NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

September 16, 2003

2:17 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, September 15, the Senate met pursuant to adjournment. The Journal of Saturday, September 13, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time call for an immediate meeting of the Crime Victims Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Crime Victims Committee in the Majority Conference Room.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there's a privileged resolution at the desk by Senator Connor. I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Connor, Legislative Resolution Number 2727, commemorating the 100th Anniversary of

Stuyvesant High School, to be celebrated on October 19, 2003.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

If I could just comment briefly, my coprime, Senator Maltese, is a distinguished graduate of Stuyvesant High School. Many other members of the Legislature that we've served with over the years were graduates of Stuyvesant. Senator Gold was very proud of being a Stuyvesant alumni.

So I think the consciousness of the country -- people became aware of Stuyvesant two years ago when they saw those kids fleeing on 9/11, since the school was just two blocks from Ground Zero. But the school is now having a year of celebration of its 100th anniversary. I'm very proud to be a parent as well as to represent it in my district.

And I also understand their football team is celebrating its 99th or 100th anniversary and may in fact be the oldest high school football program in America.

So I would certainly, any of my

colleagues who want to cosponsor this, I would welcome that. I'm sure Senator Maltese would welcome that as well, as the other coprime.

Thank you.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: I would like to extend appreciation to Senator Connor for putting in this resolution. I know too that his son is a present student at Stuyvesant.

As a member of the Stuyvesant Alumni Board, I especially congratulate the students and the faculty of Stuyvesant High School. They were so close to Ground Zero, and during that time they behaved in an exemplary manner. And when some -- my mental concerns were addressed, they -- despite some apprehension, they all returned to class. They have attended class on a regular basis, the faculty members providing a wonderful example.

It is a school that is without peer in our country and draws, as it has for so many years, from a cross-section of the entire city and, in some cases, students from outside the city and from other lands.

It is a school that achieves scientific awards from throughout the nation for many of its students and provides an example of what public education can be.

I second the -- I recommend the adoption of the resolution.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there's a privileged resolution by Senator Morahan. I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Morahan, Legislative Resolution Number 2728, commending Monsignor John J. Harrington upon the occasion of his designation for special honor by the Rockland County Association of

the Knights of Columbus.

THE PRESIDENT: All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar, with the exception of Resolutions 2474, 2475, and 2644.

THE PRESIDENT: All in favor of adopting the Resolution Calendar as stated by Senator Bruno please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is so adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time call up Resolution 2644, by Senator Balboni, which is a privileged

resolution. And I would ask that it be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Balboni, Legislative Resolution Number 2644, urging the New York State Congressional Delegation to extend for an additional six months the deadline for eligible families to apply for compensation from the federal September 11th Victim Compensation Fund of 2001.

"WHEREAS, The September 11th Victim Compensation Fund of 2001 is part of legislation passed by Congress and signed into law by the President to provide compensation for economic and noneconomic loss to individuals or relatives of deceased individuals who were killed or physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001; and

"WHEREAS, The September 11th Victim Compensation Fund of 2001 is designed to provide an alternative to litigation for

individuals who were physically injured or killed as a result of the aircraft hijackings and crashes on September 11, 2001; and

"WHEREAS, Approximately only 12 percent of the families of police officers, paramedics, and firefighters killed in the World Trade Center attack have applied to the federal government's September 11th Victim Compensation Fund of 2001; and

"WHEREAS, December 22, 2003, is the last day that families may apply to the Fund. As of September 2003, only 1,320 families of the deceased, or 47 percent of those eligible, had filed for benefits, and another 955 claims have been filed for compensation for injuries resulting from the attacks of September 11, 2001; and

"WHEREAS, Special Master Kenneth Feinberg, the lawyer administering the Fund, has met with New York City Mayor Michael Bloomberg and has scheduled a nationwide campaign in the fall of 2003 to persuade the undecided to apply, with the hope to enlist 90 percent of those eligible to sign up; and

"WHEREAS, Kenneth Feinberg fears

that many families will miss the December 22, 2003, deadline and be locked out of the Fund forever. As part of his recruitment effort, he will maintain extended hours for Fund offices in New York, New Jersey, Connecticut, Massachusetts, Virginia, and California; and

"WHEREAS, This Legislative Body believes it would be contrary to public policy and to the intent surrounding the creation of the September 11th Victims' Compensation Fund of 2001 that eligible families are denied access to the fund simply because of the expiration of the eligibility period; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to urge the New York Delegation of the Congress of the United States to extend for an additional six months the deadline for eligible families to apply for compensation from the federal September 11 Victim Compensation Fund of 2001; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to each member of the United States

Congressional Delegation of the State of New York."

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Thank you, Madam President.

As we know, historically, the victims' compensation fund is the largest financial relief effort in the history of the world. And the complexities attendant to this fund and the application process are indeed daunting, because we know September 11th affected people across a wide spectrum of emotional abilities and financial abilities.

And so it is my concern that, having seen only 43 percent of those families eligible to apply for the fund having applied, with the average payout about $1.6 million, that there's a real question as to why people are not filing.

Many of the news accounts that you read will say that there are many possible reasons. Some are that the families wish to pursue litigation, and that's entirely appropriate and their decision. But others hint that perhaps the families are too

emotionally distraught at this particular point in time, that they cannot deal with the grief associated with having to fill the papers out. And, moreover, there are some that perhaps don't understand some of the complexities or need assistance in applying.

This resolution calls on Congress to extend the fund for another six months. It is set to end on December 22nd of this year. I also am going to announce that the Senate Committee on Veterans, Homeland Security and Military Affairs will be holding hearings on this topic to see if we cannot try to discern why some of the families are not applying and perhaps see if there are programs that need to be instituted immediately to assist families who want to apply so that they can apply.

Madam President, the greatest thing we can do in this state and in this nation is to try to help those who need the assistance. And I think this fund needs to be accessed, and it truly would be a tragedy if those who wanted to apply were not able to apply because they simply were not ready or the complexities were evading them.

Madam President, I move the resolution.

THE PRESIDENT: All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time relate the resolutions 2474 and 2475, privileged resolutions by Senator Golden. I ask that the titles be read and move for their immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Golden, Legislative Resolution Number 2474, commemorating the 35th Anniversary of the Chung Wah Commercial Broadcasting Company, to be celebrated on August 19, 2003.

And by Senator Golden, Legislative Resolution Number 2475, honoring the Sing Tao Daily upon the occasion of its 65th

Anniversary.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Yes, Madam President, I ask that these two resolutions be open to the floor for cosponsorship.

Thank you.

THE PRESIDENT: All those not wishing to be sponsors of these resolutions please notify the desk.

All those in favor of the resolutions please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolutions are adopted.

SENATOR BRUNO: Madam President.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: I believe there's another privileged resolution at the desk, by Senator Farley, myself, and Senator Breslin. And I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senators Farley, Bruno, and Breslin, Legislative Resolution Number 2724, honoring Ed Dague upon the occasion of his retirement after 19 years of distinguished service to NewsChannel 13 WNYT, Albany, New York.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I just want to say a few words about Ed Dague, who I think everyone in this chamber is well aware he was the anchor for Channel 13 -- started with Channel 6 and WOKO and all kinds of radio stations, with a distinguished career. A graduate of RPI. He was born and raised in Buffalo but came to the Capital District, lived in Niskayuna for a number of years; his children went to school with my children.

Ed Dague has been a real legend in this area in the news business, has done a terrific job. He brought Channel 13 to number one, both at 6:00 and at 11 o'clock. And Ed is retiring after 19 years. I understand he's still going to be doing some things. But I'm

sure that everybody in this body recognize this wonderful career that he's had.

Incidentally, I'd like to open this up to anybody else who would like to be on it.

And with that, I'd like to wish Ed Dague a very successful and happy retirement.

Thank you, Madam President.

THE PRESIDENT: Senator Bruno, with your permission I'm going to ask any member who does not wish to be a sponsor of the resolution to please notify the desk.

All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

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

THE PRESIDENT: There will be an immediate meeting of the Investigations

Committee in the Majority Conference Room.

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Saland, Legislative Resolution Number 2459 commemorating the 150th Anniversary of the National Union Bank of Kinderhook.

THE PRESIDENT: All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

ACTING PRESIDENT MEIER: Senator Skelos.

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

Conference Room.

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Higher Education Committee in the Majority Conference Room.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room. Following that, which we'll call off the floor, there will be a meeting of the Rules Committee. And then we shall move ahead expeditiously.

ACTING PRESIDENT MEIER: Immediate meeting of the Finance Committee in the Majority Conference Room, followed immediately by a meeting of the Rules

Committee.

ACTING PRESIDENT FUSCHILLO: Senator Skelos.

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

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

The Senate will stand at ease.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could 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 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 4034A, by Senator Oppenheimer, an act authorizing the City of New Rochelle;

5100A, by Senator LaValle, an act in relation to authorizing the Town of Southampton;

5702, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5715, by Senator Farley, an act to amend Chapter 305 of the Laws of 2003;

5720, by the Senate Committee on Rules, an act to amend the Public Authorities Law;

5725, by the Senate Committee on Rules, an act to amend the County Law and the Public Authorities Law;

5728, by Senator Wright, an act to amend the Public Service Law;

And Senate Print 5729, by Senator Seward, an act to amend the Insurance Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Skelos.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

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

Senator Skelos.

