NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:11 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

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

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

ACTING PRESIDENT MEIER: The invocation will be given by Father Peter Young.

REVEREND YOUNG: Let us pray.

As we debate whether the lion or the lamb for the first day of March, may we continue to dedicate our Senate energies into a bipartisan synergy of beneficial legislation for our New York State citizens.

May today's bright sunshine lift up our winter doldrums, and the spirits, to create a new springtime of budding opportunities that will flower into economic growth and to self-esteem for our unemployed and needy, homeless constituents.

May we provide them with an opportunity of a living wage and paycheck so

that they become a taxpaying citizen and will become then a win-win for our New York State constituents and for our state citizens.

We ask You this now, forever. Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Saturday, February 28, the Senate met pursuant to adjournment. The Journal of Friday, February 27, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Saland, from the Committee on Education, reports the following bills:

Senate Print 2060, by Senator Kuhl, an act to amend the Education Law;

2255A, by Senator Seward, an act to enact;

5324, by Senator Saland, an act to amend the Education Law;

6155A, with amendments, by Senator Saland, an act to enact;

And Senate Print 6156, by Senator Saland, an act to enact the "Millbrook Central School District public construction flexibility demonstration."

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: All bills reported directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Marcellino, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the

enacting clause: that's Senate Print 5712.

ACTING PRESIDENT MEIER: So ordered.

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

Senator Maziarz, page 13, Calendar 194, Senate Print 5834;

Senator LaValle, page 18, Calendar 260, Senate Print 4428A;

Senator Balboni, page 20, Calendar 282, Senate Print 5439;

Senator Spano, on page 23, Calendar 307, Senate Print 2514B;

Senator Spano, on page 23, Calendar Number 308, Senate Print 3129C;

And also on behalf of Senator Spano, on page 24, Calendar 316, Senate Print 4812.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the bills will retain their place on the Third

Reading Calendar.

Senator Skelos.

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

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

Senator Skelos.

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

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

THE SECRETARY: Calendar Number 8, by Senator Larkin, Senate Print 1382A, an act to amend the General Municipal Law and the Town Law, in relation to the continuation of service.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 35, by Senator Maltese, Senate Print 89, an act to amend the Penal Law, in relation to clarifying the definition of physical injury.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 73, by Senator Alesi, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 84, by Senator Skelos, Senate Print 556, an act to amend the Family Court Act and the Criminal Procedure Law, in relation to the age of child witnesses.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 86, by Senator Volker, Senate Print 3127A, an act to amend the Criminal Procedure Law and the Family Court Act, in relation to the duration of orders of protection.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 110, by Senator Marcellino, Senate Print 764, an act to amend the Vehicle and Traffic Law, in relation to the number of prior suspensions.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

133, by Senator Volker, Senate Print 236, an act to amend the Criminal Procedure Law, in relation to sealing and other dispositions of records.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 138, by Senator Balboni, Senate Print 518, an act to amend the Civil Rights Law, in relation to confidentiality of victims' and witnesses' addresses.

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, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 151, by Senator LaValle, Senate Print 3041, an act to amend the Social Services Law, in relation to the return of a child to the care and custody.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 173, by Senator Bonacic, Senate Print 5172, an act to amend the Agriculture and Markets Law,

in relation to prohibition of animal fighting.

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, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 174, by Senator Hoffmann, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 186, by Senator Trunzo, Senate Print 1368A, an act to amend the Vehicle and Traffic Law, in relation to the penalty for operating certain commercial motor vehicles.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 205, by Senator Farley, Senate Print 1532, an act to amend the Education Law, in relation to authorizing the State University trustees.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

I'm sorry. Senator Farley.

SENATOR FARLEY: To explain my vote. I want to speak just for a moment on this bill.

This is a bill that goes back a lot of years, when Senator Skelos was chairman of Aging, when I was. Almost 50, close to 60

members of the Senate are sponsors of it. It has passed almost every year.

It was vetoed twice, by Governor Carey and Governor Cuomo, both of which said there should be a clause in there that you put in. So I had to amend the bill to make it palatable. And it's for nine hours.

Anybody that's not on it that wishes to go on the bill, please -- I'm happy to buck slip you.

This is a bill that will be perhaps passed this year. It was held up for years in the Assembly because Assemblyman Sullivan, who you might remember, wanted it for CUNY. But CUNY also was opposed to this.

