NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 8, 2004

3:06 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, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 7, the Senate met pursuant to adjournment. The Journal of Sunday, June 6, 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 McGee.

SENATOR McGEE: Thank you, Madam President.

I wish to call up Calendar Number 1221, Assembly Print Number 4881.

THE SECRETARY: Calendar Number 1221, by Member of the Assembly Stringer, Assembly Print Number 4881, an act to amend the Executive Law.

SENATOR McGEE: On behalf of Senator Rath, I now move to reconsider the vote by which the Assembly bill was substituted for her bill, Senate Print Number 6130, on 5/20.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR McGEE: I now move that

the Assembly Bill Number 4881 be recommitted to the Committee on Finance, and that Senator Rath's Senate bill be restored to the order of Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR McGEE: Thank you.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Madam President, on behalf of Senator Robach, on page number 63 I offer the following amendments to Calendar Number 1288, Senate Print Number 6388, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator LaValle, I wish to call up his bill, Senate Print Number 2611, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 97, by Senator LaValle, Senate Print 2611, an act to authorize payment.

SENATOR MEIER: Madam President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

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

THE PRESIDENT: The amendments are received.

SENATOR MEIER: Thank you, Madam President.

I now wish, on behalf of Senator Libous, to call up his bill, Senate Print 2577, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 433, by Senator Libous, Senate Print 2577, an

act authorizing the Commissioner of Transportation.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

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

THE PRESIDENT: The amendments are received.

SENATOR MEIER: Thank you.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Are there any substitutions at the desk, Madam President?

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: On page 6, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 7899 and substitute it for the identical Senate Bill Number 3046, Third Reading Calendar 102.

On page 17, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 9661 and substitute it for the identical Senate Bill Number 5900, Third Reading Calendar 443.

On page 22, Senator Marchi moves to discharge, from the Committee on Rules, Assembly Bill Number 10903A and substitute it for the identical Senate Bill Number 6477A, Third Reading Calendar 598.

On page 25, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 10875 and substitute it for the identical Senate Bill Number 6465, Third Reading Calendar 669.

On page 25, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 11162A and substitute it for the identical Senate Bill Number 6392A, Third Reading Calendar 676.

On page 28, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 9476B and substitute it for the identical Senate Bill Number 5926B, Third Reading Calendar 756.

On page 38, Senator Balboni moves to discharge, from the Committee on Finance, Assembly Bill Number 9598 and substitute it for the identical Senate Bill Number 2500B, Third Reading Calendar 941.

On page 66, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 10818 and substitute it for the identical Senate Bill Number 7004A, Third Reading Calendar 1323.

On page 75, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 11198 and substitute it for the identical Senate Bill Number 7355, Third Reading Calendar 1459.

On page 76, Senator Hoffmann moves to discharge, from the Committee on Local Government, Assembly Bill Number 9038 and substitute it for the identical Senate Bill Number 4727A, Third Reading Calendar 1466.

On page 76, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 5089A and substitute it for the identical Senate Bill Number 5096B, Third Reading Calendar 1467.

On page 76, Senator González moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 8952A and substitute it for the identical Senate Bill Number 5530A, Third Reading Calendar 1470.

And on page 76, Senator McGee moves to discharge, from the Committee on Education, Assembly Bill Number 9072 and substitute it for the identical Senate Bill Number 5594, Third Reading Calendar 1471.

THE PRESIDENT: Substitutions ordered.

Senator Morahan.

SENATOR MORAHAN: Madam President, could we adopt the Resolution Calendar in its entirety.

THE PRESIDENT: The motion is to adopt the Resolution Calendar. All in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is so adopted.

Senator Morahan.

SENATOR MORAHAN: Could we have the noncontroversial reading of the calendar, Madam President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 669, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 10875, an act to amend the Banking Law, in relation to the powers of the Superintendent of Banks.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 792, by Senator Larkin, Senate Print 6302A, an act to amend the Alcoholic Beverage Control Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 793, by Senator Larkin, Senate Print 6303A, an act to amend the Alcoholic Beverage Control Law, in relation to certain distiller's licenses.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

996, by Senator Spano, Senate Print 5908A, an act to amend the Highway Law, in relation to designating Route 141 in the County of Westchester.

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, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1012, by Member of the Assembly Magee, Assembly Print Number 9834, an act to amend the Alcoholic Beverage Control Law, in relation to certain licenses.

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, 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1018, by Member of the Assembly Galef, Assembly Print Number 9706, an act to amend the Education Law, in relation to making a technical correction.

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, 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1044, by Senator Marcellino, Senate Print 6420A, an act to amend the Real Property Tax Law, in relation to calculation.

