATOR HEVESI: I'll be happy to yield, Mr. President.

ACTING PRESIDENT MEIER: He yields.

SENATOR MENDEZ: All that we are saying is that the City of New York will have an option. Get that? Get it? An option.

SENATOR HEVESI: I don't think there was a question there, Mr. President. Why don't I continue on the bill.

If we pass this bill there would be no more option, Mr. President. If a voter went and requested that the Board of Elections provide them with the photo ID and the voter presented the photograph, the Board of Elections would have to provide the identification, at a cost of $3 per head. Which, as I said before, if we did this for every registered voter in New York City, would cost $11.1 million.

Mr. President, if only 1 percent of the registered voters in New York City chose this option, a minuscule 1 percent, that's 37,000 voters. At a cost of $3 per voter is $111,000. This is an unfunded mandate, for

all you fiscal conservatives out there. There is no cost being shifted from the state to the city, there's no financing going into the city for this.

This is a bad idea, from to top to bottom. Unfunded mandate, impractical, costly. The Board of Elections is against it. Opens up the door for voter fraud, for passport fraud.

And I'll tell you something else. If somebody needs an identification, Mr. President, which is what the sponsor I guess admitted this bill only does, they can go to the Department of Motor Vehicles and get a non-driver's identification. They can go ahead and do that.

So if we need to provide people with identification, that's the way to do it. You don't do this bill, which is costly, which the board does not want, which opens up the door to voter fraud, which doesn't do anything -- you don't go ahead and do this.

And I don't know why this bill even came out of committee. I was opposed to it. It's a bad bill, Mr. President. I'm voting

against it, and I hope all my colleagues vote against it too.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. 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. Nays, 1. Senator Hevesi recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Can we return to the order of reports of standing committees. I understand there's a report of the Rules Committee at the desk. I ask the Secretary will 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 1755A, by Senator Leibell, an act to amend the Retirement and Social Security Law;

2367, by Senator Leibell, an act to amend the Civil Service Law;

2780, by Senator Lack, an act to amend the Mental Hygiene Law;

4117A, by Senator Leibell, an act to amend the Retirement and Social Security Law;

4522B, by Senator Nozzolio, an act to amend the General Business Law;

4654B, by Senator Skelos, an act to establish;

4888A, by Senator Kuhl, an act to authorize.

5287, by Senator Leibell, an act to amend the Administrative Code of the City of New York;

5567A, by Senator Nozzolio, an act to amend the Family Court Act;

5600A, by Senator Leibell, an act to amend the Retirement and Social Security

Law;

5477C, by Senator Spano, an act to amend the Judiciary Law;

5835A, by Senator Fuschillo, an act to amend the Transportation Law;

6202, by Senator Johnson, an act to amend the Tax Law;

6229A, by Senator Wright, an act to amend the Tax Law;

6344A, by Senator Skelos, an act to amend the Tax Law;

6408B, by Senator Farley, an act to amend the Tax Law;

6425A, by Senator Wright, an act to amend the Public Authorities Law;

6434, by Senator Hoffmann, an act to amend the Tax Law;

6655, by Senator Leibell, an act to amend Chapter 154 of the Laws of 1921;

6656, by Senator Leibell, an act to amend the Education Law;

6840, by Senator Skelos, an act to amend the Retirement and Social Security Law;

7563, by Senator Leibell, an act to amend the Civil Service Law;

7707, by Senator A. Smith, an act to authorize;

7712, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

7752, by Senator Stafford, an act to amend the Public Authorities Law;

7782, by the Senate Committee on Rules, an act to amend the County Law;

7783, by the Senate Committee on Rules, an act to amend the Local Finance Law;

7795, by Senator Alesi, an act relating;

And Senate Print 6651, by Senator Breslin, an act to amend the Uniform City Court Act.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: 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 Kuhl.

SENATOR KUHL: Yes, would you call up, on the regular calendar -- Calendar Number 55, now -- Calendar Number 553, by Senator LaValle.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 553.

THE SECRETARY: Calendar Number 553, by Member of the Assembly Abbate, Assembly Print Number 6942D, Senate Reprint 21000.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator LaValle, Senator Paterson has requested an explanation of Calendar 553.

SENATOR LAVALLE: Mr. President, this bill amends the General Business Law, adding a section that prohibits encroachment of retail service stations.

Under this bill, no producer or refiner, under a franchise agreement with the service station dealer or distributor, shall directly compete so as to encroach against its own distributor or dealer.

Both myself and under the leadership, chairmanship of Senator Fuschillo, we held hearings on this legislation. At the hearing we found that franchisees had a very difficult time in competing. So this legislation is all about competition, allowing franchisees to compete and not have company-owned stores put in next to a franchisee's station and in many cases driving them out of business by playing games with prices.

Based on population, the franchisor cannot locate a company station within a mile and a half, based on a population of 900,000 or greater -- and those basically are the downstate counties, from Rockland down, and

also Erie County. And the rest of the state would be -- would have a 2-mile limit.

That's what this bill does, Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

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

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

SENATOR LAVALLE: Yes.

SENATOR PATERSON: Senator LaValle, are you sure that this legislation would comply with the federal and state antitrust laws? Because it's clearly restrictive.

And even though you were pretty meticulous about the actual limitations that are involved, I just wonder if it would stand that kind of a test. Because I know what you're trying to accomplish, but I -

SENATOR LAVALLE: I can answer that question. Under Supreme Court decision Exxon Corp. versus Governor of Maryland - that is one of the cases. Maryland has a law

very similar to this. So we have Supreme Court case law on this legislation.

This was brought up at the hearing, it was discussed at the hearing. And the state does have the ability to enact this legislation. And other states have done so as well.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: I guess he told me, Mr. President. Clearly, I missed the hearing.

But that's very good. I'm happy to see that it complies. I think now I'll go beyond that, Senator, and just ask you about, you know, in a sense just the spirit of competition, the spirit of free enterprise. The loser, in my opinion, being the consumer. Because if these franchisors and franchisees are somewhat at war, you would think that the inevitable winner would be the person that purchases gas, in this case.

So, you know, just from that standpoint, can you tell me what benefit it has, so that someone like me that believes in

the free enterprise system would not feel that it's creating a control rather than an open market?

SENATOR LAVALLE: Senator, I hope that the next time, next year at this time you can come over and tell me that this legislation has reduced gas prices because there is greater competition.

You have to look at the franchise agreements and the control that the franchisor has and what they can do to the franchisee. Really, literally shackle them, shackle them.

And so at the hearing that Senator Fuschillo chaired, I think the testimony was quite replete that this would have only one benefit to the consumer, and that would be, through greater competition, reducing gas prices.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I'm not

convinced now, but it wouldn't be the first time that I've had to go back and tell Senator LaValle that he was right about something that we had disagreed on in the past. And I think he's right to a great deal about the power, sometimes, that franchisors have had over their franchisees.

But in this particular case, I just think that we've gone a little bit over the line. And although the Supreme Court did uphold it, and I'm bound to respect that, the fact is that I think just in the marketplace this sort of flies in the face of a lot of other things that I've seen pass through this house and at least opinions that many people in this house feel about free enterprise and particularly about market-driven results.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on the bill.