SENATOR SKELOS: If we could just stand at ease for a moment.

ACTING PRESIDENT MEIER: The Senate will stand at ease for a moment.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: There is a second Resolution Calendar that's on the desks. If we could return to motions and resolutions, I move we adopt this Resolution Calendar in its entirety.

ACTING PRESIDENT MEIER: Motions

and resolutions.

All those in favor of adopting the second Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The second Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Stand at ease, please.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:09 p.m.)

(Whereupon, the Senate reconvened at 4:10 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, would you please recognize Senator Duane.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Mr. President, I wish to call up my bill, Print Number 5348, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1393, by Senator Duane, Senate Print 5348, an act to amend Chapter 292 of the Laws of 1904.

ACTING PRESIDENT MEIER: Senator Duane.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR DUANE: And now, Mr. President, I move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT MEIER: So ordered.

Senator Skelos.

SENATOR SKELOS: If we could now go to the Finance Committee report and take up the nominations of those who did not have to appear.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

As a member of the Adirondack Park Agency, Deanne Rehm, of Bolton Landing.

As members of the Administrative Review Board for Professional Medical Conduct, Stanley L. Grossman, M.D., of Newburgh, and Datta G. Wagle, M.D., of Williamsville.

As a member of the State Banking Board, George J. Vojta, of Bronxville.

As a member of the State Board of Real Property Services, Marinus "Dutch" Rovers, of Chazy.

As a member of the Saratoga-Capital

District State Park, Recreation and Historic Preservation Commission, Monica Bell, of Saratoga Springs.

As Commissioner of the State Insurance Fund, Eugene C. Mazzola, of Webster.

As a member of the Medical Advisory Committee, Robert A. Schwartz, M.D., of Manilus.

As a member of the Board of Directors of the Roosevelt Island Operating Corporation, Deborah B. Beck, of Roosevelt Island.

As a member of the New York State Urban Development Corporation, David H. Feinberg, Esquire, of New York.

As members of the Advisory Council on Alcoholism and Substance Abuse Services, Philip Gianelli, M.D., of Flushing, and Daniel M. Winch, of Newfield.

As a member of the Continuing Care Retirement Community Council, Patricia M. Williams, of Ithaca.

As members of the Mental Health Services Council, Eve Hazel, Ph.D., of New York City, and John V. Oldfield, Ph.D., of

Syracuse.

As a member of the Minority Health Council, William Lobbins, of Buffalo.

As a member of the Board of Visitors of the Buffalo Psychiatric Center, Lisa Michaelsen, of Lockport.

As a member of the Board of Visitors of the Hudson Valley Developmental Disabilities Services Office, Ann Nehrbauer, of Hastings on the Hudson.

As a member of the Board of Visitors of the Mohawk Valley Psychiatric Center, William H. Privett, of Herkimer.

And as members of the Board of Visitors of the Rochester Psychiatric Center, Eileen W. Farlow, of Rochester, and Constance Miller, of Corfu.

ACTING PRESIDENT MEIER: Senator Skelos.

Senator Johnson.

SENATOR JOHNSON: Move the nominations.

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

saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominees are confirmed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please take up the confirmation of Scott D. Hess, sheriff of Orleans County.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following nomination:

As Sheriff of Orleans County, Scott D. Hess, of Albion.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Thank you very

much, Mr. President.

It's a pleasure for me to rise in support of the nomination of Scott D. Hess, who has, along with his wife and two children, particularly his son, been waiting very patiently here for this confirmation process to go forward.

Scott Hess is a career law enforcement officer. Prior to taking over the reins of the Orleans County Sheriff's Department, he was a police officer and a police chief of the Village of Albion Police Department.

And Governor Pataki has made an excellent choice in Scott Hess, somebody who is going to do the citizens of Orleans County very proud and we are certain will be confirmed by the voters this coming November.

Thank you very much, Mr. President.

ACTING PRESIDENT MEIER: The question is on the confirmation of Scott Hess as Sheriff of Orleans County. 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.

Sheriff Hess is here with us in the gallery, and he's accompanied by his wife and his daughter, I believe. I'm sorry, and his son.

Sheriff, congratulations, and we wish you well with your important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As Superintendent of State Police, Wayne E. Bennett, of Clifton Park.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the confirmation.

ACTING PRESIDENT MEIER: The question is on the confirmation of Wayne E. Bennett as Superintendent of the State Police. All those in favor signify --

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

It's my honor to rise and endorse the Governor's nomination of Wayne Bennett to be superintendent of State Police.

I think everyone who has had occasion to spend time with Wayne today and to review his resume recognizes that we have an individual with the credentials of a consummate professional; more importantly, an entire career that had been spent with the New York State Police.

And it's been my experience in knowing Mr. Bennett and spending some time with him that he is the epitome of that professionalism that we all expect of our State Police, and he embodies those traditions of the State Police.

As he said during his confirmation, this is a goal and an ambition that he has had since he was 12 years old. We can be proud as a state that we have an individual who has, throughout that 35-year career, exemplified himself as a representative of New York State and a representative of the State Police.

On a personal note, I've had occasion to know him and his wife for several years now and want to make full disclosure of that relationship. He is a gentleman who takes my two sons fishing, and they come home with fish every time, which is important for them and certainly important for me.

It's a pleasure to stand here and encourage my colleagues to support the confirmation of Wayne Bennett. The Governor has made an excellent choice. The State Police knows that; the State of New York will know that soon.

Wayne, best wishes.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I also rise to support and second the nomination of Wayne Bennett, who is really a trooper's trooper.

As you read his resume, he's come up through the ranks, had a splendid, outstanding career in law enforcement, done almost everything and served throughout the

entire unit. Not only is this a great appointment, it's something that makes every trooper feel proud that somebody can succeed within their ranks.

Wayne Bennett is an outstanding example of law enforcement. He's also a graduate of the State University at Albany, and he was my student. So I'm very proud of him.

Congratulations, Wayne.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, I rise to join my distinguished colleagues in praising Governor Pataki's appointment to serve as the new superintendent of the New York State Police. Wayne Bennett, as was stated by Senator Wright [sic], is a trooper's trooper, one who has been in all aspects of police work across the great Empire State.

We have in New York a police force that we all can be very proud of in the form of the New York State Police. In my opinion,

this force is second to none for a force any place in the nation, if not the world. And what we have in this nominee, Mr. President, is an individual who will shine as he has shined throughout his career in law enforcement and public service.

It's extremely important that this body support the actions of our New York State Police, provide them, in this day of hypertension, of high alerts, of security risks, to provide them with the tools necessary to do their job, and their job is getting increasingly more difficult and more important with each passing day. That's why the new superintendent has to be the caliber of the individual who is nominated.

And I join my colleagues in endorsing his candidacy, praising the candidacy of Wayne Bennett, and look forward to working with him as he undertakes this very important job as superintendent of the New York State Police.

I support the nomination and will vote aye.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I too join my colleagues in complimenting the Governor on this outstanding choice in the gentleman before us today to assume a post that has become increasingly challenging in recent years.

Many of us have come to know members of the State Police far better than we ever expected. In this changing arena where security has been heightened and all of us have had to modify our lifestyles, we now appreciate in greater fullness the tremendous responsibility placed on the men and women who wear the uniforms of the New York State troopers.

I was fortunate enough to be at the state fair on the day that the Governor arrived to open the fair, the opening day. The fair is an occasion that we all look forward to. But it was also marked this year by the announcement that Wayne Bennett had been named as acting superintendent.

And it was a very interesting phenomenon for me to observe the other members of the State Police in the Governor's guard that day and from across the state who police the state fair for the million people who visit it, all celebrating this appointment. Because Superintendent Bennett has come up through the ranks, they have confidence in his leadership. They've all had the opportunity to work with him, and they feel a great sense of pride in this experience that we're all sharing today.

So again, my compliments to the Governor and my heartfelt wishes to Superintendent Bennett and his family on this outstanding achievement.

ACTING PRESIDENT MEIER: The question is on the confirmation of Wayne E. Bennett as Superintendent of the New York State Police. 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.

Superintendent Bennett is with us today. He is accompanied by his wife, Patricia; his mother, Eleanor; his mother-in-law, Helen Iandoli, and his father-in-law, Dr. Edward Iandoli.

And, Superintendent, we congratulate you and wish you well.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As Commissioner of Taxation and Finance, Andrew S. Eristoff, Esquire, of New York City.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, I'd like to just speak on the nomination of Andrew Eristoff for the position of Commissioner of Taxation and Finance.

I've had the privilege of knowing Andrew for many years. He's a proven leader, a distinguished career in public service. I think many of us know him from sitting at the side of Senator Roy Goodman, our former colleague, when he served here, and giving them him that advice that he always needed. He served as a member of the New York City council.

But I think what's even more significant, and it speaks as to Andrew, is that he is committed to a life of public service. Many people can go in different directions, but he has chosen to serve the people of this great state.

We look forward to your continued leadership in the Tax Department. I know that you will do a great and fair job on behalf of all the taxpayers of New York State. Congratulations to you.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, I rise to join with my colleagues in seconding the nomination of Mr. Eristoff.