ACTING PRESIDENT MEIER: Read the last section.

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

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 1068, by Senator Hoffmann, Senate Print 6452, an act to amend the Agriculture and Markets Law, in relation to licensing of dogs.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 10. 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 1111, by Member of the Assembly Lentol, Assembly Print Number 5281B, an act to amend

the Civil Practice Law and Rules, in relation to requiring.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th 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 1114, by Senator Robach, Senate Print 1202, an act to amend the Penal Law, in relation to assault upon a police or peace officer.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1205, by Senator Paterson, Senate Print 5305A, an act authorizing the City of New York to reconvey title.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1210, by Member of the Assembly Schimminger, Assembly Print Number 6035, an act to amend the State Finance Law, in relation to extending.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This

act shall take effect on the 90th day.

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 1215, by Senator Johnson, Senate Print 5141, an act to amend the Public Officers Law, in relation to allowing state officers.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1216, by Senator Johnson, Senate Print --

SENATOR MORAHAN: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1226, by Senator Padavan, Senate Print 6550, an act to amend the Executive Law, in relation to establishing the first day of the first month of the lunar calendar as a day of commemoration.

ACTING PRESIDENT MEIER: Read the last section.

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

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 1231, by Senator Johnson --

SENATOR MORAHAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1249, by Member of the Assembly Sweeney,

Assembly Print Number 10040A, an act to amend the Vehicle and Traffic Law, in relation to restricting the use of green lights.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1251, by Senator Kuhl, Senate Print 7199, an act to amend the Public Authorities Law, in relation to station operation and maintenance.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1253, by Member of the Assembly Lavelle, Assembly Print Number 9670A, an act to amend the Vehicle and Traffic Law, in relation to the operation of a motor vehicle.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1256, by Senator Libous, Senate Print 3770, an act to amend the Religious Corporations Law, in relation to the sale, mortgage and lease of real property.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1263, by Senator LaValle, Senate Print 6873, an act in relation to directing the Education Department to issue certain state aid.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1264, by the Assembly Committee on Rules,

Assembly Print Number 10936, an act to amend the Education Law, in relation to extending the date of reporting.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1271, by Senator Maltese, Senate Print 2978A, an act to amend the General Municipal Law, in relation to providing special accidental death benefits.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1283, by Member of the Assembly Hoyt, Assembly Print Number 9544, an act to reopen the optional twenty-year retirement plan.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1297, by Senator Mendez, Senate Print 7289, an act to amend the Retirement and Social Security Law, in relation to the retirement of certain peace officers.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first of April.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1309, by Member of the Assembly R. Diaz, Assembly Print Number 10083, an act to amend the State Administrative Procedure Act, in relation to regulatory agendas.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1318, by the Assembly Committee on Rules,

Assembly Print Number 10882, an act directing the Commissioner of Environmental Conservation to conduct a study.

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.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1341, by Senator Alesi, Senate Print 6099, an act to amend the General Municipal Law, in relation to bureaus of administrative adjudication.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1352, by Senator Morahan, Senate Print 6824A --

SENATOR MORAHAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1355, by Senator Leibell, Senate Print 6858, an act to amend the General Municipal Law, in relation to bureaus of administrative adjudication.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1356, by Senator Fuschillo, Senate Print 6889A, an act in relation to permitting the Long Island Progressive Missionary Baptist Church.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1361, by Senator Morahan, Senate Print 7171, an act to authorize the County of Rockland to discontinue the use of certain lands.

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

Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1382, by Senator LaValle, Senate Print 344A, an act in relation to authorizing a study of the relevant issues.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1383, by Senator Kuhl, Senate Print 1013, an act to amend the Education Law, in relation to optional retirement programs.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1385, by Senator Marcellino, Senate Print 2174B, an act to amend the Education Law, the Business Corporation Law, and the Limited Liability Company Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect two years after the date on which it shall have become law.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1386, by Senator Kuhl, Senate Print 2582, an act to amend the Education Law, in relation to the calculation of income.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1392, by Senator Spano, Senate Print 6785A, an act to amend the Education Law, in relation to penalties for counterfeit drugs.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR GOLDEN: Thank you, Mr. President.

I'd like to congratulate Senator Spano for introducing this bill today and getting it passed here in the Senate. It's important that these types of bills are passed so that we can save undue harm and distress and debt to our seniors because of the misbranding or altering of drugs. And especially today on the Internet and the prescription drugs that are being purchased today on the Internet, this is a very, very important bill.

And I want to thank also today, as well as Senator Spano, but the school that is here from Brooklyn, New York, St. Agnes, who is here to watch how these bills are passed today and how we work in effective passage of good bills that help our pharmacies and help our seniors to make sure that we keep them safe.

