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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 22, 2005

11:46 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

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P R O C E E D I N G S

ACTING PRESIDENT MEIER: The
Senate will come to order.

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

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

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

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

ACTING PRESIDENT MEIER: Reading
of the Journal.

THE SECRETARY: In Senate,
Tuesday, June 21, the Senate met pursuant to
adjournment. The Journal of Monday, June 20,
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.

1 Messages from the Governor.

2 Reports of standing committees.

3 The Secretary will read the report
4 of the Finance Committee.

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

8 As a member of the State Board of
9 Parole, Patrick Gullivan, of Buffalo.

10 ACTING PRESIDENT MEIER: Senator
11 Johnson.

12 SENATOR JOHNSON: Move the
13 nomination.

14 ACTING PRESIDENT MEIER: Senator
15 Volker.

16 SENATOR VOLKER: Mr. President, I
17 apologize; I was detained.

18 I understand that Pat is up for
19 nomination. As I said in the Finance
20 Committee, Pat Gullivan is one of the
21 outstanding people in law enforcement in this
22 state who I've known since his State Police
23 days. He's been our sheriff for a number of
24 years. A fine sheriff, a fine gentleman, and
25 I know he'll make a great addition to the

1 Parole Board.

2 And we're happy to have you on the
3 board, although we're going to miss you in
4 Erie County.

5 ACTING PRESIDENT MEIER: Senator
6 Stachowski.

7 SENATOR STACHOWSKI: Mr.
8 President, I'd like to rise and also second
9 the nomination of Patrick Gallivan.

10 He's done an outstanding job as
11 sheriff. He was an excellent state policeman.
12 I think he'll be a great parole officer. He's
13 got a wonderful family, he's been active in
14 the community, he's got a terrific resume. I
15 think the Governor made an exceptional
16 appointment.

17 And the thing that makes me
18 proudest of this appointment is that I can
19 call Pat Gallivan one of my friends.

20 Thank you, Mr. President.

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

24 The question, then, is on the
25 nomination of Patrick Gallivan as a member of

1 the State Board of Parole. All those in favor
2 signify by saying aye.

3 (Response of "Aye.")

4 ACTING PRESIDENT MEIER: Those
5 opposed, nay.

6 (No response.)

7 ACTING PRESIDENT MEIER: The
8 nominee is confirmed.

9 Mr. Gallivan is with us today in
10 the gallery.

11 So we congratulate you and wish you
12 well, sir.

13 (Applause.)

14 ACTING PRESIDENT MEIER: The
15 Secretary will continue to read.

16 THE SECRETARY: As a member of
17 the State Board of Parole, George C. Johnson,
18 of Buffalo.

19 ACTING PRESIDENT MEIER: Senator
20 Johnson.

21 SENATOR JOHNSON: Move the
22 nomination.

23 ACTING PRESIDENT MEIER: Senator
24 Nozzolio.

25 SENATOR NOZZOLIO: Mr. President,

1 all four nominees who are before us today
2 received the unanimous support of the Crime
3 Victims, Crime and Corrections Committee.

4 Each of them brings a unique
5 quality to the Parole Board. As was already
6 addressed, Patrick Gallivan has a unique law
7 enforcement background, as does George
8 Johnson, the current nominee before us.

9 That George Johnson has served with
10 great distinction on the Parole Board, has had
11 a variety of responsibilities through his
12 extensive law enforcement career. And we are
13 very pleased with the performance as a member
14 of the Parole Commission.

15 Governor Pataki should be
16 congratulated for this renomination, and this
17 has the full support of the committee and
18 should be moved.

19 ACTING PRESIDENT MEIER: Senator
20 Volker.

21 SENATOR VOLKER: Mr. President,
22 very quickly.

23 George Johnson is also someone that
24 I've known for many, many years. He's been
25 involved in law enforcement issues in Erie

1 County for as long as I can remember. He was
2 a correction officer for a time. He's done a
3 lot of lecturing on drug enforcement in
4 various areas.