I had the pleasure of serving with his father, who did an outstanding job as the Commissioner of Highways, later to become the Department of Transportation.

And he certainly has a great deal to offer this state, looking over his resume. And I'm sure with his father's continued advice, he will do the state exemplary well, and I congratulate him and his family.

God bless you.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

I've had the privilege of knowing Andrew for many, many years, and his family. Andrew has a wide background and experience in dealing with the public. Those of us who remember his journeyman as a council member in the City of New York, his journey into the Finance Commission in the City of New York.

And I've talked to members on both sides of this aisle and all around, and they always said one thing about Andrew: You got a fair shake. You were able to present your

case, and he listened to you, he didn't push you off to somebody else. You know, that's a tradition of Andrew since his youth. He's always been someone who's willing to be a partner to ensure that something positive happens.

His selection by the Governor to be the new Commissioner of Tax and Finance is a real, real move in the right direction. We have many, many problems in Tax and Finance. We're fortunate enough to have someone who's willing to tackle it, he has the background to prove it, he's got the actual experience in the city and now, the last eight or nine months, in the Tax Department here in Albany.

I believe that Andrew will be one of the finest tax commissioners we've ever had, because he will put "personal" into that personal addition of helping those who have a need and a look-see to how they can respond to the requirements of the Tax Department.

I congratulate you, Andrew.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

I also rise in support of my constituent, Andrew Eristoff's nomination to be Commissioner of Taxation and Finance.

If Mr. Eristoff is even half as diligent in pursuing tax cheats in our state as he was in campaigning for the State Senate last November, the people of New York will be well served. Thank you.

Congratulations to you and your wife and your parents.

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: Thank you, sir.

Andrew, congratulations. You much deserve this. You and your family have done an outstanding service to the city and to the state and to the federal government. This body owes you, and you're doing an outstanding job. And we're happy to see that you've been moved to finance in the State of New York.

I had the privilege of working with Andrew in the City Council. I had the privilege of working with Andrew in the Finance in the City of New York. And he was a breath of fresh air in the City of New York.

And he definitely is going to have his challenges here in the state. But if he does half the job that he did in the city, he will be an outstanding finance person.

Thank you, Andrew. Good luck.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Thank you, Mr. President. I also rise in support of Commissioner Eristoff's nomination.

Having served a number of years on the New York City Council with Commissioner Eristoff, we partnered on many issues and many bills in a bipartisan fashion, something we could learn a little about here. And those were successful efforts that are now in law.

There are few people I worked with in that legislative body who worked harder or cared more about their constituents than Andrew Eristoff, and he has followed the fine example set by his parents in public service, in service to the people of the state, the city, and to their needs both in government and culturally. We salute the whole family.

And I want to join the chorus of

accolades for Andrew S. Eristoff.

Thank you.

ACTING PRESIDENT MEIER: The question is on the -- I'm sorry. Senator Schneiderman.

SENATOR SCHNEIDERMAN: Don't be sorry yet.

Mr. President, I rise also to support the nomination. I have known Mr. Eristoff for some time. I think that what makes me the most happy about his nomination is that he is someone who understands the budget crisis of the City of New York as few people do.

And I hope that his addition to the administration is going to enable us to begin to address the systematic discrimination against the city in many of the state's programs providing funding and benefits to all the people of our state. We have a crisis that requires creativity, that requires diligence, all qualities that Andrew Eristoff certainly has.

And I do hope that his appointment reflects the considered judgment by the

Governor that we need to do more for the city and we need to bring in someone who is a great citizen of the City of New York and an advocate for the City of New York who will help us to address these problems.

And I urge the Commissioner to stick around for the budget cleanup bill we're about to pass that, I think he will note, does not solve some of the critical problems we have left over for the city.

So this is your first day on the on the job, and I think that work starts now.

I support the nomination. I look forward to actually working with Mr. Eristoff starting today.

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

The question is on the confirmation of Andrew S. Eristoff as Commissioner of Taxation and Finance. 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.

Commissioner Eristoff is with us today in the gallery. He is accompanied by his wife, Catherine; by his mother, Anne Eristoff; and by his father, Constantine Sidamon-Eristoff.

Commissioner, we congratulate you, and we wish you well with your duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As president of the New York State Higher Education Services Corporation, Michael R. Wilton, Jr., of Glenmont.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Maziarz. Oh, I'm sorry, I didn't see Senator LaValle. If we could defer to Senator LaValle for a moment.

SENATOR MAZIARZ: I will yield to Senator LaValle.

SENATOR LaVALLE: Thank you, Senator Maziarz.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LaVALLE: It's my pleasure to rise and support this nomination.

Mr. Wilton appeared before the Higher Education Committee and I believe answered all the questions and received praise from some of the members. I think the Governor made an excellent appointment. Mr. Wilton is bright, energetic, has skills in government that he will bring as president to the Higher Ed Services Corporation, and I believe that that corporation will be well served by his leadership.

ACTING PRESIDENT MEIER: Senator Maziarz.

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

I want to join my colleague Senator LaValle. And my relationship with Mike Wilton was a little bit different. For the last two

and a half years I have worked on an almost daily basis, I think, with Mike Wilton in his role as president of the Niagara Falls USA Redevelopment Corporation.

During that two-and-a-half-year periodic that Governor Pataki put Mike in charge of the redevelopment of Niagara Falls and Niagara County, more, I think, has been accomplished in that area than has been accomplished in the last probably 40 years, with the infusion of $47 million of improvements into the state park at Niagara Falls and certainly and most notably with the advent of a new casino in the city of Niagara Falls.

Not any of that would have happened, that casino would not be open today, it would not be employing over 2200 people today had it not been for the diligent work of Michael Wilton and his staff at Niagara USA Redevelopment Corporation.

So I want to say that I think the Higher Education Services Corporation is getting an excellent leader, somebody who I know will carry on the great tradition of

higher education and financial assistance to students in this state.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Brown.

SENATOR BROWN: Thank you, Mr. President. I too want to join my colleagues Senator LaValle and Senator Maziarz in praising the Governor for making this appointment of Michael Wilton.

Like Senator Maziarz, I had the opportunity to work with Michael Wilton in his capacity as president of the USA Niagara Redevelopment Corporation. And before Mike Wilton and his involvement with that corporation, as we all know, Niagara Falls was economically on its knees. Today, Niagara Falls is a community that economically is moving. The residents have hope. In all of Niagara County, there is a bright promise for the future. And Mike Wilton is very much responsible for that in his capacity as president of that organization.

I have found him to be bright, hardworking, creative, willing to listen, and

someone that is incredibly accessible. I think he will do a tremendous job as president of the New York State Higher Education Services Corporation and wish him well in this appointment.

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

Senator Libous.

SENATOR LIBOUS: Mr. President, I too have had the pleasure of knowing Mike Wilton for the last eight years, in both a professional and personal capacity, and I concur with my colleagues that the Governor has picked an outstanding candidate for this position.

And the one thing about Mike that I've certainly come to appreciate over the years is that he is willing to listen, he is a very compassionate person, and he will do an outstanding job.

Michael, I wish you the best.

ACTING PRESIDENT MEIER: The question is on the confirmation of Michael Wilton, Jr., as president of the Higher

Education Services 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.

Michael Wilton is with us today in the gallery. He's accompanied by his wife, Karen; his son, Michael Patrick; and his daughter, Grace.

And, Mike, we all here wish you well, and we know you're going to do a great job. Congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the State Civil Service Commission, George C. Sinnott, of Clifton Park.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

The bio indicates that George Sinnott lives in Clifton Park. I mean, I will always think of him as my constituent from Baldwin, Nassau County.

But I want to congratulate and thank the Governor in his wisdom of reappointing George as commissioner and president of the New York State Civil Service Commission.

There are many responsibilities in protecting the rights of so many working men and women in this state. George has been a dear friend to me for probably over 25 years now, and I believe you're probably the longest-serving commissioner in the Pataki administration. So I think that's wonderful, and it speaks of your dedication as wanting to continue to be a public servant and working for all the people of the State of New York.

So, George, I congratulate you and your family, and we will wish you the best of

luck in the years to come. Congratulations.

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

The question is on the confirmation of --

Senator Andrews.

SENATOR SALAND: Thank you, Mr. President. I rise to support the nomination of Commissioner Sinnott.

When I first became a Senator about a year and a half ago, one of the first commissioners I met with was Commissioner Sinnott. And I must say that his office has extended the courtesies from his office and has shown professionalism in my brief time in knowing him, and I wholly support his renomination to that position.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I want to rise also and second the nomination and praise Commissioner Sinnott.

Without question, he is the most responsive commissioner of all that I deal

with in my position in the State Senate -- always responds, always personally makes the phone call back, and always does the best he can to make problems go away and to resolve issues for my constituents.

And I think it's important to praise those commissioners that do have those qualities, and, George, you're the best.

ACTING PRESIDENT MEIER: The question is on the confirmation of George Sinnott as a member of the New York State Civil Service Commission. 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.

Commissioner Sinnott is with us today, and we congratulate you and wish you well.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Mark Page, of Brooklyn.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yes, I rise to support this nomination of a fellow Brooklynite who also uses subways and trains to get to work from Brooklyn to Manhattan.