And so I want to thank both of

them, Senator Spano and St. Agnes, for being here today and for passing this bill.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1394, by Senator LaValle, Senate Print 6952, an act to amend the Education Law, in relation to requiring consumer representatives.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1400, by the Senate Committee on Rules, Senate

Print Number 6748, an act to amend the Tax Law, in relation to the mortgage recording tax in the County of Delaware.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1401, by Senator Wright, Senate Print 6920, an act to amend the Alcoholic Beverage Control Law, in relation to the definition of "member of a club."

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 Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR MORAHAN: Thank you, Mr. President. Could we stand at ease for a few moments.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

Senator Duane, why do you rise?

SENATOR DUANE: If I may be recorded with unanimous consent in the negative on Calendar Numbers 792, 793, 1012, 1111, and 1216.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 792, 793, 1012, 1111.

Senate 1216 has not been voted on yet, Senator.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator

Duane.

SENATOR DUANE: I request unanimous consent to be recorded in the negative on Calendar Number 1215.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar Number 1215.

(Whereupon, the Senate stood at ease at 3:28 p.m.)

(Whereupon, the Senate reconvened at 3:32 p.m.)

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Could we return to the reading of the controversial calendar and go to Calendar 1352.

ACTING PRESIDENT MEIER: The Secretary will proceed with the controversial reading of the calendar.

THE SECRETARY: Calendar Number 1352, by Senator Morahan, Senate Print 6824A, an act to authorize the Town of Stony Point.

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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR MORAHAN: If we could stand at ease again, Mr. President.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:33 p.m.)

(Whereupon, the Senate reconvened at 3:35 p.m.)

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Could you please call up Calendar Number 1231, by Senator Johnson.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1231.

THE SECRETARY: Calendar Number

1231, by Senator Johnson, Senate Print 6838, an act to amend the Public Officers Law, in relation to permitting.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Johnson, Senator Liz Krueger has requested an explanation of Calendar 1231.

SENATOR JOHNSON: Yes, Mr. President.

This bill provides, as it says, that a former employee, former state employee who is separated from his state service, was employed as a health care professional and in conjunction with his duties provided treatment or medical service to individuals residing in or served by a state-operated facility, is not barred from rendering service to such individuals in their care prior to leaving state service at the state-operated facility which employed the former state officer or employee.

That's the explanation. That's the bill. It's black and white.

ACTING PRESIDENT MEIER: Senator

Krueger.

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

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

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

It always concerns me when we make exemptions to laws, on the theory that we have good reasons to pass the laws in the first place; in this case, a law that says if you were working for the state, there are limits on the types of post-employment you can have also with the State of New York.

So Senator Johnson, this is specific to health employees of the state and post-employment for them. Is there any parallel exemption for any other type of former state employee in our law?

SENATOR JOHNSON: Yes, there is,

in some cases. In the Attorney General's office, for example. If they are working on a case and they get separated, they can continue because they have the expertise.

In this case, this bill originated as a suggestion from the Ethics Commission to do so, because there are cases where individuals were desirous of treating their patients and the facility desires to have them come back and continue the psychological or medical treatment of those patients. And they can't do it because it's a violation of the Ethics Law.

So we're changing the law in this case at their suggestion. In their opinion on that case, they said the Legislature may wish to consider whether the result in this case is sound policy or whether an exception to the revolving-door provision should be enacted where the continuity of care between a physician and patient is implicated. The Commission, however, must apply the existing law.

So we're correcting the problem that they think should be permitted in a case

like this.

Thank you.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR JOHNSON: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you. Thank you very much for your explanation, Senator.

So it's my understanding, as you gave it as an example, that I could have been a psychiatrist at a state mental institution, and then I could have retired from state service, but there might be good medical reasons why we would want me to continue to provide services to patients in that institution.

So my question is, would I be able to retire, receive my pension payments, but also then continue to get paid by the state on an individual fee-for-service to the same

patients I saw before I received my pension and retired?

SENATOR JOHNSON: That's correct.

SENATOR LIZ KRUEGER: That is correct. Thank you. One more -- I'm sorry.

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

SENATOR JOHNSON: I'll keep standing.

ACTING PRESIDENT MEIER: Yes, don't get comfortable yet, Senator Johnson.

Do you continue to yield, Senator Johnson?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

So since you've answered the question yes, what's the fiscal impact? It seems to me there would be a fiscal impact because we would be paying a pension for a retired state employee. I assume we would be replacing that state employee with a new mental health specialist, but then we'd also be paying a for-fee service.

So why wouldn't we have a fiscal cost for the state in this scenario?

SENATOR JOHNSON: I think the state in this situation is more concerned with the proper continuation of treatment than they are about the dollars.