I just want to rise and say to Ken LaValle, congratulations. It's about time. You used the word that the corporate giants are shackling the independent retailers in

this state. They're choking them to death.

They move across the street, Senator Paterson, I know you may not believe or only time will tell whether the competition will be there, what will happen to gas prices. But they're moving across the street from the independent dealers in this state, they're charging them more per gallon than a New York State resident who owns the independent station, and they're putting them out.

Senator LaValle, you leveled the playing field with this legislation. I compliment you on it. I'll be voting in the affirmative.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Senator, Mr. President. I just also want to say that I'm in support of this legislation Senator LaValle.

I've had a recent experience in my own district. I see how the franchisor has a lot of power, as you've said. And in fact, the best deal in terms of gasoline in my district comes from the small independents.

And as the pressure with the franchises gets more intense in the city, I'm seeing those small independents fold on a daily basis, a monthly basis. And I have concerns about that, because I think we do need a level playing field so that everyone has an opportunity to compete equally.

So I think this bill hopefully will help to make that happen, and therefore I'm supporting this legislation.

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 553 are Senators Connor and Paterson. Ayes -

ACTING PRESIDENT MEIER: Hold on a second.

Senator Paterson, why do you rise?

SENATOR PATERSON: Well, Mr. President, now that I've heard the results, I

would rather not rise.

(Laughter.)

ACTING PRESIDENT MEIER: The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 2.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, could we call up Calendar Number 658 now, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 658.

THE SECRETARY: Calendar Number 658, substituted earlier today by Member of the Assembly Davis, Assembly Print Number 7199A, an act to amend the Public Health 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: Hold on

a second. Did someone ask for an explanation?

SENATOR HASSELL-THOMPSON: Yes.

ACTING PRESIDENT MEIER: Whoa. Speak up.

SENATOR HASSELL-THOMPSON: Mr. President, I would like an explanation.

ACTING PRESIDENT MEIER: Yes. All right. That's better.

Senator Velella, Senator Hassell-Thompson has requested an explanation.

SENATOR VELELLA: Mr. President, this is a bill which would enable the Health Department to conduct a study on obesity, its effects, its causes and its conditions.

Obesity ranks second only to smoking as a preventable cause of death in the state. And I think that it's time that we studied this problem and had the Health Department make recommendations.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. Just on the bill.

Thank you, Senator Velella, for your explanation. But, more than that, for

the bill in and of itself.

One of the things that I think that becomes of great concern in many of our communities, particularly among African-Americans, is obesity that is associated with diet and dietary behavior. So that I think that this will go a long way toward helping us to not only deal with the issue but also understand and educate the public better in terms of how do we control obesity and change the quality of life of people in our constituencies.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr.

President. In an attempt to try to finish in a timely manner tonight, I appreciate the chair's attempts to keep some order in the house and would remind the members if you have a request for an explanation or whatever, please speak up. Because not only cannot the Secretary or the presiding officer hear that, but the cameras which are viewing the process here this evening also cannot hear it.

So with that, Mr. President, we have on the members' desks Supplemental Calendar 55D, and we'd like to do a noncontroversial reading of Supplemental Calendar 55D at this time.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial calendar with regard to Supplemental Calendar 55D.

THE SECRETARY: In relation to Calendar Number 1629, Senator Lack moves to discharge, from the Committee on Mental Health and Developmental Disabilities, Assembly Bill Number 1154 and substitute it for the identical Senate Bill Number 2780, Third Reading Calendar 1629.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1629, by Member of the Assembly Dinowitz, Assembly Print Number 1154, an act to amend the Mental Hygiene 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 Hevesi, to explain his vote.

SENATOR HEVESI: Thank you, Mr. President.

Particularly in the last few days, certainly in the last few years I've been very critical of some of the things that we've done and some of the things that we haven't done. This bill before us is one of the best things that I have seen us do. And I want to take this opportunity to publicly thank Senator

Lack, who sponsors this legislation, and Senator Libous, who sponsors the legislation.

This is a bill that would add familial dysautonomia, a really tragic disease, to the list of individuals classified as having a developmental disability, which then enables them to receive services. This is an exceptionally rare disease that only afflicts Ashkenazi Jews. There are only about 600 in the entire United States, 40 to 50 of them in New York State, and two in my district.

It is a developmental disability where there is incomplete development of the nerve cells, and it kills half of all the kids before they hit age 5 and it kills almost all of the children before they hit 25.

I'm going to -- if I could be so presumptuous as to call this Gabby's Law. This is the 5-year-old girl -- 6-year-old girl, rather, who came in to see me and lobby for this bill.

This is a great bill. Senator Lack, you are to be commended for bringing this. I am greatly appreciative, as I am of

Senator Libous and everybody who worked to bring this to fruition. For all of the kids who are dealing with this terrible illness, this is a measure of comfort.

Thank you, Senator Lack.

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

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1631, by Senator Leibell, Senate Print 4117A, an act to amend the Retirement and Social Security Law, in relation to retirement for members.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1633, by Senator Skelos, Senate Print 4654B, an act to establish the Baldwin-West End Canal repair and maintenance district.

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

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1634, by Senator Kuhl, Senate Print 4888A, an act to authorize the New York State and Local Employees Retirement System.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1635, by Senator Leibell, Senate Print 5287, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1636, by Senator Spano, Senate Print 5477C, an act to amend the Judiciary Law, in relation to increasing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1637, by Senator Nozzolio, Senate Print 5567A, an act to amend the Family Court Act, the Executive Law and the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1638, by Senator Leibell, Senate Print 5600A, an act to amend the Retirement and Social

Security Law, in relation to retirement benefits.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1639, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 9445A and substitute it for the identical Senate Bill Number 5835A, Third Reading Calendar 1639.

ACTING PRESIDENT MEIER: Substitution ordered.

Read the last section.

THE SECRETARY: Calendar Number 1639, by the Assembly Committee on Rules, Assembly Print Number 9445A, an act to amend the Transportation 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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1640, by Senator Johnson, Senate Print 6202, an act to amend the Tax Law, in relation to establishing tax credit.

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1641, by Senator Wright, Senate Print 6229A, an act to amend the Tax Law, in relation to investment tax credits.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1642, by Senator Skelos, Senate Print 6344A, an act to amend the Tax Law, in relation to exempting certain tangible personal property.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of a sales-tax period.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1643, by Senator Farley, Senate Print 6408B, an act to amend the Tax Law, in relation to exempting.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect June 1, 2004.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1644, by Senator Wright, Senate Print 6425A, an act to amend the Public Authorities Law, the Economic Development Law and the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1645, by Senator Hoffmann, Senate Print 6434, an act to amend the Tax Law, in relation to certain tax credits.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1646, by Senator Leibell, Senate Print 6655, an act to amend Chapter 154 of the Laws of

1921.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect upon enactment into law by the State of New Jersey legislation.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1647, by Senator Leibell, Senate Print 6656, an act to amend the Education Law, in relation to authorizing the retirement board.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1649, by Senator Leibell, Senate Print 7563, an act to amend the Civil Service Law, in relation to resolution.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1650, Senator A. Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 11545 and substitute it for the identical Senate Print Number 7707, Third Reading Calendar 1650.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1650, by the Assembly Committee on Rules, Assembly Print Number 11545, an act to authorize the Southern Baptist Church.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1651, by Senator Larkin, Senate Print 7712, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law and Chapter 281 of the Laws of 1994.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1653, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11746 and substitute it for the identical Senate Bill Number 7782, Third Reading Calendar 1653.