The Governor should be commended for this nomination. Mark Page brings to this position over a generation of service and knowledge in the area of finance. He had worked for both Democratic and Republican mayors of the City of New York.

He's going into a very difficult assignment. As Henry Kaiser once said: "There's no such thing as a problem. A problem is only an opportunity in work clothes." And you're going into many, many opportunities in work clothes.

But I also believe in the transferability of knowledge. And in terms of your background in finance, I'm sure you'll gain a great deal of knowledge in transportation. There are many problems in the area of finance and transportation. There are many problems in the area of planning. And there are many problems in the area of process and involving the communities. And I was delighted to learn today, in meeting him for the first time, both in the Transportation Committee and in the Finance Committee, that he has every intention of meeting with neighborhood and community leaders.

Again, I commend the Governor for this appointment and support him unequivocally.

Thank you.

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

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. As one of the Brooklyn Senators, along with Senator Martin Dilán, who is currently in the house, Senator Lachman,

myself, Senator Carl Andrews, we have a person who is not only just from New York City, but he is also from Brooklyn. And he is from the area of Brooklyn where -- Senator Marty Connor, I think, represents him, in fact.

He's from the area of Brooklyn where we have a very keen interest in issues that he will be -- Mr. Page will be specifically dealing with and voting on.

So we're looking forward, certainly, not only just as New York City -- members of the New York City delegation but of the Brooklyn delegation in particular, along with members of the City Legislature and the Assembly, to work with Mr. Page and the MTA board on some of those issues that are specifically of interest to us in Brooklyn.

So I want to just echo my colleague, Seymour Lachman, that we're very happy to support this nomination, since essentially we can share in the fact that it is a Brooklyn member that we finally have on that board.

So thank you, Mr. President. I support the -- I'm happy to second the

nomination.

ACTING PRESIDENT MEIER: The question is on the confirmation of Mark Page as a member of the Metropolitan Transportation Authority. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Mr. Page is with us today in the gallery, and we congratulate you and wish you well with your duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the Adirondack Park Agency, Ross S. Whaley, Ph.D., of Tupper Lake.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I'd like to second the nomination of Ross Whaley.

Ross was the president of the Environmental Science and Forestry School in Syracuse for many years, and we had an incredible working relationship during that period of time, involved with several programs that we worked on together. And I can tell you, this is a great appointment.

I knew that Ross was a very energetic individual who was committed to the school. I also knew that he knew how to lobby appropriately to get what he needed for the school. And I knew he was an educated man who had incredible credentials. But not until I read his resume really for the first time did I realize what an incredible human being we have here, with a perfect background for this position.

So I applaud the Governor on his nomination, and I also congratulate Ross. I know he will do a fabulous job.

ACTING PRESIDENT MEIER: Senator

Little.

SENATOR LITTLE: Thank you.

I rise today in support of the nomination of Ross Whaley for the position of chairman of the Adirondack Park Agency.

As the Senator who represents the greatest part of the Adirondack Park in my Senate district, I'd like to speak for a moment about the importance of this position.

Mr. Whaley brings an impressive resume to this position. Certainly his experience as being president of the SUNY College of Environmental Science and Forestry in Syracuse is going to bring a lot of wealth of knowledge of the forest products here. He was also chairman of Governor Cuomo's task force on the forest products industry in the early nineties.

By education and training, he is an economist. He has a B.S. in forestry and a master's from Colorado State University in forest economics, and a Ph.D. in natural resources economics. This is critical, because this position requires a delicate but necessary balance between the environment and

economics. And his background, I believe, will help him in this way.

The 6 million acres of the Adirondack Park, home to 72 towns and over 135,000 year-round residents, lists forest products business as being one of their greatest resources. And therefore I think it's important and I recognize the Governor's selection of Mr. Whaley for this position because of his background in the forest products. He'll be able to work and he has a personal and working knowledge of the difficulties and pressures the forest products industry is now facing.

In talking to him, meeting with him, I believe that he is a person that will listen to the needs of the residents of the Adirondack Park, to work with the local governments, and to work with the environmentalists as well and do a great deal for the forest products industry in the Adirondack Park.

Therefore, I speak in support and look forward to working with Mr. Whaley as chairman of the Adirondack Park Agency.

Thank you.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I had the great pleasure of working with Ross Whaley during his tenure as president of the College of Environmental Science and Forestry at Syracuse. He was in that capacity a constituent, and also in his residence he was a constituent. And I think it speaks very well of his dedication to forestry that he chose to retire to Tupper Lake.

Much has been said about his outstanding list of credentials. But I suggest to all of you, if you haven't already done so, please note that this large amount of paper on your desk is increased by some 8 or 9 pages by President Whaley's resume. And among the many achievements that you will see, he has been a guest lecturer, a representative to the U.N. on forestry issues, has been an expert called to serve in many developing countries, has appeared in places like

Yugoslavia, in cities or towns with names that I could not begin to pronounce, in places in Hungary, in Argentina, in Finland. He is known worldwide for his expertise on forestry.

But more than that, I think it's important for us to recognize that Mr. Whaley also had a compassion for the underprivileged. He did the usual executive service on a number of civic organizations, but he carried it several steps further than many others would. And I have not forgotten that, and I'm sure that Senator Little will come to know him as somebody who is a proud representative, not only of the forest industry, but a dedicated member of her constituency.

My greatest words of advice to President Whaley in taking over the chairmanship of the Adirondack Park Agency is to work closely with Senator Little in understanding that delicate balance of economic development, of agriculture, and of forest product industry activities. They are sometimes very much in conflict, and it will require the wisdom of Solomon to navigate the minefields which you will incur in the future.

But I'm sure, given your extensive background and the temperate nature we know you to have, as attested to by Senator DeFrancisco, you will do well in this position, and I wish you good luck.

Thank you, Mr. President.

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

The question, then, is on the confirmation of Dr. Ross S. Whaley as a member of the Adirondack Park Agency. 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.

Dr. Whaley is with us today in the gallery, and we congratulate you and wish you well with your duties.

(Applause.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the noncontroversial reading of the Rules calendar.

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

THE SECRETARY: In relation to Calendar Number 1152, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 8565A and substitute it for the identical Senate Bill Number 5100A, Third Reading Calendar 1152.

ACTING PRESIDENT MEIER: Substitution ordered.

THE SECRETARY: Calendar Number 1152, by the Assembly Committee on Rules, Assembly Print Number 8565A, an act in relation to authorizing the Town of Southampton.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

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

The bill is passed.

THE SECRETARY: In relation to Calendar Number 1172, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 8340A and substitute it for the identical Senate Bill Number 4034A, Third Reading Calendar 1172.

ACTING PRESIDENT MEIER: Substitution ordered.

There is a home-rule message at the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 1172, by the Assembly Committee on Rules, Assembly Print Number 8340A, an act authorizing the City of New Rochelle to sell and convey.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1697, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 9120 and substitute it for the identical Senate Bill Number 5702, Third Reading Calendar 1697.

ACTING PRESIDENT MEIER: Substitution ordered.

SENATOR BROWN: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1701, by Senator Farley, Senate Print 5715, an act to amend Chapter 305 of the Laws of 2003.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1702, by the Senate Committee on Rules, Senate Print Number 5720, an act to amend the Public --

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1703, by the Senate Committee on Rules, Senate Print Number 5725, an act to amend the County Law and the Public Authorities Law, in relation to the distribution of monies.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number

1704, by Senator Wright, Senate Print 5728, an act to amend the Public Service Law, in relation to improvements to electric transmission lines.

SENATOR BRUNO: Is there a message of necessity 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 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 BROWN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1705, by Senator Seward, Senate Print 5729, an

act to amend the Insurance Law, in relation to the producer licensing model act.

SENATOR BRUNO: Is there a message of necessity from the Governor 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 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 49. 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 Bruno, that completes the noncontroversial reading of the Rules calendar.

SENATOR BRUNO: Mr. President, can we at this time take up the controversial reading of the calendar.

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

THE SECRETARY: Calendar Number 1697, substituted earlier by the Assembly Committee on Rules, Assembly Print Number 9120, an act to amend the Environmental Conservation Law.

SENATOR BROWN: Explanation.

ACTING PRESIDENT MEIER: Senator Marcellino, an explanation has been requested by Senator Brown.

SENATOR MARCELLINO: Thank you, Mr. President.

Seems like we've done this before, only at a much earlier hour in the morning.

I rise to explain this bill, but briefly, because of everything else that's been done. We've explained it many times. It's in the record what this bill will do and what it will not do.

But I would like to take this opportunity to thank my colleague in the Assembly, Tom DiNapoli, for his willingness to seriously negotiate some very complicated issues. And because of that willingness, we have finally reached a compromise agreement that sets strong environmental standards, offers strong economic incentives to start the cleanup of polluted sites.

And I would also like to thank my staff, Senate program and counsel staff, and the Finance staff for their dedication and determination in the final weeks of this last session in getting this bill done.

I'd like to thank the Governor for stepping in and coming to the table and making this whole thing work.

And particularly, I'd like to thank Val Washington for coming forward and taking a very courageous stand and joining with our

team to make this bill what it is.