5 He's been an excellent member of
6 the Parole Board already, and I know he'll
7 continue to be a super member.

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

11 The question, then, is on the
12 nomination of George Johnson as a member of
13 the Board of Parole. All those in favor
14 signify by saying aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT MEIER: Those
17 opposed, nay.

18 (No response.)

19 ACTING PRESIDENT MEIER: The
20 nominee is confirmed.

21 Mr. Johnson is with us today in the
22 gallery. He is accompanied by his fiancée,
23 Deborah Colosanta, and his nephew, Corey
24 Rivers.

25 Mr. Johnson, we congratulate you

1 and we wish you well with your important
2 duties.

3 (Applause.)

4 ACTING PRESIDENT MEIER: The
5 Secretary will continue to read.

6 THE SECRETARY: As a member of
7 the State Board of Parole, Vanessa A.
8 Clarke-McCarthy, Esquire, of Albany.

9 ACTING PRESIDENT MEIER: Senator
10 Johnson.

11 SENATOR JOHNSON: Move the
12 nomination.

13 ACTING PRESIDENT MEIER: Senator
14 Nozzolio.

15 SENATOR NOZZOLIO: Thank you, Mr.
16 President.

17 It is with great pleasure that I
18 second this nomination. It was a nomination
19 that received the unanimous support of the
20 Crime Victims, Crime and Corrections
21 Committee, and it gives me extreme pleasure to
22 speak on behalf of Vanessa Clarke-McCarthy as
23 a renominee to serve as parole commissioner.

24 It's hard to believe nine years
25 have gone by since Commissioner McCarthy has

1 been on the Parole Commission. Those nine
2 years have been moving very quickly. Vanessa
3 was the youngest person that was nominated to
4 serve on the Parole Commission nine years ago.
5 She's still the youngest person to serve on
6 the Parole Commission. And that she has
7 served with great distinction.

8 That we all often read about those
9 tough decisions that parole commissioners make
10 and in many cases make out of a feeling of
11 compassion for those who have been
12 incarcerated. And oftentimes those
13 decisions -- difficult to call; often easy to
14 second-guess -- result in some very, very bad
15 things occurring.

16 I just want to point out in
17 Vanessa's case an incidence where her keen
18 insight and her continued efforts to protect
19 the public was manifest in her denying parole
20 for someone who was going to be let out of
21 prison anyway within a very short of period of
22 time, a matter of days. But her decision was
23 that even though the statute required release
24 of this individual who was incarcerated, she
25 believed the facts of the case and the lack of

1 rehabilitation in this individual should
2 warrant denial of parole.

3 Oftentimes commissioners allow
4 parole when only a few days are left on the
5 sentence. In this case, this individual who
6 was denied parole by Commissioner Clarke in
7 her vote went out and perpetrated extreme
8 violence on an individual.

9 This situation I raise to you as an
10 indicator of the difficult decisions parole
11 commissioners have to make and how sometimes,
12 even if the sentence is almost over and the
13 heart says let the individual out -- Vanessa
14 Clarke-McCarthy has a full heart, but a keen
15 mind, and one who is always focused on
16 protecting those of us from those who are bent
17 on breaking the law and wreaking violence.

18 This action was pointed out in an
19 newspaper article that I was very pleased to
20 read about that, that we do have a spirit on
21 the Parole Commission that says we're going to
22 protect the public.

23 Mr. President, Vanessa has her
24 roots in the Legislature. She has worked in
25 this capacity as a commissioner on the Parole

1 Board for nine years now. She's a tremendous
2 asset to the Parole Commission. We're very
3 proud she's there, and I move the nomination.

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

7 The question, then, is on the
8 nomination of Vanessa A. Clarke-McCarthy as a
9 member of the New York State Board of Parole.
10 All those in favor signify by saying aye.

11 (Response of "Aye.")

12 ACTING PRESIDENT MEIER: Those
13 opposed, nay.

14 (No response.)