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

Read the last section.

THE SECRETARY: Calendar Number 1653, by the Assembly Committee on Rules, Assembly Print Number 11746, an act to amend the County Law.

Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1654, by the Senate Committee on Rules, Senate Print Number 7783, an act to amend the Local Finance Law, in relation to certain periods of probable usefulness.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Is there a message of necessity at the desk, Mr. President?

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

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.

SENATOR ADA SMITH: Lay the bill

aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1656, Senator Breslin moves to discharge, from the Committee on Judiciary, Assembly Bill Number 10534 and substitute it for the identical Senate Bill Number 6651, Third Reading Calendar 1656.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1656, by Member of the Assembly Canestrari, Assembly Print Number 10534, an act to amend the Uniform City Court 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, 61.

ACTING PRESIDENT MEIER: The bill

is passed.

Senator Kuhl, that completes the noncontroversial reading of Supplemental 55D.

SENATOR KUHL: Thank you, Mr. President. May we return to the order of reports of standing committees. I believe that there's a report of the Finance Committee at the desk. Could we have that taken up at this time.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

As a member of the board of directors of the New York Convention Center Operating Corporation, Gary J. Lavine, of New York.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Gary Lavine as a member of the board of directors of the New York Convention Center Operating

Corporation. 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: Can we now return to the order of motions and resolutions. I believe there's a couple of motions at the desk. If we could take those up at this time.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator McGee.

SENATOR McGEE: Mr. President, on behalf of Senator Saland, on page number 16 I now offer the following amendments to Calendar Number 459, Senate Print Number 6625A, and ask that said bill retain its place on 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 McGEE: Mr. President, I offer the following amendments to Calendar Number 1570, Senate Print Number 7697, and on behalf of Senator Spano ask that said bill retain its place on 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 Kuhl.

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

ACTING PRESIDENT MEIER: Yes, there are.

SENATOR KUHL: Could we make the substitutions at this time, please.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 23, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 228D and substitute it for the identical Senate Bill Number 4989B, Third Reading Calendar 661.

On page 27, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 10147 and substitute it for the identical Senate Bill Number 7091A, Third Reading Calendar 767.

And on page 35, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 9297A and substitute it for the identical Senate Bill Number 7175, Third Reading Calendar 936.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I believe that there's a privileged resolution at the desk. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title.

THE SECRETARY: By Senator Skelos, Legislative Resolution Number 6277, commending the Bethpage State Park employees and the volunteers for their hard work and dedication at the 2002 U.S. Open.

ACTING PRESIDENT MEIER: On the resolution, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Could you recognize Senator Maltese, please.

ACTING PRESIDENT MEIER: Senator Maltese.

SENATOR MALTESE: Mr. President, may I ask unanimous consent to be recorded in the negative on Calendar Number 1580.

ACTING PRESIDENT MEIER: Without objection, Senator Maltese will be recorded in the negative on Calendar 1580.

Senator Larkin.

SENATOR LARKIN: I request unanimous consent to be recorded in the negative on Calendar Number 1627, Senate Bill

7784.

ACTING PRESIDENT MEIER: Without objection, Senator Larkin will be recorded in the negative on Calendar 1627.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, could I have unanimous consent to be recorded in the negative on Calendar Number 1650.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar 1650.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: I request unanimous consent to be recorded in the negative on Calendar 1627.

ACTING PRESIDENT MEIER: Without objection, Senator Morahan will be record the in the negative on Calendar 1627.

Senator Saland.

SENATOR SALAND: I would request unanimous consent to be recorded in the

negative on Calendar 1580.

ACTING PRESIDENT MEIER: Without objection, Senator Saland will be recorded in the negative on Calendar 1580.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Just for the benefit of the members, we've had several messages arrive and there are a couple of bills. We're going to be bouncing around a little bit, so we'll try to keep it as clear as we can.

On the regular calendar, Calendar Number 55, would the Secretary please call up Calendar Number 1156, by Senator Leibell.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1156.

THE SECRETARY: Calendar Number 1156, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 9640, an act to amend the Retirement and Social Security Law, in relation to benefits payable.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Now, Mr. President, could we have Calendar Number 1384 -- which is on the regular calendar but also on the Supplemental Active List Number 3 -- read.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1384.

THE SECRETARY: Calendar Number 1384, by Senator Velella, Senate Print 7226C, an act to amend the Workers' Compensation Law, in relation to the presumption.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Thank you, Mr. President. I'm going to vote in the affirmative on this one.

The presumption has been fixed in this bill to a very -- certainly to an

acceptable level, in that a person during the course of his or her employment who may be exposed to a body fluid has to report it in writing to the correction officer's employer within 24 hours of such exposure.

And while that's not absolutely perfect, it's certainly far, far better than previous presumption bills we've seen on other bills. And so I appreciate the sponsor for remedying it in this particular bill, and anyone else who was involved in doing that.

So I'll be voting yes, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: In ascending order now, can we call up Calendar Number 1511. This is on the original calendar, Calendar Number 55. It's also on the original active list.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1511.

THE SECRETARY: Calendar Number 1511, by Senator Fuschillo, Senate Print 7618A, an act to amend the Education Law, in relation to university-related economic development facilities.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

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 3. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Can we now call up Calendar Number 1594, which is on Calendar 55C.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1594.

THE SECRETARY: Calendar Number 1594, by the Senate Committee on Rules, Senate Print Number 5673A, an act to amend the Retirement and Social Security Law, in relation to accident disability benefits.

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

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

SENATOR KUHL: Move we accept the

message.

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 first day of July.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR KUHL: Now, Mr. President, can we call up Calendar Number 1652, which is on our Calendar 55D.

ACTING PRESIDENT MEIER: The

Secretary will read Calendar 1652.

THE SECRETARY: Calendar Number 1652, by Senator Stafford, Senate Print 7752, an act to amend the Public Authorities Law, in relation to the MSMC Realty Corporation.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: On the same calendar, 55D, could we now call up Calendar Number 1655.

ACTING PRESIDENT MEIER: The Secretary will read 1655.

THE SECRETARY: Calendar Number 1655, by Senator Alesi, Senate Print 7795, an act relating to the financial stability of the Rochester City School District.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR ALESI: Thank you, Mr. President. And I would like to also thank the Governor, under the short time that we have, for sending his message of necessity recognizing the exceptional needs of the Rochester City School District, and working with my colleagues both in this house and in

the Assembly to implement that exceptional but very much needed aid for the Rochester City School District.

At this late hour, I'll keep my comments short except to say, again, thanks to all of those people who were involved. As you know, it was only a few weeks ago that we were standing here providing additional aid for the Rochester City School District and wishing we could do more. And again, through the efforts of the Senate and Assembly, and especially with the help of Governor here tonight, we've been able to do that.