And I urge my colleagues to strongly support this very important piece of legislation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take --

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, I've had many conversations with many of the people involved in this bill, and I compliment the staff for working very hard.

But I have to say we've had something happen in Buffalo that hasn't happened in a number of years, and that is that the Buffalo-Niagara partnership -- which is the business community, the unions, Tony Masiello, Joel Giambra, the entire delegation -- are all on the same side on this issue. For the most part, that just never happens in Buffalo these days.

But the problem, I think, is that Buffalo is and Western New York is much

different than many other parts of the state. And we figured out a lot of it has to do with the fact that the assessed valuations in Buffalo have dropped off -- the property values -- so much that the problem is that where in Long Island and Westchester and various places it's profitable to clean up sites, but in Buffalo, where the assessed valuations are so much lower -- 40 percent of Buffalo, by the way, is brownfield sites. And what we have learned is that we just do not believe that this bill does enough to allow those sites to be cleaned up.

Now, let me say that although some in the business community told us that this was worse than nothing, when we researched it very thoroughly, we found out that wasn't true. We do believe that this is a better bill than the brownfields situation that we had prior to this and that there are some good things in it.

Part of the problem is that no one in the business community trusts the Environmental Conservation -- DEC, Department of Environmental Conservation. So part of the

problem is when the regulations come out, and if they are as the DEC says that they will be, it will be very helpful.

But our problem in Western New York in particular is that the feeling is, and was very strongly, that we need less restrictions. For instance, the piece in here relating to the rural standards, we don't have any place in Western New York, for the most part, where rural standards could be essentially attained. That's a dream that some people might focus on.

And of course we also have one of the most active trial lawyer groups in the United States of America in upstate New York -- particularly, unfortunately, now in Buffalo. And many people believe that some parts of the bill may actually attract more litigation, which will raise the cost of insurance and create problems.

Senator Marcellino has been extremely cooperative, as has our Senate staff, in working with us in an attempt to come to some potential changes. And I would say that I would hope that there are some

things, we believe, that can be done in remedying the special problems that we think there are in Western New York. And we have -- it has been promised to us that we would move on, later on, to try to deal with that.

But I think our problem -- and when I say "our," I think Senator Mary Lou Rath and Senators Stachowski and Brown and Senator Maziarz -- is that we feel that given the nature of the situation, and with the Western New York region so unanimously opposed, we feel that we must, regrettably, vote no.

Although I must say that after we researched the legislation, we found out there were a lot more good things in it than we realized in the beginning.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Thank you, Mr. Chairman.

I too would like to compliment Senator Marcellino and his staff and everyone who worked on this bill. This, by any measure, has probably been one of the most difficult pieces to come through this

Legislature in many years; to wit, the circumstance at the end of session last year.

But I rise to make a comment in accord with the comments that Senator Volker made, but to take maybe just a little bit of a different approach.

Those of you who know Western New York know the heavy industrial area that was there for so many years. And state-of-the-art left so much in the ground in Western New York -- to wit, the Love Canal, which was of course the first great environmental disaster, I think, that people started to see. That was twenty years ago. And some of those circumstances -- pray to God there's no more Love Canals around. But many circumstances are still very serious.

And the cost of the cleanup will drive people away from redeveloping in the downtown areas. And 40 percent of downtown Buffalo is considered a brownfield. We need those properties back on the tax rolls. We need people to think about redeveloping downtown.

And as this is considered an

environmental issue in many regards, and I have thought of myself for many years as an environmentalist -- you may recall that I spent a fair amount of time on Smart Growth bills the last three or four years.

And what's going to happen as a result of this legislation in my community is it will drive the developers out into the greenfields where we really don't want them. We want them to develop back light industrial, into the industrial areas where transportation and infrastructure are already there. We don't want to pay for infrastructure again. We want them to develop in the areas that were developed at one time.

And this bill, as we understand it now, forecloses that possibility to be competitive, because we cannot here balance the needs of the environment and the needs of the developers in a way that is financially feasible. So for that reason, I'm going to have to vote no on this bill.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr.

President.

I rise to first congratulate Senator Marcellino and Assemblyman DiNapoli, the chairs in the respective houses on the environment, for bringing closure to a very, very thorny issue.

New York is one of the states that are near -- I think there are only nine remaining states that have not addressed this issue. New York is a very complex state, and that is one of the reasons why this legislation has not passed sooner. There are many stakeholders that we had to address their concerns.

I view this as a beginning. The department must promulgate some regulations. Those that will be out -- those municipalities that will be out there trying to convert brownfields into productive taxpaying properties will give us various pointers on deficiencies that maybe the legislation didn't address.

And sometimes we need to pass a bill to begin to honestly address some of the problems. I don't think anyone dismisses the

problems in Western New York. We need to address those problems. We need to ensure that properties get on the tax rolls, that we bring industry and jobs in that part of the state.

But I think this is a great beginning, and I think this issue has languished for just too many years. I think the chairs deserve a lot of credit for a job well done.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I'd like to join Senator Volker's comments, in the fact that nothing pains me more than to have to oppose this bill, because as a big supporter of brownfield programs and refunding of the Superfund over the whole time I've been here, nothing hurts me more than not being able to vote for this.

But how do you vote for a brownfield bill in the Senate and go back home and say, Well, we just voted for a bill where all the brownfields in Buffalo will not be sold as shovel-ready because the costs will be

prohibitive?

And as Senator Rath said, the developers are going to take the -- all the prospective developers' clients and take them out to the green areas. And that's the last thing we want.

We would love to be able to clean the brownfields in Buffalo at an expense that would make them reasonable. It would be a reasonable expense in Long Island, and I can understand being from Long Island supporting this. And I'm not an upstate/downstate kind of guy, so I really don't want to sound like that.

But the reality is that what's affordable for a parcel in Westchester, any of the boroughs in New York, or Long Island, is not considered affordable in Buffalo, Lackawanna, and Niagara Falls.

And so they'll go to the spaces that are cheaper, that are shovel-ready, and they won't have delays and all the other expenses that will go along with brownfields.

So what we are doing with this bill -- and I know that there's been comments

that there'll be changes. But until those changes come, I can't support a bill that's going to make the brownfields in Buffalo stay brownfields and not be able to be developed at all.

And if it was only developers telling me that, well then I would say, well, they have their own private programs and they want to see it even more of a sweetheart deal for them. Because I feel that one of the reasons Buffalo isn't developed in a lot of places -- you know, and people always say, why is Baltimore's Inner Harbor good and Buffalo's not? And I say because the developers in Baltimore were willing to put their own money up.

But that's not the case in this bill. It's not only the developers, it's the people at -- the IDA people, the Buffalo economic development people, it's the city legislators, the city mayor, the county executive. And with all those people against it, how do I come back here and say, Well, this is a great bill? Although I know that most of the bill is great.

But the title is "brownfields reform." And if the brownfields in Buffalo aren't going to be used, I can't support that.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

I join my colleagues that have spoken thus far expressing their concerns about this bill, and especially those that have talked about the Western New York and Buffalo area.

As someone representing the greater Rochester area and Monroe County, I could very easily simply substitute Rochester for Buffalo. Although we don't have the high percentage of urban properties that are in brownfields, we do have a history of great manufacturing companies that grew up in New York State that are no longer here. And we also have a history of brownfields in our urban core as well.

Unfortunately, when you look at the cost of land outside the urban area and you look at the cost of remediation under a bill

like this, any sane developer that, wishfully thinking, would bring manufacturing facilities to our area would simply go outside of the urban areas and buy virgin land.

Because there is an inverse relationship between the cost of remediation and the cost of buying land -- especially when you throw in the involvement of DEC, when you throw in the possibility of reopeners for liability, when you throw in reporting requirements, et cetera, et cetera.

So in the upstate area that I come from and the areas that my colleagues in Western New York have just spoken about, it would make no sense whatsoever to remediate a brownfield area when there's still plenty of virgin land at less cost to the developer.

So with that in mind, I would hopefully wait to see something better coming along, perhaps an amended version of this bill that I could support. But at this time this bill, at least as far as the greater Rochester/Monroe County area and upstate, and I agree with the Buffalo area as well, is not sufficient enough for me to vote yes on.

And the other end of people investing in greenfields, if we are lucky enough for them to do that, is that still leaves the brownfields behind. It still leaves those areas that we'd like to see remediated left alone. So I can't support this bill, as much as I would like to say that I want to do everything I can to clean up the environment.

This is also an economic development concern that I have. And nowhere in here to my satisfaction is economic development taken into consideration to the extent that I would like to see it taken for upstate New York.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

This is one of those interesting issues that changes its complexion as it moves across the state. And we've already heard from the far western part of the state, from Senator Volker, Senator Rath, and then moving slightly to the east in Rochester, from

Senator Alesi. Senator Stachowski also spoke from the Buffalo perspective.

I represent the very middle of the state. In fact, the geographic center of New York State is located within the Senate district which I proudly represent.

This is one of those times where we will simply not make everybody happy no matter what we do. And we have to operate on good faith that those who have worked this hard deserve our congratulations today but also a request that they continue to seek solutions that may not yet have been discovered.

My compliments to Senator Marcellino, his counterparts in the other house, and to the Governor for moving this measure forward as they have. But I believe, as many of my colleagues do, that it is an imperfect measure.