This is a good piece of legislation. At one time it was the number-one piece of legislation for the elderly in the State of New York. It allows them to take a course for credit, up to nine hours, on a space-available basis.

I'm confident that we can get it through the Assembly this year, and I appreciate the support of this body.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 221, by Senator Padavan, Senate Print 685, an act to amend the Penal Law, in relation to the piercing and branding of the body of a child under the age of 18 years.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 2. Senators Duane and Schneiderman recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: Thank you, Mr. President.

There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. With unanimous consent, I would like to change my vote on Calendar Number 84 from a no to a yes, and on Calendar Number 151 from a no to a yes.

Something in the water today, Mr. President.

ACTING PRESIDENT MEIER: Without objection.

I'm sorry, Civil Service and Pensions, immediate meeting in the Majority Conference Room.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to change my vote from yes to no on Calendar 133.

ACTING PRESIDENT MEIER: Without objection.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, I believe there's a privileged resolution at the desk by Senator Saland. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Saland, Legislative Resolution Number 3665, congratulating the nominees for the 2004 NYACCE Student of the Year Award.

ACTING PRESIDENT MEIER: On the resolution, all in favor signify by saying.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

resolution is adopted.

Senator Skelos.

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

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

THE SECRETARY: Calendar Number 73, by Senator Alesi, Senate Print 2960, an act to amend the General Municipal Law, in relation to raising certain limitations.

SENATOR LIZ KRUEGER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Alesi, Senator Liz Krueger has requested an explanation of Calendar 73.

SENATOR ALESI: Thank you, Mr. President.

This bill would simply recognize that the current $20 million cap on IDA financing of projects is low and it would be beneficial to all parties involved to raise it to $50 million from the $20 million that is currently in place.

Thank you.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

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

SENATOR ALESI: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Senator Alesi -- excuse me, through the president -- the Comptroller's office has recently put out a critique of and proposal for changes in our public authority laws, including IDAs and the overseeing of that. The Governor himself has recently put out his own proposal on public authorities and the rules that apply to them and their governance.

I guess my question is, is this really the right time for us to move forward with an individual bill specific to IDAs and their power to dramatically increase the

dollar amount of bonds that they can issue, or should we not wait and look at this in the perspective of reform proposals being put out there to the Legislature through a variety of leaders in our state?

SENATOR ALESI: Thank you.

Through you, Mr. President, this would be the wrong time not to do this. And I believe in the old adage that he who hesitates is lost.

So this is the most appropriate time to do this, because we want to fan the flames of our economic engine so that we can continue to finance those projects that will create jobs and improve the quality of life for all New Yorkers.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR ALESI: Yes, Mr. President. However, I'm having a little hard time hearing Senator Krueger.

SENATOR LIZ KRUEGER: I'll try to

speak up.

Mr. President, through you.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

This raises from $20 million to $50 million the bonding authority. And it's specifically for civic facilities, but I assume pretty much we're talking hospitals when we're talking about jumping above the $20 million mark for bonds through an IDA.

And I'm just wondering how this bill fits in with or what kind of overview there is with this legislation for the issue that we have in the state that sometimes our hospital institutions are in fact overcommitting themselves in capital expansion, are unable, without turning it into a fiscal crisis and needing to come back to the Legislature -- are finding themselves having overcommitted themselves from a bonding perspective, and in some communities, although there's a true mismatch in our state, in some communities we may in fact have too much expansion of hospitals, while in other parts

of the state we clearly don't have adequate hospitals at all.

And I'm wondering how the oversight of the Department of Health factors into an IDA having the ability, under your law, to approve a $50 million bond for an individual institution.

SENATOR ALESI: Thank you.

One of the benefits of dealing with an IDA is the opportunity to deal at a local level, as far as fundraising for these projects is concerned.

The other part of that is that the local IDAs are charged with qualifying the project through feasibility studies, et cetera, so that they can justify the sale of bonds and funding.

So I believe that it is important for us to recognize that that expertise which exists at the local level shouldn't be micromanaged by the Legislature, and our job is simply to provide the mechanism -- which is already in existence for the sale of bonds -- only by increasing the threshold. And if for no other reason, recognizing that the cost of

construction since the last time this was raised has gone up.

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

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

SENATOR LIZ KRUEGER: Thank you.

I want to thank the sponsor for his answers to my questions.