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

Senator Dollinger.

SENATOR DOLLINGER: Just to explain my vote briefly, Mr. President.

I commend my colleague Senator Alesi and the remainder of the Monroe County delegation for their work in bringing the additional resources to the Rochester City School District.

I think it's safe to say that, at least from my perspective, there are things

that need to be taken care of in the city school district with respect to their financial management, their ability to take care of the taxpayer dollars there. But I think what this bill signals is that we in this house look through those financial problems and look through the administrative difficulties that they've had to realize that without additional funds, the children in this school district could be left without hope.

I commend Senator Alesi in particular for his work in making this happen. And I too congratulate the Governor, because I believe without that kind of assistance and working together with the Rochester delegation here and in the Assembly, this wouldn't have happened.

So I think this is the right thing to do. I think there are some institutional changes that need to occur in the school district. I hope that they happen. This money will, in the long run, be a great investment.

Thank you.

ACTING PRESIDENT MEIER: Senator

Dollinger will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On that same calendar, Calendar 55D, could you now call up Calendar Number 1632.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1632.

THE SECRETARY: Calendar Number 1632, by Senator Nozzolio, Senate Print 4522B, an act to amend the General Business Law and the Executive Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

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

ACTING PRESIDENT MEIER: There is.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message 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 3. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Now, on the same calendar we have one bill, I believe, to take up on controversial reading. So could you go to Calendar 1654 and call that bill up.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1654.

THE SECRETARY: Calendar Number 1654, by the Senate Committee on Rules, Senate Print Number 7783, an act to amend the Local Finance Law, in relation to certain periods of probable usefulness.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

This is the long-awaited city tax package which we have been anticipating with bated breath. It comes to us courtesy of home-rule messages from the City Council and of course the Mayor of the City of New York.

In the interests of time, I'm going to go down the salient components of the bill and indicate to you what the revenues for each of them will be.

Part A is a debt finance reform initiative. It provides the city more

flexibility in issuing debts at lower rates, authorizes use of the city tobacco settlement bonding authority and a variety of other bonding actions. The revenue produced by that is $115 million.

Part B deals with increasing fines for stopping and standing parking violations, such as handicapped parking spots, from $50 to $100. And that produces, in the aggregate, $62 million.

Part D talks about the emergency 9/11 land surcharge which is increased from 35 cents to a dollar. And that produces $35 million.

Part E is a cigarette tax, increasing it to $1.50, producing $125 million.

Part F is the wireless emergency 9/11 surcharge, which is 30 cents. And that produces $14 million.

Part G is the federal tax, the coupling relevant to accelerated depreciation. Meaning that by decoupling the city from that federal authorization, it establishes a tax liability that increases revenues in the

amount of $125 million.

And finally, in Part K, there is a provision that provides certain school aid grants, within specific limitations, to be used for teacher recruitment, retention, and certification. And that amount is $17 million.

So the total package is $505 million, which is part of the city's budget plan in terms of revenues and which, as I understand it, has been agreed upon in the City of New York.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I intend to vote for this because it is a matter of home rule, the City Council and the Mayor have requested it, and certainly the city needs revenues. And we all know this past year, this fiscal year, there's a great shortfall. We experienced it in the state revenues, and certainly the City of New York has experienced it even more.

I do, though, question two things

in here that truly amaze me. And I wish that the Mayor or someone could answer this question for me. The Mayor had originally proposed $358 million in education cuts. We gave him -- we, the Legislature and Governor -- gave the city an additional $450 million -- plus a few, actually; I think it's more like 458 -- in state aid to education in addition.

And when we spoke on the budget on this floor and when we discussed school governance on this floor, many of the members on both sides of the aisle said when we give school aid money to New York City, we don't want the mayor to spend it on anything else. It's meant to go to the schools.

So now the city, in closing its budget, has said we're going to take the $456 million or $457 million that the state is giving us in school aid and we're going to apply it to the $358 million cuts we proposed, and now we only have to cut education $60 million.

Somewhere along the line, a couple of hundred million dollars in our school aid

money didn't get to the schools. It's not going to the schools. It may be going to other worthy things in New York City, because they have a budget gap.

But the fact is, once again, my colleagues from the city -- and I know Senator Velella and Senator Padavan were agreeing with me a couple of weeks ago about this -- we are going to get to go back to the city and confront parents who say: "How come there were no increases in expenditures in the public schools, and in fact how come there were $60 million in cuts?" And we're going to say, "Oh, but we gave 450-some million dollars more in school aid."

That despite all the assurances, maintenance of effort, which will be calculated from this year and apply next year.

The fact is the budget we passed, the school aid money in it for New York City is not going to go to the schools. Not - I'll do my quick math here. If they're cutting $60 million, $150 million of it is going to something else. That's wrong. That's wrong. The Mayor is now in charge of

the schools, and he should start answering for where the school aid money goes.

If they need cities aid for some other category, I think the honest way to do business, the honest way to do government is come to this Legislature and say: We need X millions of dollars for sanitation trucks or police protection or whatever they have a shortfall in. They shouldn't keep coming to this Legislature for more school aid that doesn't get to the schools.

Because I know when I vote for school aid, Mr. President, I mean for it to go to schools, the schools in the city, the schools in the suburbs, the schools upstate. When I vote for that budget, I expect all that school aid money to go to the schools in New York State.

The other thing about this package -- and again, I feel constrained to vote for it -- is who are we kidding with the cigarette tax? Who are we kidding, Mr. President? I don't care what revenue is projected. It won't be there.

First of all, we start with a

certain premise. If we make cigarettes so expensive, people will stop smoking. Would that were true. I wish that were true. But we're pursuing two conflicting policies. We've done it with state taxes. First it was 50 cents a pack, and then another $1.50 a pack or $1.48 or whatever it was. That, oh, we're going to discourage smoking by taxing cigarettes, and we're going to count on the revenue. So if we're successful and everybody stops smoking, we'll have no revenue for healthcare.

Now the city climbs on board. $1.50 a pack. Cigarettes will be about $7 a pack in New York City. I do not believe, unfortunately, anybody will stop smoking because of that price. I think -- I hope that a lot of people will stop smoking for a lot of good reasons: because they want to, because of antismoking campaigns and so on. But the fact is, people who continue to smoke are addicted, and they're going to pay the price.

Just like in Prohibition, Mr. President, people who had to have alcoholic beverages found it. They found it if they had

to buy it from gangsters. They found it if they had to support the mob. People who smoke and haven't quit will absolutely, absolutely get those cigarettes -- if they're buying it black market, no matter where they're buying it.

I have seen statistics that show that 30 to 40 percent of the cigarettes sold in Western New York come from Indian reservations. No tax to the city or state, no tax to localities of the state.

We now set up a thing in New York City, which is on the border of other states. We now have an incentive for any desperate person or person who lives on the margin of the law. All they need. Imagine the profit on one rental van for a weekend trip to Virginia loaded up with cigarettes. If you don't get caught, it probably pays better than if you were dealing dope, Mr. President, at these kind of things.