15 ACTING PRESIDENT MEIER: The
16 nominee is confirmed.

17 Vanessa Clarke-McCarthy is with us
18 today in the gallery.

19 We congratulate you and wish you
20 well.

21 (Applause.)

22 ACTING PRESIDENT MEIER: The
23 Secretary will continue to read.

24 THE SECRETARY: As a member of
25 the State Board of Parole, Walter William

1 Smith, Jr., of Clarence Center.

2 ACTING PRESIDENT MEIER: Senator
3 Johnson.

4 SENATOR JOHNSON: Move the
5 nomination.

6 ACTING PRESIDENT MEIER: Senator
7 Nozzolio.

8 SENATOR NOZZOLIO: Mr. President,
9 on the nomination.

10 Mr. President, again, Bill Smith
11 has been supported by the committee
12 unanimously. Senator Maziarz is keen in
13 moving this appointment, as Senator Volker was
14 very supportive. Congressman Reynolds advised
15 of his support to the committee.

16 Bill Smith served with distinction
17 first as a member of the Crime Victims Board
18 and brings that unique perspective to the
19 Parole Commission. An excellent nomination.

20 ACTING PRESIDENT MEIER: Senator
21 Maziarz.

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

24 As Senator Nozzolio pointed out,
25 I've known Bill Smith for a long time. He was

1 a very active and very good member of the
2 Crime Victims Board. He really, really cares
3 about bringing justice to crime victims
4 throughout our state. He's done a great job
5 during his tenure on the Parole Board, and we
6 expect a continuation of that service for his
7 next term.

8 Thank you, Mr. President.

9 ACTING PRESIDENT MEIER: Senator
10 Rath.

11 SENATOR RATH: My sincere
12 congratulations and pleasure that this
13 reappointment is happening, as Bill Smith is a
14 professional's professional and one of my
15 constituents.

16 So we're very glad to have you
17 back.

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

21 The question, then, is on the
22 nomination of Walter William Smith, Jr., as a
23 member of the New York State Board of Parole.
24 All those in favor signify by saying aye.

25 (Response of "Aye.")

1 ACTING PRESIDENT MEIER: Those
2 opposed, nay.

3 (No response.)

4 ACTING PRESIDENT MEIER: The
5 nominee is confirmed.

6 Mr. Smith is with us today in the
7 gallery.

8 And we congratulate you and again
9 wish you well with your duties.

10 (Applause.)

11 ACTING PRESIDENT MEIER: The
12 Secretary will continue to read.

13 THE SECRETARY: As a member of
14 the Metropolitan Transportation Authority,
15 Nancy Shevell Blakeman, of New York City.

16 ACTING PRESIDENT MEIER: Senator
17 Johnson.

18 SENATOR JOHNSON: Move the
19 nomination.

20 ACTING PRESIDENT MEIER: Senator
21 Fuschillo.

22 SENATOR FUSCHILLO: Mr.
23 President, just briefly, let me just
24 compliment the nominee and Governor Pataki for
25 putting forth her nomination.

1 I commend her for wanting to be
2 reappointed to the MTA board, with all the
3 challenges that lie ahead. She brings an
4 extensive amount of experience, has done an
5 outstanding job, and I proudly second the
6 nomination.

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

10 The question, then, is on the
11 nomination of Nancy Shevell Blakeman as a
12 member of the Metropolitan Transportation
13 Authority. All those in favor signify by
14 saying aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT MEIER: Those
17 opposed, nay.

18 (No response.)

19 ACTING PRESIDENT MEIER: The
20 nominee is confirmed.

21 Ms. Blakeman is with us today in
22 the gallery.

23 And we congratulate you and again
24 wish you well with your duties.

25 (Applause.)

1 ACTING PRESIDENT MEIER: The
2 Secretary will continue to read.

3 THE SECRETARY: As a member of
4 the New York State Employment Relations Board,
5 George C. Frost, of South Glens Falls.