Let me just read excerpts from a letter from one of my constituents indicating his concerns about this bill. He is actually urging my opposition to the bill and says that under the proposal his company would pay an additional $9,000 annually in increased

hazardous waste management fees. And he goes on to say: "Considering current economic conditions, it is the wrong time to impose additional taxes and fees on the state's manufacturing community."

We are desperately struggling in the Syracuse area to try to keep a couple of manufacturing concerns. The greatest of all, Carrier Corporation, is threatening to pick up and go. And our Congressman from Central New York, Jim Walsh, is now launching a national battle that will force all major companies to commit to 50 percent of their manufacturing remaining in the continental United States if they want to sell to the federal or state governments.

These are serious, serious issues at this time, and we cannot afford to be casual when we enact legislation that can handicap manufacturing companies, or any other type of company, from developing in our urban cores.

Now let me just put on my hat as your agriculture chairwoman. When those of you who are mentioning greenfields are

speaking, I'm hearing farms. I understand that our agricultural community is already adversely affected every time a developer says: Oh, I would like a nice big parcel of land, give me a hundred acres without anything else happening so that I can do my thing there.

That cuts into our number-one industry in this state. And every time a large parcel of land like that is taken out of production, it means another parcel nearby may then follow. And fairly shortly, the rest of the land in ag production within an immediate 10-or-15-mile range will no longer have the services they once relied upon. The feedmill will be gone, the hardware store will have closed down, it will be difficult to get farm supplies without driving a half a day.

It doesn't take long to figure out what happens to the agricultural economy when you superimpose a large industrial activity right in the middle of it.

So these are very, very nettlesome issues for us. And I don't believe that the piece of legislation before us has addressed

all of them as well as it should have.

I will say, however, that like many other people I believe we have an earnest responsibility to address environmental cleanup as a major priority, and we cannot afford to languish while we wait for the perfect bill to come before us. In all of our discussions about this bill, many of us have indicated that we will watch closely to see how it is enacted. We know that the votes are here for it to pass today.

So I'm going to put my good faith behind the Department of Environmental Conservation and the Executive branch in implementing this fairly, with the understanding that if it is not done fairly, that we will come back and revisit this issue and we will revisit it very quickly.

I will be watching, like everyone else, to see if DEC, which loves to regulate, will be overregulating those companies that are trying earnestly to comply with these provisions. I will also be looking for ways within our next budget that we can accommodate companies like the manufacturing firm that I

quoted a few minutes ago that feels they will now be faced with an unfair burden of waste management fees -- a burden they would not have to face should they locate to another state. And that, my colleagues, is sadly an option which many of these firms may consider.

So what we have before us is very unperfect answers to difficult-to-determine questions. And it is a first step. And I will very cautiously give my vote in the affirmative today.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President, for this time.

Any bill, I think, that is bad for one part of New York is bad for all of New York, Mr. President.

This bill has many good parts. And I join with my colleagues in congratulating Senator Marcellino and his staff. The Superfund refinancing, the bond act changes that are contained in this bill are excellent, much-needed legislation in this state.

But as has been talked about many times, the brownfield redevelopment part will not work. In fact, it harms not just -- there's been too much talk here about Buffalo and Niagara. It really harms all upstate cities where manufacturing of steel, automotive and heavy industry and chemical manufacturing were once very prevalent. This bill, in fact, provides a disincentive to clean up those sites and make them productive and taxpaying once again.

This bill takes power away from local building inspectors, local code enforcement officers, and puts it into the hands of the Department of Environmental Conservation in Albany.

This bill, as Senator Hoffmann so correctly pointed out, is going to put a great deal of pressure on the agricultural industry in the State of New York.

And mostly what this bill is going to do, as Senator Rath pointed out, is push developers out of the cities of upstate New York and into pristine green areas and building commercial business development out

there where it really should not happen and doesn't need to happen.

And I am going to be voting in the negative on this bill.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Brown.

SENATOR BROWN: Thank you, Mr. President.

Sadly, while I know brownfields is an issue that affects many parts of the state -- certainly the part of the state I come from -- and like my colleagues that have spoken before me, I want to see the state's brownfields cleaned up. But with respect to the upstate region, as we have heard from several other speakers, and in particular the Buffalo-Niagara region, I don't think this bill will allow that to take place.

In the Buffalo-Niagara region, there are over 4700 acres of brownfields. And as you heard from Senators Volker and Stachowski and Maziarz and Rath and others, this bill will provide a disincentive, unfortunately, for that cleanup.

But I say that not to criticize the work of Senator Marcellino and Assemblyman DiNapoli. I know how much work went into this piece of legislation. I commend them for the work that went into this legislation. And I am somewhat heartened today after speaking to Senator Marcellino, who has indicated that some of the problems that might be contained in this piece of legislation for the upstate community will be looked at.

And as Senator LaValle said, sometimes we have to pass a bill to move an important issue forward and then reform that bill.

But even with that being said, I don't feel a sense of comfort that I can support the bill in its present form today. I wish I could, but I have to be responsive to the concerns that I'm hearing from my business community, from the municipalities in my district, from developers in my district, that this will have the opposite effect on developing brownfields in the Buffalo-Niagara region.

What we have seen is the

development of greenfields, as Senator Rath has said. And what has happened is we don't have the shovel-ready sites in Buffalo, and the developers are developing greenfields in the suburban parts of our community and leaving the brownfields lying fallow. Areas that could be redeveloped, areas that need to be used are not being used.

So today I will join my colleagues that feel compelled to oppose this bill, and hope to see the kind of changes and improvements to it in the future that we need for the entire state.

Thank you.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I rise to speak on the bill.

It's very unusual in this house where we have disagreement across parties about such a complex piece of legislation. And I take that actually as an honor to the two sponsors who did so much work on this, Senator Marcellino and Assembly Member DiNapoli, who is with us.

You didn't just try to take on one complex issue, you tried to take on an entire group of complex environmental issues and negotiate out something that could work with both houses for the entire State of New York. And I applaud you for that, and I support your bill here today.

What we are hearing today are frustrations from various parts of upstate New York about some of the costs implied with cleanup. So I felt obligated to speak out on the environmental side of the equation because, as businesses are concerned that DEC overregulates, environmental groups have been concerned that DEC underregulates. Environmental groups -- there are many here today -- feel that they compromised too far to help get this bill forward. And I applaud them for working with everyone also.

Because what I'm hearing is the concern that if this bill is too expensive, people won't do redevelopment of the brownfields in Buffalo and in Rochester and in Niagara. But I would argue they're not doing it now, absent legislation. And right now the

people of New York -- the people of your community, the people of my community in New York City -- are living with unknown health risks because nobody is even taking a look to see what's going on, what might be spreading through the groundwater under our communities.

Senator Rath raised Love Canal. We don't want to have any more Love Canals. But we don't want to have any that we didn't find either, or find soon enough to do something about so.

I am sure that everyone here is right and sincere that this is not a perfect bill, that it will have different impacts in different parts of the state, that we will need to go back, look at what we have done, and adjust for it.

But I urge everyone here today, pass this bill, move us forward. Such difficult issues, so many people waiting for us to move. And, frankly, there is a clock ticking on health issues for the people of New York and on long-term environmental concerns for the people of New York if we

don't bring this to passage today and assure that there's an opportunity to fight over whether the regulation was too weak or too strong in the future.

So I will vote yes, and I urge my colleagues to vote yes.

Thank you, Mr. President.

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.)

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

SENATOR MARCELLINO: Thank you, Mr. President. I rise to explain my vote.

I'm hearing my colleagues and their concerns. And I just wish to state for the record publicly that the concerns will be cared for and will be looked at.

We do intend to make sure that this bill is responsive to the needs of all the people of the State of New York. It is not

our intention to do a bill that would only take care of one segment to the detriment of any other segment of the state. We are concerned and we will work with anybody who wants to work with us to do what has to be done.

We just want to give this bill a chance. It's got to pass so we can take a look at it. What works is fine; what doesn't, we're going to fix. It's that simple. That's what we have to do with a complicated issue. This is a complicated issue.

And we will move forward on this issue in an intelligent way to protect not only economic development, but the environment. Because those people who have to live with all that economic development have a right to clean air and clean land. Otherwise, there's no point to the economic development.

This bill is supported by the Environmental Advocates, Scenic Hudson, the New York State Association of Counties, NYCOM, the Association of Towns, Sustainable Long Island, the Partnership for New York City, the Greater Binghamton Chamber of Commerce, the

New York City Environmental Justice Alliance, Environmental Defense, NYPIRG, Citizens Environmental Coalition, Natural Resources Defense Council, Citizens Campaign for the Environment, and the Audubon of New York.

Vote for this bill, ladies and gentlemen. It is a good bill. And it is also a beginning.

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

SENATOR BALBONI: Mr. President, I didn't want the opportunity to pass to, against the backdrop of cynicism and the criticisms that government cannot get together, that there is partisan gridlock in Albany -- this is one of those issues that we've been fighting about for years and years and years. And what it does is it pits, puts two people against each other who essentially -- the environmentalists and the business community, who don't want to necessarily see eye to eye.