You can get a carton of cigarettes in Virginia, I think it's $21 or $22 a carton. Now we're just making them $70 a carton in New York City. Pay for the gas, pay for the

rental, make several hundred thousand dollars on one vanload of cigarettes.

What are we doing here? We're encouraging crime. The only question is whether the amateur crooks will get to do it very long before the organized crime figures it's so lucrative that they move in and take over the whole thing and divide up the territory. That's what's going to happen.

Small retailers will lose their sales. The sales will be out of the back of trucks, out of the back of vans. Or, or people can avoid all legal jeopardy, just buy them over the Internet. You can do it today. You can buy cartons of cigarettes over the Internet, they get delivered to your house the next day.

And, Mr. President, that raises other issues. How are we sure they get delivered to someone who's over 21? How are we sure they get delivered to an adult? How are we sure, when the most facile way to get cigarettes will be buying them out of some back alley operation -- do we really think they're going to card young people who want to

buy cigarettes?

Licensed retail vendors by and large adhere to the law and ensure they're only selling them to adults. Licensed retail vendors collect the taxes and pay them.

Mr. President, this is in here because it got floated. You can put, you can ascribe big numbers to it. You can ascribe big numbers to this. Oh, it's going to bring in a hundred-and-some million dollars. But that's only if people buy the cigarettes at that inflated price, legally, in the marketplace.

That's not going to happen. It hasn't been happening. The revenues proportionately, the reported sales keep dropping every time we do these taxes. Yet there hasn't been a corresponding drop in the number of people who smoke.

We're just inviting gangsters in. We're absolutely relying on false revenue. I truly hope we lose all the revenue. I hope we lose all the revenue because people stop smoking, not because they're buying it on the black market. But I fear they will be buying

it on the black market.

Why is this in here? Oh, because you can take a poll and the public -- and it happened. The public, without much thought will say, yeah, tax it, it's simple. Tax cigarettes. Just like the public once said ban alcohol. Ban alcohol, it creates problems. Oh, then they wondered where they got Al Capone from.

Sure, the public at first blush will say, yeah, tax cigarettes, make it $10 a pack. Why not? The fact is, it's not good public policy when we're in a national marketplace.

And, Mr. President, it's not even about -- the average person I talk to will say, yeah, put more on. About another dollar-fifty is good. Fight big tobacco. The joke, Mr. President, is this has nothing to do with Big Tobacco. The manufacturers of cigarettes get the wholesale price whether they're selling the cigarettes to an Indian reservation, whether they're selling it in some warehouse in Virginia to people going smuggle it to New York, or whether they're

selling to some Internet outfit that doesn't pay taxes, or whether they're selling legally through a legal distributor and a licensed retail vendor. The manufacturer gets the same amount. They get the wholesale manufacturer's price when it leaves their plant.

So it's not even Big Tobacco. As long as people are still buying it somewhere, they don't lose a penny on this if legal sales -- if legal sales go down.

I'm voting for this, but I think we're being very, very foolish here. And I predict the day when we'll be back here with a whole package of penal sanctions and appropriations to crack down on the rampant smuggling and the related crime and violence as criminals vie for territory and position in this whole black market that we are giving such great birth to.

Thank you, Mr. President.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. Very briefly on this bill.

I will be supporting the package. But I have two concerns also. I'd like to state them for the record.

The first is I do have some problems with the cigarette tax. And unlike Senator Connor, I think one of the biggest problems with the way we're doing it is the geographical inequity. I've already had the deli owner where I buy my newspapers say to me: "What are you doing, you're killing me. Everybody is going to go to Nassau County."

So you have a geographical problem with this, particularly for folks who are bordering New Jersey and are close to the borders of other counties. That's a real concern, that we are unintentionally really hurting New York City businesses by doing this.

Overall, though, I like the idea of a cigarette tax, notwithstanding the fact that I agree with a number of the things that Senator Connor said. The one benefit could be from this that children may be dissuaded because of a $7 a pack cost, and who don't have the means to travel outside of the area

where we've imposed this tax. And every study has shown if a child does not start smoking until -- when they hit 18, they're not going to smoke.

So I will be supportive of this, although I don't like the way we're doing it.

The second thing, very quickly - and it seems silly, but it really bothers me -- is the increase in parking fines in New York City. It's $50 right now. We're raising it to $100. And, Mr. President, I wish somebody would do a study on the elasticity of demand of raising parking fees. Because I'm telling you right now, you don't deter anybody from parking illegally.

And I don't condone parking illegally, but you don't deter anybody from increasing it from $50 to $100. What you wind up doing is unfairly taxing people and having people, middle-class people, it just blows their monthly budget, you want to get a fifty or now up to a hundred-dollar fine for it. And you don't deter.

To raise $62 million this way is inappropriate. The way you should go about

raising this money is to collect the unpaid parking tickets from scofflaws, most of whom come from other countries on diplomatic license plates. And the other thing you can do is for all of the companies, the commercial interests that rack up parking tickets to such extraordinary degrees that they don't even care where they park, because the companies just eat the cost or don't make the payments.

Go and squeeze those companies and raise the revenue on them. They are the primary impediment to traffic flow in the city. And don't nail the person who has to inadvertently stop for a little while or run into a store. I don't condone that behavior, but this is an inappropriate penalty.

Having said all that, I appreciate Senator Padavan's work on this, particularly the section which will allow for different regulations in a contract between the City of New York and the teachers' union for changes in the disciplinary rules. That's absolutely essential. We have given administrators the ability to go in -- I'm sorry, we've given the administrators the ability to have control

over their principals. We've got to do the same for the principals with the teachers. This is the first step to doing it.

I'll support the bill.

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

Read the last section.

Senator Krueger.

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

I will support this bill, and I know that my city needs it. I just want to highlight something that I'm not sure got focused on by both of the previous speakers.

Senator Connor pointed out that New York City will be cutting our budget $60 million for education, despite this package and despite the money that went into the state budget. Right before that, we did the bill for the Rochester schools, giving them an additional $20 million advance.

Frankly, for the City of Rochester or the City of New York, if we ever sat down in these chambers and finally dealt with a fair funding formula for education for the

school systems in this state, I don't believe Rochester would need to come here for an advance loan for their school system and I don't think New York City would end up having to cut education funds despite the fact that we moved some additional money to them this year.

And I'd also just again like to remind my colleagues that when we talked about the 400-and-something million dollars in new money that went to the New York City school system this year, 200 million of that, it was simply the State of New York finally paying money it had owed the city for years. And so I don't think we should overlook the fact that we've really put our city, the City of New York, in the position it's in where, even with some additional education aid, it will still cut $60 million out of our schools. And we cannot afford to cut money out of our schools.

And again, if we didn't challenge the CFE lawsuit and keep that debate going through the appeal that the Governor is moving through, we would have been forced to finally

do what we should do for the children of our state, look at education funding formulas fairly, reevaluate how we give out state money, and not find ourselves at a quarter to 10:00, on the last night, potentially, of our house's session, trying to do some quick saves.

So I urge that we don't find ourselves in this same situation next year because we address the issue of fair funding formulas for our school systems.