And I understand that there are two sides to this debate. And in fact, last year I did vote for this bill. So I want to clarify that I won't vote for it this year.

Not so much because I would claim any specific history of problems with IDAs on civic facility expansion, but because perhaps I just finished reading the report of Comptroller Hevesi, who highlights the history of diverse problems we are having with our off-budget authorities, including IDAs, and the absence of a formal structure for review and accountability and governance.

And I think that this is the time, in 2004, for the Legislature to be actively and proactively working to evaluate the models

by which we give authorities to off-budget entities where we allow those other than elected officials to provide tax exemptions, to provide bonding authority, for potentially making decisions in one town or small geographic area that might have positive or negative consequences for the immediate area around it or for the larger area of the state.

So in light of the fact that I do believe it is time for us here in the Legislature to be looking much more closely and holistically at the approach we have taken to granting, according to Comptroller Hevesi, over 650 entities in the state with independent status the powers to make decisions like this, that this isn't the time to move from the independence of a $20 million cap to a $50 million cap.

And that in fact this bill highlights for me just one example of why we ought to be doing so much better a job at oversight and due diligence in the context of off-budget authorities such as IDAs.

So I will be voting no this year.

Thank you, Mr. President.

SENATOR ALESI: Mr. President, if I may.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: And I appreciate the comments of my colleague, and I appreciate Senator Krueger's past support of this bill. And I think that that support was in keeping with the intent, which is to help foster economic development and job creation.

We have behind us now a major thrust to fund projects, high-tech projects which continue to cost more money. Hospitals, as you correctly pointed out, have had some overruns. But I think if we stop every time somebody wants to have a research project or do a study on everything that the Legislature is doing, then we might as well all go home.

So I would urge the Senator to reconsider her vote, although I doubt that she will, with all due respect. It is vitally important that we give everybody that has an opportunity to build and create jobs in this state the opportunity to have access to capital.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

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

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

The Secretary will continue to read.

THE SECRETARY: Calendar Number 174, by Senator Hoffmann, Senate Print 5297A, an act to amend the --

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Hoffmann, an explanation has been requested.

Where is Senator Hoffmann?

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could lay aside the bill temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

SENATOR SKELOS: And if we could return to reports of standing committees, I believe there's a report of the Cities Committee at the desk. I ask that it be read.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Maltese, from the Committee on Cities, reports the following bill:

Senate Print 6250, by the Senate Committee on Rules, an act to amend the General Business Law.

Said bill ordered direct to third reading.

ACTING PRESIDENT MEIER: All bills direct to third reading.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could take up Calendar Number 353, Senate 6250, that was just reported from the Rules Committee.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 353, by the Senate Committee on Rules, Senate Print 6250, an act to amend the General Business Law, in relation to veteran vendors.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill

is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there are two other reports at the desk. I ask that they be read at this time.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

Senator Robach.

SENATOR ROBACH: Mr. President, if we could return to Calendar 174, please.

ACTING PRESIDENT MEIER: Calendar 174. The Secretary will read.

THE SECRETARY: Calendar Number 174, by Senator Hoffmann, Senate Print 5297A, an act to amend the Agriculture and Markets Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Hoffmann, Senator Krueger has requested an explanation of Calendar 174.

SENATOR HOFFMANN: Thank you, Mr.

President.

This is an act that would amend the Ag and Markets Law to allow farmers to sell retail farm produce or products on their farms. It's a relatively simple change. But given the current situation where many farmers would like to be able to sell on farm, it simply puts in statute their right to do so.

ACTING PRESIDENT MEIER: Senator Krueger.

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

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

SENATOR HOFFMANN: Yes, Mr. President, I'd be happy to yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Would this bill allow farmers to butcher livestock on their farms to sell through stores on their farms to consumers?

SENATOR HOFFMANN: That would really require a separate license through Ag

and Markets.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: If the sponsor would continue to yield.

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

SENATOR HOFFMANN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: I appreciate the clarification, Senator. Because when I read your bill, I thought that it listed animal products as well as produce products for sale.

SENATOR HOFFMANN: That requires a separate license which would have to be obtained by a farmer.

This deals with the right to have -- it's more of a zoning change that would allow the retail operation as a farm stand to be allowed without having separate zoning requirements.

It doesn't deal with the specifics of the products, it deals with the siting of

the retail operation for farm products.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I believe that I have an amendment at the desk. I would like to waive reading.