But on this issue they were brought together because of the friendship, intelligence, sensitivity and dedication of

two championships of the environmental, Carl Marcellino, and Assemblyman Tom DiNapoli. And we shouldn't overlook the fact that this got done because of them.

Thank you very much. I'm going to vote yes, Mr. President.

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

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you.

I actually rise to echo what Senator Balboni said. I, when I first got here, was the ranking Democrat on the Environmental Conservation Committee. This was an issue that was there, it appeared to be unresolvable.

And I can't say this is a perfect bill. I can't say that my colleagues from Western New York are wrong that there are problems and there may be consequences in some parts of the state that are less than desirable. But I can say that I have confidence in the people who have worked on this bill. And it is nice to get something

done.

I am sorry it is such a rare occurrence to move forward on a major issue with bipartisan support. But I certainly don't hesitate to criticize when I feel criticism is warranted. I do not want to fail to recognize leadership when leadership is shown.

Thank you, gentlemen.

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

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

Since we seem to have heard from every other region of the state, it's probably appropriate that we should speak from Northern New York.

And like many of my upstate colleagues, I recognize the competing interests that are involved in this legislation and why it has taken so long to come to this solution. And I too would like to see some amendments, some modifications as

we move forward. I also have a major employer that's going to see a significant fee increase as a result of this legislation.

But I'm going to join my downstate colleagues supporting the legislation because I believe it is a step in the right direction. I have municipalities that are strongly interested in addressing their brownfield concerns. They are looking forward to the opportunity to utilize this program and subsequent programs. They are awaiting essential funding that's available to them through Superfund for investments that they've already spent the money for.

And for those reasons, I think it's appropriate that we move ahead. We in fact have demonstrated that we can work together. It may not be a perfect solution. Little is that we accomplish here, given the nature of the interests that compete. But nonetheless, we are demonstrating progress.

My commitment and my commendations to the sponsors for what they've done. They've moved it in the right direction. And as a result, it's going to secure my support.

I vote in the affirmative.

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

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Mr. President.

As the ranking member on the Environmental Conservation Committee, I have had the opportunity to hear from many organizations, from Western New York down to the city. And yes, there had been a general consensus of concerns with regards to the impact that this bill would have on Western New York, Binghamton, and other areas.

However, one of the things that we are elected to do here is to make some very tough decisions. And I think we have done that today.

The other thing that gives me some comfort is that throughout the process, our chairman, Senator Marcellino, had been very forthright with information and requesting input from both sides about this bill. We passed a bill earlier in our last session last year -- or this year, and even that bill I

thought was a decent compromise and some changes had to be made.

One of the things that becomes very important to me personally is that whenever I decide to place my vote someplace, it's where I believe I am making the best decision, one that I can live with and one I can go back, not only to my district but to people around the state, and say that I did the best that I could on their behalf.

I know the chairman, and I know his commitment to listening. And I'm sure that when there are some concerns that are relayed to him with regards to this particular bill as it moves forward, some changes that need to be made, I'm sure they will be made. But we have to take a step.

The people all around this state are looking at us. They've been looking at us for quite some time. They were expecting us not even to come forward with this bill this year. They were hoping that perhaps the bill did not come out so that they could again criticize this body for being ineffective.

I think what this bill has allowed

us to do today is when we go home to our respective districts, whether you voted yes or no, you have the right to stand up very proud and say you're part of a body that has taken a very historical step. And that historical step is one that represents the interests of the State of New York, and that is to make sure that we corrected a particular bill that had an adverse impact at times on our environment and now will serve to provide affordable housing, community input, and even some restrictive measures on development that will not hurt the State of New York.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

I just want to rise and echo my support for this legislation. I will be voting in the affirmative.

But I want to compliment Senator Marcellino and the Assembly sponsor, Tom DiNapoli, for their hard work in reaching a

bipartisan agreement. This has been an issue that's been out there for far too long. I would like to have every environmental issue in my district addressed, and I'm confident that this probably won't. But this is a giant leap forward.

As the environment changes and we deal with so many complex environmental issues, Senator Marcellino has assured this house that so will the bill. And I look upon this as a work in progress. But my compliments to him as the leader sponsor in this house for a job well done.

ACTING PRESIDENT MEIER: Senator Fuschillo will be recorded the affirmative.

Senator Farley.

SENATOR FARLEY: Very briefly.

I've been here for 27 years, the same length as Senator Bruno and Senator LaValle. And I was the former chairman of Environmental Conservation, as Senator Johnson was. And I'll tell you, for all of those 27 years, brownfields would not even be mentioned, nothing would -- this is a step. This is not a perfect bill. As a matter of

fact, there's a lot of things in it a lot of people don't like, including myself. But it is the first time we have addressed brownfields in all the years that I've been here, and I think that's a compliment to the current chairmen in both houses.

And at least we've got started. There may be some changes coming down the road -- at least I hope so. But we've addressed a terrible problem for small cities, particularly the upstate smaller cities that have got polluted brownfields all over the place. And we've got to address this and solve it if we're going to survive.

Thank you.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1697 are Senators Alesi, Brown, Kuhl, Maziarz, McGee, Rath, Robach, Stachowski and Volker. Ayes, 51. Nays, 9.

ACTING PRESIDENT MEIER: The bill is passed.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: Calendar Number 1702, by the Senate Committee on Rules, Senate Print Number 5720, an act to amend the Public Authorities Law, in relation to establishing the Nassau County sewer and storm water finance authority.

ACTING PRESIDENT MEIER: 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 MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1703, by the Senate Committee on Rules, Senate Print Number 5725, an act to amend the County Law and the Public Authorities Law.

SENATOR SCHNEIDERMAN:

Explanation.

ACTING PRESIDENT MEIER: Senator Johnson, Senator Schneiderman has requested an explanation.

SENATOR JOHNSON: Mr. President, this budget cleanup bill enacts budget and fiscal amendments to the state fiscal year 2003-2004 enacted budget.

The bill includes provisions to clarify various changes to the Tax Law made in the enacted budget in order to ensure proper implementation of those changes. The bill also provides additional money for local governments and not-for-profit organizations.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. On the bill. It's getting late, and I will try to be brief.

This is a budget cleanup bill that we've been talking about doing for a long time. And there are some funds that will be released through this bill that will provide for good programs.

Unfortunately, this represents the

third time we have been here to vote in the Senate and been unable to pass legislation that actually provides a benefit we promised to the fiscally strapped City of New York when we started the budget process earlier this year.

When we passed the budget bill and when we overrode the Governor, there was a promise. The only thing we really did for the city -- other than give it the power to tax itself -- the only big benefit to the City of New York in this huge fiscal crisis it suffered as a result of the stock market collapse and September 11th was to provide $170 million a year to the city to refinance outstanding MAC debt. This is a huge benefit to the City of New York.

When we passed the budget, we left out the word "annually," so there was no provision guaranteeing the money would come every year. We were silent on the status of the transferred funds. We didn't ensure that these funds would be available to pay bondholders.

Then the Assembly did a cleanup

bill and we did a cleanup bill, and we passed two different cleanup bills. So the language is inconsistent. There is no guarantee to bondholders that these funds will be available.

And now we're passing a budget cleanup bill that once again fails to address the most important issue, as far as I'm concerned, for the State of New York to be addressing by way of our aid to the city.

The City of New York is the financial engine that drives this state. We have been carrying the state, taxpayers in the city, for many years. Everyone knows we get less than our fair share of transit funds, less than our fair share of school funds. We had to go all the way to the New York State Court of Appeals to get a ruling relating to school funding. We don't get our fair share of revenue sharing. We are not getting our fair share of STAR funds.

The one thing we were supposed to have done this year -- we've now had three tries to get it right. I don't know if it's worse if this is being intentionally or if

it's being done through incompetence. But I would urge my colleagues that if we come back, and I believe we're coming back soon, we're going to have to have a fourth shot at this. And let's please clean this up.

The people in the City of New York are all paying their extra quarter of a percent of sales tax that was promised to us to provide the funding for this revenue stream. And once again, we are passing a budget cleanup bill that leaves the City of New York out in the dark. You can't kill the goose the lays the golden egg and expect to have eggs. I'm not sure that's right. I'm not an expert on agriculture. But I do know something about the budget deficiencies of the city. And this bill leaves the voters of the city, leaves the taxpayers of the city, leaves my constituents out in the cold.

I'm going to support the bill for the other things that are in it, but I'm going to oppose strongly any effort to close out our process of working on the budget and trying to clean this up until we can address this issue.

Thank you, Mr. President.

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: Those recorded in the negative on Calendar Number 1703 are Senators Duane, Hassell-Thompson, L. Krueger, Schneiderman, and A. Smith. Ayes, 55. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1704, by Senator Wright, Senate Print 5728, an act to amend the Public Service Law, in relation to improvements.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Wright, Senator Schneiderman has requested an explanation.

SENATOR WRIGHT: Thank you, Mr. President.

The bill before you is a Governor's program bill that was sent to the Senate for today's session. And it establishes an expedited process for the upgrading of existing electric transmission facilities in existing right-of-ways. Let me repeat that: Existing transmission facilities in an existing right-of-way.

Article VII, which is the statute we're amending, requires the Public Service Commission to authorize and preapprove improvements to transmission equipment, with the exception of when we are replacing like equipment, which is exempt. Otherwise, it's treated as a new siting. And the current process is open-ended and can require substantial time and cost. So we are identifying an alternative to that.