Thank you, Mr. President. I will vote yes on this bill.

ACTING PRESIDENT MEIER: Before we read the last section, the Secretary will substitute the Assembly bill which has passed the Assembly.

THE SECRETARY: Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11817 and substitute it for the identical Senate Bill Number 7783, Third Reading Calendar 1654.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Section 3. 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 1654 are Senators Gonzalez, Maltese, and Velella. Ayes, 58. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President. At this time could we call up Calendar Number 409, by Senator Spano. It is on Supplemental Active List Number 2.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 409.

THE SECRETARY: Calendar Number 409, by Senator Spano, Senate Print 5346, an act to amend the Labor Law, in relation to the cancellation of wage credits.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Please recognize Senator Montgomery.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 1350.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 1350.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President. There will be an immediate meeting of the Rules Committee in Room 332. Immediate meeting of the Rules Committee in Room 332.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: The

Rules Committee will meet immediately in Room 332.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Could we go to Calendar Number 55B and ask the Secretary to call up Calendar Number 1561.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1561.

THE SECRETARY: Calendar Number 1561, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 10258B, an act to amend the Public Authorities Law, in relation to operations.

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR KUHL: Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Is Calendar Number 1561 still in the house?

ACTING PRESIDENT MEIER: Yes, it is, Senator.

SENATOR KUHL: I move to reconsider the vote by which it passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

THE SECRETARY: In relation to Calendar Number 1561 -

(The Secretary called the roll.)

THE SECRETARY: -- ayes, 61.

SENATOR KUHL: Could you lay the bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on Calendar 839.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be

recorded in the negative on Calendar 839.

Senator Bruno.

SENATOR BRUNO: Mr. President, we'd like to return to the reports of standing committees. And I believe there's a report from the Rules Committee at the desk.

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 5136C, by Senator Mendez, an act to amend Chapter 899 of the Laws of 1984;

6939A, by Senator Hannon, an act to amend the Public Health Law and the New York State Medical Care Facilities Finance Agency Act;

7288A, by Senator Seward, an act to amend the Tax Law;

7550B, by Senator Maziarz, an act to amend the Public Authorities Law;

7724A, by Senator Velella, an act

to amend the General Business Law;

7780, by Senator Leibell, an act in relation to the implementation;

7789, by the Senate Committee on Rules, an act ratifying certain actions.

And Senate Print 7792, by Senator LaValle, an act to amend the Education Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: 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 Bruno.

SENATOR BRUNO: Mr. President, can we have the reading of the

noncontroversial Calendar 55E.

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

THE SECRETARY: Calendar Number 1630, by Senator Mendez, Senate Print 5136C, an act to amend Chapter 899 of the Laws of 1984.

ACTING PRESIDENT MEIER: Senator Bruno.

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

ACTING PRESIDENT MEIER: There is.

SENATOR BRUNO: I move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1658, by Senator Seward, Senate Print 7288A, an act to amend the Tax Law, in relation to the determination.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1661, by Senator Leibell, Senate Print 7780, an act in relation to the implementation of the terms of a written agreement.

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

ACTING PRESIDENT MEIER: There is.

SENATOR BRUNO: I would move we accept the message.

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 bill is now before the house.

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1663, by Senator LaValle, Senate Print 7792, an act to amend the Education Law, in relation to establishing a World Trade Center Memorial Scholarship Program.

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

ACTING PRESIDENT MEIER: There is.

SENATOR BRUNO: I would move we accept the message.

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 8. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read Calendar 1657.

THE SECRETARY: In relation to Calendar Number 1657, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 11292C and substitute it for the identical Senate Bill Number 6939A, Third Reading Calendar 1657.

ACTING PRESIDENT MEIER: Substitution ordered.

Calendar Number 1657, by the Assembly Committee on Rules, Assembly Print Number 11292C, an act to amend the Public Health Law.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT MEIER: There is a message.

SENATOR BRUNO: I would move that we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, may I have unanimous consent to change my vote on 1653 and vote in the affirmative.

ACTING PRESIDENT MEIER: Senator Morahan will be recorded in the affirmative on Calendar 1653.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1659.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1659.

THE SECRETARY: Calendar Number 1659, by Senator Maziarz, Senate Print 7550B, an act to amend the Public Authorities Law and the Executive 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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President,

can we at this time call up Calendar Number 1570.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1570.

THE SECRETARY: In relation to Calendar Number 1570, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 4939E and substitute it for the identical Senate Bill Number 7697A, Third Reading Calendar 1570.

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

ACTING PRESIDENT MEIER: Substitution ordered.

There is a message at the desk.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

message is accepted.

The message is accepted.

The bill is before the house.

The Secretary will read.

THE SECRETARY: Calendar Number 1570, by Member of the Assembly Pheffer, Assembly Print Number 4939E, an act to amend the Penal Law and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 10. 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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, off the main calendar, can we call up Calendar Number 1033.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1033.

THE SECRETARY: Calendar Number 1033, by Senator Padavan, Senate Print 7319A, an act to amend the County Law, the New York City Charter, and the Administrative Code of the City of New York.

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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call up and recall Calendar Number 1655 and reconsider the vote by which that bill was passed.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1655.

THE SECRETARY: Calendar Number 1655, by Senator Alesi, Senate Print 7795, an

act relating to financial stability.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The vote is reconsidered. The bill is recommitted.

The Secretary will now read Calendar 1655.

THE SECRETARY: In relation to Calendar Number 1655, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 11827 and substitute it for the identical Senate Bill Number 7795, Third Reading Calendar 1655.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1655, by the Assembly Committee on Rules, Assembly Print Number 11827, an act relating to financial stability.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Is there a

message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR BRUNO: Then I would move that we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call up Calendar Number 1612.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1612.

THE SECRETARY: In relation to Calendar Number 1612, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11510 and substitute it for the identical Senate Bill Number 7608A, Third Reading Calendar 1612.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1612, by the Assembly Committee on Rules, Assembly Print Number 11510, 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, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call up Calendar Number 1660.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1660.

THE SECRETARY: Calendar Number 1660, by Senator Velella, Senate Print 7724A, an act to amend the General Business Law, in relation to construction contracts.

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

ACTING PRESIDENT MEIER: There is.

SENATOR BRUNO: I would move that we accept the message.

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 3. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1662.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1662.

THE SECRETARY: Calendar Number 1662, by the Senate Committee on Rules, Senate Print Number 7789, an act ratifying certain actions of the Shoreham-Wading River Central School District.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Is there a

message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR BRUNO: I would move that we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR BRUNO: Mr. President, is

there any housekeeping to be done at the desk?

ACTING PRESIDENT MEIER: Yes, we have some motions, Senator, if we could take care of those.

SENATOR BRUNO: Can we take care of those motions at this time.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Morahan, I wish to call up Senate Print Number 7268A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1328, by Senator Morahan, Senate Print 7268A, an act to authorize the Town of Stony Point.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Call the

roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, at this time I would move that we recommit all the bills that are on the calendar to Rules.

ACTING PRESIDENT MEIER: So ordered.

SENATOR BRUNO: Thank you, Mr. President.