ACTING PRESIDENT MEIER: Your amendment is at the desk. The reading is waived, and you now have the opportunity to explain your amendment.

SENATOR LIZ KRUEGER: Thank you very much, Mr. President.

And I appreciate the chance to speak on the bill, because it's not per se my concern about the bill that Senator Hoffmann brings to us today, but rather my concern that we have a situation in New York State, absent a no-downed-animal law, that actually allows animals that are too sick to walk on their own feet to be slaughtered and brought to market for food consumption.

Her clarification of her bill perhaps raises whether this was the ideal bill for me to bring this amendment on, because my

reading of her bill was in fact that absent that new law, it would -- farmers could not slaughter animals and sell them directly to consumers. And she's explaining to me that there is one additional step required in a licensing process.

But I still believe my amendment is germane to this issue, because the reality we have in New York State today is that we have animals that are technically too sick to walk on their own legs to a slaughterhouse, and the research nationally shows that animals that are too ill to walk to a slaughterhouse are much more likely to carry diseases that can end up in the human population.

And I use as my example the recent example of mad cow disease out of Washington State and the fact that the U.S. Department of Agriculture has passed regulations requiring that in USDA-inspected slaughterhouses, downed animals can no longer be moved into the food supply.

But my concern is that here in New York State, we don't have a law that protects our consumers from the kinds of

diseases that humans can get from eating sick animals. And that in a situation where a farmer would be slaughtering their own livestock for sale for human consumption, there is no USDA inspection process, there is no review for the health of the animal from the perspective of mad cow or other types of illnesses that we know are in fact transferable from a sick animal to a healthy human being.

So my amendment would basically add to Senator Hoffmann's bill my own bill, Senate 5735, which would state that animals too ill to walk or stand could not be moved into the human food supply and would have to be humanely euthanized, rather than be moved into the food supply or moved even from the farm to the slaughterhouse.

So I'm hoping that my colleagues will consider supporting me today in calling for an amendment to the Senator's bill that would provide for a downed-animal law in New York State so that no New Yorker has to fear that they could get sick from the meat that they purchase, whether it is from a

supermarket that is likely to be purchasing their products from a large slaughterhouse or if they are purchasing from a local farmer or farm in their area.

I will also state that there are more and more people in the food industry, in the meat industry, and on farms around this country who are calling for and supporting downed-animal legislation. A parallel bill just missed being passed at the federal level last year, and has been reintroduced -- in fact, by Congressman Ackerman of New York State.

I have testimony and documents from a variety of actual animal breeders, cattle associations, who are now supporting downed-animal legislation. And in fact, most of the fast food restaurants in this country have now voluntarily taken the position that they won't purchase meat products from slaughterhouses that don't voluntarily operate under a no-downed-animal law.

But I don't believe we can allow this to continue on a voluntary basis, particularly given the fact that we are now,

in this country, facing an actual case of mad cow disease in our animal population. So I hope my colleagues will join me in voting for this amendment today.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Those Senators in agreement with the amendment please signify by raise your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Onorato, Paterson, Sampson, Schneiderman, A. Smith, M. Smith, and Stachowski.

ACTING PRESIDENT MEIER: The amendment is lost.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes. If we're back on the bill, I just would like to ask the sponsor to yield for a question.

ACTING PRESIDENT MEIER: Senator Hoffmann, will you yield for a question from Senator Schneiderman?

SENATOR HOFFMANN: I will yield for a question from Senator Schneiderman.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR SCHNEIDERMAN: Thank you. Then a multipart question it shall be -- no.

Through you, Mr. President. I followed the discussion with Senator Krueger about the requirement for separate licenses. My question simply is this. If a farmer sells beef at a farm stand, is that meat product, beef or any other animal product, under the jurisdiction of and required to be inspected by any authority, federal or state, to ensure that mad cow disease or other infections are not in the product?

SENATOR HOFFMANN: Yes.

SENATOR SCHNEIDERMAN: Through you, Mr. President, I certainly am anxious to get out of here as quickly as anyone else, and I appreciate brevity. But if the sponsor could tell us whose jurisdiction it's under, if it's federal or state.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: The United States Department of Agriculture has supervision over all meat processing plants,

large and small, within New York State, Mr. President.