This was an idea advanced by the New York Independent System Operator, actually in testimony before the Assembly Energy Committee when they were conducting hearings on the recent blackout. In that testimony,

the ISO recommended that we look at the issue of siting transmission facilities, particularly the ability to upgrade existing facilities.

So this bill does that. It establishes a procedure for upgrading those facilities. It incorporates public notification, it incorporates public participation, and it moves the process forward. The bill also provides for the ability to finance additional improvements to the system using the existing statutory authority of NYSERDA.

Throughout both of these efforts, our attempts are to establish a couple of key factors. Number one, enhance and maintain the high reliability that New York State has in terms of its electrical system. And let's recognize that the events of the blackout were not attributable to the New York State system, which in fact did work. And it worked because New York State, and you as ratepayers, have made that investment in reliability the hallmark of our system.

And consequently we have, if not

the most, certainly one of the most reliable systems in North America, if not the world. And that was documented by the study prepared at the request of this very Legislature about two years ago, in 2001.

We're also making sure that we improve efficiencies to the transmission system to aid consumers. The ISO, if you'll recall, in one of their reports on the current system identified congestion costs as roughly a billion dollars affecting New York consumers. If you can make the transmission system more efficient, you avoid those costs.

And of course, last but not least, in terms of facilitating the siting of local plants -- excuse me, by facilitating transmission, you can also help eliminate the need for local sitings of plants because you can transmit electricity over longer extended periods.

So we've attempted to address a number of the concerns throughout the system. And I believe that this is a step forward and want to recognize the Governor's efforts and commitment to be proactive, to anticipate

problems, and to be in a position to facilitate our ability to address those problems.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

This is a Governor's program bill. I do not believe for a minute that if our distinguished chair of the Energy Committee and Senator Parker, our Democratic ranker on Energy, got together to put together a bill, that they would put together this bill and tout it as a solution to the problem of electric transmission in New York State.

We are all very, very aware of the fact that our electric grid is inadequate. This bill, which we got at I think 6:00 o'clock last night, appears to be an effort to tell the public we're doing something or the Governor is doing something about this serious problem.

The only thing it does, though, is to make it -- to reduce public participation, public input, and public awareness of projects

that could significantly expand electric transmission in people's communities.

What this does is use a term that's not defined, authorizing electric transmission lines to be reconstructed. Reconstruction is a term of art. Well, the last time we undertook something called reconstruction it had some unintended consequences we didn't like. This is about as well defined as that reconstruction was.

This could result, it appears, in the doubling of transmission through a given right-of-way. This could result in the PSC doing without hearings altogether, or setting hearings in a time frame -- and it provides that you can provide a hearing in within 20 days, which is not enough time for a community group to mobilize, get experts, raise money, and significantly weigh in on an issue of dramatic expansion of electric transmission through their community.

This bill tells us that the problem of electric transmission that led to our blackout recently, that cost billions of dollars and harmed many, many of our

constituents, that the solution is to do away with public participation or limit it or let the PSC have the authority to do without it and to provide a funding mechanism to kick some more money to the industry to help them deal with whatever costs they are now supposed to incur in the course of their business.

The truth of the matter is we have a problem with electric transmission because of the failed deregulation program the Governor undertook. And I quote from that radical left-wing publication the New York Post, that pointed out before the blackout: The Governor, quote, crowed that his deregulation would lead to more competition and lower prices, but the opposite proved true.

The problem with electric transmission here is not that we need to blow through community input, authorize the PSC to do away with hearings. The problem is that the Governor's deregulation scheme is a disaster.

Let's not pass bills without any hearings that are dropped on us late at night.

Let's undertake a more systematic approach. Let's come up with a -- let's follow the model Senator Marcellino and Assemblyman DiNapoli just demonstrated to be effective. Let's work with the Assembly to come up with a real solution to the problem.

But I really feel that whatever the Governor's motivation, if it is something other than attempting to suggest to people he's taking action on an issue as to which he has utterly failed in leadership, then I cannot really -- I am really at a loss to understand that.

I think this is a bad bill. I think the procedure by which it came to us is appalling. And I urge everyone to vote no.

ACTING PRESIDENT MEIER: Read the last section.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would just like to comment on the second part of this legislation.

I am extremely concerned because in it we create a subsidiary devoted and empowered to finance generating, transmission,

and related facilities.

I know that the NYSERDA has been extremely instrumental in supporting local attempts to create alternative energy sources, especially and including renewable energy sources. But the legislation as it is written does not seem to protect specifically the interests that the NYSERDA has been involved with up to this point, and that is working with local community groups and organizations and government to assist them in creating alternative energy.

So that I'm afraid that we, based on this legislation giving them an additional mission, which I'm not sure and clear that it is separated from the mission to work with the groups doing alternative renewable sources, that the focus may shift and therefore we may lose the momentum that I think we have begun to develop around looking at alternative sources and making sure that all of the communities in our state can participate.

So I'm going to vote no on this legislation for that reason as well.

ACTING PRESIDENT MEIER: Read the

last section.

Senator Wright.

SENATOR WRIGHT: Thank you, Senator Meier. I would like to take occasion, Mr. President, to address some of the observations that were shared because they are factually inaccurate and weren't posed as questions, so I'll have to address them in this manner.

First of all, the electric grid in New York State is not inadequate. In fact, just the contrary. And it was documented, published and reported to the Legislature not two years ago that we in fact have an extremely reliable system and it is highly reliable in this state.

Now, if the Senator wants to refer his questions to the inadequacy of the Midwestern grid and the failures that occurred that precipitated the blackout, that's a different observation than what has occurred with New York's grid system. And the administration and this Legislature recognize the need and the importance for reliability. And which is why we required that it be

studied, that it be documented as to its reliability, and we are moving forward.

Secondly, this bill does not restrict public participation. It in fact requires for an application to be filed. It requires public notification of that application. It identifies the same parties that are reflected in the existing Article VII and SEQR for notification purposes in terms of state agencies. It requires notification to municipalities and related parties.

So there has been nothing that has been done to restrict the public awareness, public announcement, and public participation. In fact, it is mirrored after SEQR. SEQR does not require public hearings in all instances, just as this bill does not in all instances. It requires a threshold of findings whereby the Public Service Commission would then make a determination. Not unlike SEQR, where when there is a finding and a specific threshold is met, there is then a decision for a public hearing -- frequently not exercised under SEQR.

In terms of deregulation, no one

has suggested in any of the testimony presented, at the federal level or the state level, that deregulation in any way, shape, or fashion caused the blackout. In fact, the difficulties in terms of generation are a result of the failure to site generation, the failure to have adequate generation that creates adequate capacity, that therefore creates the dynamic of competition that drives the rates down.

That is not a result of policy failures, that's a result of the inability of New York to site new capacity and a failure of the financial community, as a result of the overall national issue as it relates to the energy industry, to make the essential investments in that.

So it is not a failure of the deregulation or the restructuring, more appropriately, of electricity. Because let's not forget the fact that the Ontario system went down. And Ontario, operated and owned by the Province of Ontario in Canada, is highly regulated. In fact, run by government. And they went down quicker and were down longer

than our system here in New York State.

In terms of the financing, the proposal was to utilize NYSERDA because in fact NYSERDA has that capability in statute now. The intent was to clarify it. The intent is not to exclude renewables but, in fact, specify include them. Because one of our objectives is to ensure that there is a diversity of fuel mix in this state and that we are not dependent upon one source of fuel but in fact have a diversity.

This would encourage that opportunity, and, more importantly, send a signal to the financial community. Because it is our preference that this be financially supported in the private sector and in fact would be an obligation of the private sector, not the State of New York.

And last but not least, we need to recognize that if we fail as a state to address this issue, if we fail to move ahead on this issue, all we are doing is empowering those who are suggesting, at those very federal hearings, that the federal government take over that responsibility, that we cede

power to FERC and allow the federal government to make all decisions relative to siting of generation, relative to siting of transmission.

I think this is a better direction. Do I suggest that it's perfect? No. It needs to be advanced, and I credit the Governor for doing that. He has taken an idea that was proposed, has been suggested, and has codified it and presented it.

It is before this house because we are in session. The Assembly chose not to be in session. They chose to pursue an alternative route of hearing, as opposed to suggesting legislation.

This is not unique. It's been done numerous times that a governor suggests legislation to the respective houses and that a message of necessity be attached to it.

So I think there's a great deal of information that is being misconstrued, misrepresented, and the intent is disingenuous on many to do that. We're trying to advance a solution and are committed to working with all parties on achieving that.

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.)

SENATOR PATERSON: Party vote in the negative.

SENATOR BRUNO: Party vote in the affirmative.

THE SECRETARY: Ayes, 36. Nays, 24. Party vote.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno, that completes the controversial calendar.

SENATOR BRUNO: Mr. President, is there any housekeeping at the desk that needs our attention?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR BRUNO: There being no further business, therefore, to come before the Senate, I would move that we adjourn,

subject to the call of the Majority Leader, with intervening days being legislative days.

I wish you well, and God bless.

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 5:55 p.m., the Senate adjourned.)