And I don't think there's going to be an epidemic of people wanting to go back and work there. This is only to deal with the individuals who they were treating prior to their retirement. They can't come in and take anybody else's job away in terms of new patients and so forth.

So I don't think it's a problem.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

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

SENATOR LIZ KRUEGER: Thank you.

Thank you, Senator Johnson, for your explanation.

I'm not going to vote for the bill, although I understand the argument that in a mental health situation continuity of care between a patient and a doctor can be a

critical issue in ensuring they continue to get the best mental health services that they need and that they deserve from the State of New York.

But I still can't vote for the law, because I think fundamentally there's a reason we set up the Public Officers Law, to ensure that we had safety safeguards in place that we didn't have people who were both on payroll and then doing post-employment work for the state or leaving the state's payroll but figuring how to come back and continue to get, in some cases, double payment, the pension for having retired and ongoing pay on a consultant basis.

And I believe that under the current law, you can get waivers to allow this to happen now.

So I think it would be a mistake for the state to do an across-the-board removal of the current law and not require that people go through, on an individual case-by-case basis, a review through the Commission on Ethics and a waiver process, for multiple reasons.

One, to make sure that we don't continue to have the pattern of problems that apparently we had in this state prior to establishing these rules. Two, to have some oversight controls over what kind of new fiscal impact this would have on the State of New York.

Because as Senator Johnson I think correctly said, they're not taking the job away of someone new we would hire, they've left and gone on pension and yet we're going to continue to pay them on a fee-for-service-type structure to continue with a certain number of patients.

And I think that the State of New York wants to watch over that and have a review and look at this on a case-by-case basis, not do an across-the-board allowing this to happen.

So I understand, particularly in this case with continuity of health care services in a mental health setting, why this can be a good thing. But I still don't believe we should have an across-the-board removal of the bar excluding people from

working for two years after they finish employment with the state.

And so on the precedent, I will vote no on this bill, although I do understand the argument Senator Johnson had made and do think that there are special situations where this would be called for. I just think we should keep it in the category of special situations where review is gone through and exceptions are made to the rule, rather than doing away with the rule.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan, that completes the

controversial reading of the calendar.

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

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

SENATOR MORAHAN: And the Senate will stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:45 p.m.)

(Whereupon, the Senate reconvened at 3:59 p.m.)

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Can you please recognize Senator Montgomery.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you.

Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 1114.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 1114.

Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President. Could we return to reports of standing committees.

I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 1679A, by Senator Rath, an act to amend the Education Law;

2289, by Senator DeFrancisco, an act to amend the General Obligations Law;

4387A, by Senator Farley, an act to amend the Banking Law;

4649, by Senator Lachman, an act to

amend the Public Authorities Law;

6137, by Senator Hannon, an act authorizing;

6227A, by Senator Hannon, an act authorizing the assessor of the County of Nassau;

6900, by Senator LaValle, an act to amend the Tax Law;

6985, by Senator DeFrancisco, an act to amend the Real Property Law;

7008A, by Senator Fuschillo, an act to amend the Education Law and the Penal Law;

7019, by Senator Saland, an act to grant;

7061, by Senator Hannon, an act to amend the Civil Practice Law and Rules;

7117, by Senator McGee, an act to amend the Real Property Tax Law;

7183, by Senator Padavan, an act to amend the Local Finance Law;

7209, by Senator DeFrancisco, an act to amend the Civil Practice Law and Rules;

7257, by Senator Padavan, an act to amend the Real Property Actions and Proceedings Law;

7297A, by Senator Leibell, an act to amend the Public Officers Law;

7331, by Senator Marcellino, an act to amend Chapter 329;

7341A, by Senator Alesi, an act authorizing;

7342, by Senator Padavan, an act to amend the Tax Law;

7352, by Senator Little, an act to amend the County Law;

7359, by Senator Saland, an act to amend Chapter 472;

7368, by Senator Larkin, an act to amend the Executive Law;

7373, by Senator Golden, an act to authorize;

7374, by Senator Rath, an act relating to the disposition;

7376, by Senator Golden, an act to amend the Retirement and Social Security Law;

And Senate Print 7383, by Senator DeFrancisco, an act to amend the Labor Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator

Morahan.

SENATOR MORAHAN: Yes, can we please move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: All those in favor of accepting the report of 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 Morahan.

SENATOR MORAHAN: Is there any housekeeping at the desk, Mr. President?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR MORAHAN: Okay. Then there being no other further business before the Senate, I move that we adjourn until Wednesday, June 9th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Wednesday, June 9th, at 11:00 a.m.

(Whereupon, at 4:03 p.m., the Senate adjourned.)