Another point of clarification. There was a -- let me just anticipate one of your other questions, because I listened to some of the comments made by Senator Krueger. And while it's not necessary to go into all of the areas where it was not consistent with the current law, I think the most important one that we should reassure all consumers about is the fact that the United States Department of Agriculture, through Secretary Veneman, did rule a number of weeks ago that there is no downer meat allowed in any human food supply.

And I would also indicate, for the record, that historically in New York State that has always been the practice.

SENATOR SCHNEIDERMAN: I'd like to thank the sponsor for her multipart answers.

ACTING PRESIDENT MEIER: Senator Krueger.

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

ACTING PRESIDENT MEIER: Senator

Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Senator Hoffmann is correct, the USDA has official oversight over all animal products moving for human consumption in this country. But that does not mean that USDA inspects or has oversight to inspect every location where animals are slaughtered and brought to market.

So in fact, there are not USDA inspectors going to non-USDA-inspected slaughterhouses or farmers who are providing individual butchering for particular companies or stores. So I would still make the argument we ought to have a downed-animal law in New York State.

It is true that on a voluntary basis, more and more farmers, more and more slaughterhouses, more and more agricultural trade associations are in fact urging their members to follow the policy of not using downed animals in human consumption meat.

However, the story is not over. And in fact, the issues that are still being raised of course are the use of downed animals

in products and by-products that are fed to other animals or make get into the food system in other ways, such as in gelatin products that are made from animal products.

And I would again make the argument that in New York State we should have a law that states that downed-animal products cannot be used in the food stream, whether it's direct meat that you and I might be eating, or food by-products, such as gelatin, where we might not be aware that we're eating products that were in fact produced from downed animals. Or, in fact, also the issue of by-products of downed animals going into feeding of other animals, such as an example where a dairy cow's remains might end up in the feedlot of sheep or pigs.

So I would still argue what we should be doing in this house is a downed-animal bill.

And I will vote against this bill today, not so much in objection to the specific goal of ensuring that farmers have the right to sell their products, which is an important goal, but rather to make the

statement that New York State needs a piece of legislation passed by both houses and signed by the Governor that says no downed animal can be used as a product in the food supply in the State of New York.

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 174 are Senators Andrews, Hassell-Thompson, L. Krueger, and Schneiderman. Ayes, 56. Nays, 4.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane, why do you rise?

SENATOR DUANE: Mr. President, if I could have unanimous consent to be recorded in the negative on Calendar Number 73, please.

ACTING PRESIDENT MEIER: Without

objection, Senator Duane will be recorded in the negative on Calendar 73.

Senator Andrews.

SENATOR ANDREWS: Mr. President, I'd like to be recorded, with unanimous consent, on Calendar 353.

ACTING PRESIDENT MEIER: You want to be recorded in the negative, Senator?

SENATOR ANDREWS: Yes.

ACTING PRESIDENT MEIER: Without objection, Senator Andrews will be recorded in the negative on Calendar 353.

Senator Robach, that completes the controversial reading of the calendar.

SENATOR ROBACH: Mr. President, may we please return to reports of standing committees. I believe there are reports at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Robach, from the Committee on Civil Service and Pensions, reports:

Senate Print 2101, by Senator

Marcellino, an act to amend the Civil Service Law;

6150, by Senator Farley, an act in relation to affecting;

And Senate Print 6214, by Senator Robach, an act to amend the Civil Service Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: All bills directly to third reading.

Senator Robach.

SENATOR ROBACH: Yes, Mr. President. If we can momentarily stand at ease pending the report of the Education Committee.

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

(Whereupon, the Senate stood at ease at 3:50 p.m.)

(Whereupon, the Senate reconvened at 3:55 p.m.)

ACTING PRESIDENT MEIER: Senator Robach.

SENATOR ROBACH: Mr. President,

may we please return to reports of standing committees. I believe there are reports at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Saland, from the Committee on Education, reports the following bills:

Senate Print 4023A, by Senator Saland, an act to amend the Education Law;

And Senate Print 5325, by Senator Saland, an act to amend the Education Law.

Both bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Both bills directly to third reading.

Senator Robach.

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

ACTING PRESIDENT MEIER: No, there is not.

SENATOR ROBACH: Mr. President, there being no further business, I move we adjourn until Tuesday, March 2nd, at 3:00 p.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, March 2nd, at 3:00 p.m.

(Whereupon, at 3:56 p.m., the Senate adjourned.)