And, Mr. President and colleagues, we are just completing, in a formal sense, our session for 2002. And while the hour is about 10:30, the sun is shining somewhere.

(Laughter.)

SENATOR BRUNO: And it will shine much more brightly on all New Yorkers because

of the good work that we have done in this chamber, in this house this session.

And when good things get done - and we did have challenges. This is the first session after 9/11. We in New York have had experiences like we've never had before. People in America have had experiences like they've never experienced before.

But we have moved forward. And our objectives here really, together, were just to rebuild New York, the morale, the good life that we all lead, the quality of life here in New York. And we have done that.

And we have done that together, thanks to the leadership of our great Governor and partner, George Pataki, thanks to the help that we get here in this chamber with all of the conference members here in the Majority and the Minority, who participate in a very diligent and a very aggressive way to make sure that what we do in this chamber truly is the best for all the people here in this state.

And you do a great job in the Minority. And we're going to do our best to

get you back here in that sense.

(Laughter.)

SENATOR BRUNO: I was going to skip that, but it slipped out.

(Laughter.)

SENATOR BRUNO: We partner with the Assembly, and no bill goes to the Governor without us doing it together. And we have done some great things together.

And for those that wonder about this session and those that question, really, how great was this session, what things did we do, let me just mention a few. Like women's health, which will affect millions of women in a very positive way throughout New York State. New York City school governance, that was a dream for 30-some years. We did that this year, and we will affect $10 million worth of funding, 1,100,000 young people in New York City.

The Health Care Reform Act of 2002, $225 million for the state's GE*NYS*IS program, with biotech, biomed research, really leading the country, that will lead to over a billion dollars with the Centers of Excellence

in research and development, biotech and biomed.

$1 billion in new tax cuts become law this year. Graduated driver's licenses. Record education funding, $4.6 billion. Created 10 new Empire Zones, bringing the total to 72.

We in the Senate passed a number of bills and that we hope the Assembly, in their wisdom, will see fit to join us. Antiterrorism bills, that are critically important to the health and the safety of people here in New York. We passed them here; we hope they will pass them there. Auto insurance fraud. Budget reforms, which we have done for the last several years. The initiative and referendum that we gave first passage to. And a number of others that we hope that we will get together on.

We adopted a calendar last December, and in December we had agreed that we would conclude the formal part of our session on June 20th. This is June 20th. It happens to be the longest day of the year. And no one had to tell me that.

(Laughter.)

SENATOR BRUNO: I really need to thank my conference, who support us just so greatly. And I really, truly appreciate that. And the leaders that help me here. And to mention a few, Dean Skelos, our deputy majority leader, Senator Skelos, who is on the floor constantly and continually, trying to keep order and doing a remarkable job of that and moving the calendar. And, Dean, thank you.

Our vice president, Owen Johnson. Assistant majority leaders, our senior assistant majority leader -- not in age, but for whatever reason, we call him senior. And he's our liaison to the Governor and to the Mayor in New York City, Guy Velella.

Senator Randy Kuhl, our assistant majority leader. And Nick Spano, Senator Spano, thank you for your support and your help.

And our chair of the Majority Program Development Committee, Senator Tom Libous.

And of course our chair of the

conference, Senator Ken LaValle.

And the staff that supports us all, the work that we do, we don't get it done without the people that you see around here and so many others that we don't see. My press secretary, Marcia White. Her name is printed three times larger than any other, because she prepared this.

Our director of communications, John McArdle. Members of the press office, communications office do an absolutely outstanding job.

And our secretary of the Senate, Steve Boggess. Steve, thanks very much for all the good things that you do on behalf of the entire Senate, everyone that's in the chamber and that works here.

Our secretary of Finance, Abe Lachman, and all the Finance staff that work days, nights, and weekends, as does our chief counsel, Ken Riddett, and members of the counsel's office. None of the good things that we do can happen without the support of these people, and we very much thank you and appreciate that.

Ed Lurie, members of the Senate research, members services, Rick Burdick, Amy Leitch, Pat Stackrow, the other members of my office staff who help me on a minute-to-minute basis.

And Bill Martin and our sergeant-at-arms team, who help us every minute and every day in all the good things that happen around here.

And of course Tommy Testo and the great job that's done at that front desk, which is really remarkable in terms of the order and the way things move. So we thank you.

We have a couple of members that won't be here with us next January, and they make a choice not to be here. Senator Jim Lack, who has chaired Judiciary, who has been in a leadership position for so many years. We came in a couple of years apart.

And, Jim, we thank you for your diligence, for your service and for all the good things that you have done, not just for your constituents but for all of the people here in New York State. Thank you very, very

much.

And Ron Stafford, Senator Stafford, who serves 37 years, 37 years. I met Ron when he was a kid. And he still is a kid. And he decides to leave early in his life and go on to just do whatever he thinks is more important presently. And in his wisdom, in his judgment, I have to respect that.

Ron is the person who I believe some 30 years ago encouraged me to run for office. Little did he know. But -- you remember that?

SENATOR STAFFORD: Very well.

SENATOR BRUNO: When I first was in the Young Republicans, which is kind of hard to remember.

But Ron, I supported him in one of his campaigns, his first campaign when he came to the Senate as the youngest senator in the Senate. And he leaves now, but he won't be out of our lives for very long.

We will be back here, and Ron will be back. Jim will be back. But in the formal sense, this will be their last session. And you know, it's always great when people leave

of their own volition, of their own desire, to go on with their lives. Leaving any other way is not a lot of fun in this business.

(Laughter.)

SENATOR BRUNO: So congratulations to you, Ron, and to Jim, and congratulations to everyone.

And really a sincere thanks to the staff, to the leadership that's here, leadership on both sides of the aisle, the staff that surrounds us all here and does such a good job. Really, we say thank you. And God bless each and every one of you, be healthy and be prosperous.

We expect, just so that you know, that when the Assembly is coming back, I believe on Monday, they have some things they're going to do. And we have committed to them and to the Governor that if we get together on some of the outstanding issues - some that I've mentioned, some of the others -- that we will come back.

And we'll come back and pick a day and try and wrap up if it's necessary, if we have agreement. And if we don't have

agreement, well, then we'll be back after November. But I'm hopeful and optimistic that by continuing to work with the chairs, with the staff, that we will get together on some of the outstanding issues.

Thank you very much, Mr. President.

(Applause.)

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Let me begin by thanking Senator Bruno, our majority leader, for his many, many courtesies, for his candor. If you have to have an adversary, then Joe Bruno is the perfect gentleman to have in that position, because he's straightforward, candid and always a gentleman. And I enjoy working with him so much. I enjoy it so much I'd like to have his job someday.

(Laughter.)

SENATOR CONNOR: But -- and I do want to thank all of my colleagues, and I'll get to that in a minute.

But as we close this session,

Senator Bruno has named some of the things that we have accomplished this year, some of them under very difficult circumstances. Certainly when it comes to the budget, we did some good things. More importantly, the State of New York appears to have survived, for the time being, some great shortfalls in revenue.

We leave here, as Senator Bruno quite candidly admitted, leaving undone, unagreed-to some major issues. Hopefully they'll be resolved in the coming days, because I would not want to see this year go by without us addressing things like the Superfund, siting issues with respect to energy.

Rockefeller Drug Laws, we've had our debates about those. We still don't have a deal yet, something that will work for everybody. I certainly hope we do that.

We also leave here in my opinion not addressing an important issue such as minimum wage. No one has mentioned in these last few days an issue that I surely thought we would take up this year, one that's important to so many New Yorkers and one where

I stood not so many months ago at a huge dinner in Manhattan and heard the Governor absolutely promise that this year we were going to pass SONDA and offer civil rights protections to all New Yorkers.

I would hope we will address that and that something will happen in these next few days. It will be a shame this year not to carry out that promise the Governor made to so many New Yorkers. And I know the Governor really meant it, and I know he's going to be working in these coming days. And I urge all my colleagues in both houses to listen and come together on that issue.

This year -- I'll do the addition -- this is the close of my 25th session. And I can say, for all the challenges, every one of them, I've enjoyed every one of them very, very much. And one reason I enjoy them are the people we all get to work with here, our colleagues on both sides of the aisle.

Senator Bruno, you named your staff. I want to thank all the people you named for their professionalism and courtesy,

not only in dealing with me but in dealing with my staff.

I certainly couldn't function as minority leader without a deputy such as David Paterson, whose leadership, good humor, intellect -- shall I go on?

SENATOR PATERSON: Yeah.

(Laughter.)

SENATOR CONNOR: -- I think we all find quite engaging and delightful in debate every day.

Bill Stachowski is a solid rock as our ranker on Finance. Also covers the Rules Committee meetings. He is always there, he is always there where you need him, when you need him.

Rick Dollinger backs up David in the floor duties. Rick is shy and retiring, and some of you may not have noticed him this session. But he does occasionally participate in debates. And he occasionally -- what was the one the other day, dropping the ball? - he occasionally comes up a turn of phrase that wakes us all up. But we certainly appreciate all his efforts.

Our conference chair, Senator Mendez, assistant leader Efrain Gonzalez, and Velmanette Montgomery, the other people in leadership -- Senator Oppenheimer, Senator Onorato, Senator Carl Kruger, Senator Lachman, Senator Santiago, Senators Breslin and Schneiderman, we all appreciate everything they do.

And I left one, and I know she's sitting there, because I want a special attention to the whip, who does such a great job, who's always there and always alert and always understands the substance and the politics of every bill. That's Senator Ada Smith.

These are the people who move our conference along, who do the day-to-day work.

And of course it can't be done, as Senator Bruno pointed out, without staff. On our side we have Mona DeMay, our chief of staff. She made this list up and put her name last, but I just reversed it.

Our counsel, Ed Wassermann; his deputy, Mike Fallon. Keith, our floor counsel. John Ewashko, secretary to the

Senate Finance minority, and Chrissie Rutigliano, the assistant secretary there, Eric Lugo, the deputy secretary.

And I'm going to skip him for a minute, because I'll tell you why.

Bill Reynolds and Sue Gold, who do press so well. Mark Streb, director of communications. Shirley Stingley, my personal secretary, who usually gets me where I have to be at the right time and keeps everything running in my office. Lorenda Harris, our deputy chief of staff.

And so many other staff members who just make it happen for the members, for myself. We do appreciate your efforts.

And why I skipped him is inadvertently, about two or three years in a row, I forgot to thank Mark Leinung. So I thought I'd get him sitting there thinking, Oh, no, not again. And it was always an oversight. Even years I had him on the list somehow I missed it.

Mark is the director of program for us, and he runs a great staff there. And of course he sits here and keeps up-to-date on

everything that's going on. We appreciate what Mark does as well.

Mr. President, we usually close by wishing everybody a great summer. I hope we all have a great summer. I hope we only do have to come back once. I hope it's that once next week to do some more real important things. And after that, I guess we have other things to do. Hopefully we can all catch some rest this summer and be at the top of our game in the fall when the real fun begins.

Thank you, Mr. President.

(Applause.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, there being no further business to come before the Senate -- Mr. President, would you recognize Senator Stafford.

ACTING PRESIDENT MEIER: Certainly.

Senator Stafford.

SENATOR STAFFORD: Mr. President, since we're formally closing this session and this term, so to speak, I'm going to ask you

to listen to me for a couple of seconds. As always, it will be very brief, very, very brief. And I think you may be a speck interested in what I am going to say.

I won't say it again. I know we'll be back. But I'm not sure we'll be in this setting again. And obviously I want to thank everyone who has been part of my life politically, personally, and professionally. But first I want to speak to you people just for a second and then speak to the system.

First, I assure you you've got one of the best jobs in the United States of America. And sometimes we take it for granted; sometimes we just sort of get used to it. We have a relatively large district, we have flexibility, we don't have rules that we can't do other things.

Some of you know that I do other things, just a bit. We won't get into whether we should have full-time legislators or not. I feel very strongly on that issue. But if I was to speak to that point, it would be very self-serving. And I won't.

And I would also say to you,

remember that you have the opportunity to make friends that you would not have if you weren't doing this, and you have the opportunity to have a much bigger picture than most people have. I would say to you that when I first started, 37 years ago, I used to laugh -- and I was brash then. Note I haven't changed, at times.

And Earl Brydges used to tell about this greatest deliberative body in the world. And I'd snicker. I sat back in that seat, where Kemp Hannon isn't -

(Laughter.)

SENATOR STAFFORD: -- for 15 years. For 15 years. But I now know that Earl Brydges knew what he was talking about.

I also know, I also know that it is really so fulfilling to be able to make those friends on both sides of the aisle. I'm very aware that those on my left would not support me in certain instances. On the other hand, you can be friends and you can disagree and not be disagreeable.

When I leave here, a great deal of me will stay here, and that means a great deal

to me.

Now, the system. I share with you that we can criticize this system and we can complain about it and we can say how terrible it is. But I don't agree. We have a very complex state. We have houses with different ideas, different agendas, and there has to be compromise. And I would suggest we do that.

It's frustrating at times. And the only way we can correct that completely is to have a dictatorship. And I don't want that unless -- well, no, I don't think I'd be dictator. And I don't think any of you want to be. But you see the point that I'm making.

I don't let anyone say to me, in my district or in any place in this state or anywhere else, say to me without me responding that we have a great state, it's a system. As Winston Churchill said: A representative democracy is a terrible form of government, but it's the best that modern man has come up with.

So with that, I thank you all and I say to you all, as a former president of Columbia and also of the United States said:

So this is my last good night to you -- and I'm aware that it isn't, so I'll say this is a good night. I thank you for the many opportunities you have given me for public service. I trust that in that service you have possibly found some things worthy.

Thank you and God bless.

(Standing ovation.)

SENATOR BRUNO: Now, Mr. President, in the names of Senator Lack and the greatest chair in Finance that the Senate has had, Senator Ronald Stafford, I would move that, there being no further business to come before the Senate, that we stand adjourned, subject to the call of the Majority Leader.

Thank you and good night.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned, subject to the call of the Majority Leader. Intervening days will be legislative days.

(Whereupon, at 10:55 p.m., the Senate adjourned.)