6 ACTING PRESIDENT MEIER: Senator
7 Johnson.

8 SENATOR JOHNSON: Move the
9 nomination.

10 ACTING PRESIDENT MEIER: The
11 question, then, is on the nomination of George
12 C. Frost as a member of the New York State
13 Employment Relations Board. All those in
14 favor signify by saying aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT MEIER: Those
17 opposed, nay.

18 (No response.)

19 ACTING PRESIDENT MEIER: The
20 nominee is confirmed.

21 Mr. Frost is with us in the
22 gallery.

23 Congratulations, Mr. Frost, and
24 best wishes.

25 (Applause.)

1 ACTING PRESIDENT MEIER: The
2 Secretary will continue to read.

3 THE SECRETARY: As sheriff of
4 Cattaraugus County, Dennis B. John, of Little
5 Valley.

6 ACTING PRESIDENT MEIER: Senator
7 Johnson.

8 SENATOR JOHNSON: Move the
9 nomination.

10 ACTING PRESIDENT MEIER: Senator
11 Young.

12 SENATOR YOUNG: I'm very pleased
13 and proud to speak on the nomination of
14 Sheriff -- Acting Sheriff Denny John, Dennis
15 John, to be the new sheriff of Cattaraugus
16 County.

17 Sheriff John is widely known in law
18 enforcement circles. He adheres to the
19 highest standards. He has a very strong
20 commitment to public service and law
21 enforcement. He's a graduate of Salamanca
22 High School, and he graduated from the
23 Chautauqua County Sheriff's Academy in 1978,
24 and then the Federal Bureau of Investigation
25 Academy in Quantico, Virginia, in 1997.

1 In addition, he is a certified
2 police instructor. He began his police career
3 with the Seneca Nation Law Enforcement Unit.
4 He has served on the Salamanca Police
5 Department and the Allegany State Park Police
6 before joining the Cattaraugus Sheriff's
7 Office in 1981. He steadily rose through the
8 ranks, serving as chief of detectives,
9 detective lieutenant, deputy sheriff sergeant,
10 and deputy sheriff before being named
11 undersheriff by Sheriff Ernie Dustman upon his
12 retirement last October.

13 Sheriff John is a member and past
14 president of the New York State Juvenile
15 Police Officers Association, and he serves on
16 the New York State Association of Counties'
17 Public Safety Committee, the Cattaraugus
18 County Fire/Police Association, the
19 Counterterrorism Zone 13 Committee, and he is
20 cochair of the Southern Tier Regional Drug
21 Task Force.

22 So it's wonderful that he's being
23 confirmed today because of his record, because
24 of his dedication. And we were talking last
25 night, and he's very happy about this

1 nomination -- confirmation, of course. But
2 the thing that he is most proud of, I think,
3 is that his son, Lance Corporal Dennis John,
4 who is serving in Afghanistan, is coming home
5 this weekend for a visit, after a year of
6 being away. So this is a time of great joy
7 for Sheriff John.

8 I congratulate him on both his
9 professional achievements and for his personal
10 life and his son returning home. So I'm just
11 very proud that he is the new sheriff of
12 Cattaraugus County.

13 ACTING PRESIDENT MEIER: Does any
14 other member wish to be heard on the
15 nomination?

16 The question, then, is on the
17 confirmation of Dennis B. John as sheriff of
18 Cattaraugus County. All those in favor
19 signify by saying aye.

20 (Response of "Aye.")

21 ACTING PRESIDENT MEIER: Those
22 opposed, nay.

23 (No response.)

24 ACTING PRESIDENT MEIER: The
25 nominee is confirmed.

1 Sheriff John is with us today in
2 the gallery. He is accompanied by his wife,
3 Sharon.

4 Congratulations, Sheriff.

5 The Secretary will continue to
6 read.

7 THE SECRETARY: As sheriff of
8 Erie County, Timothy B. Howard, of South
9 Wales.

10 ACTING PRESIDENT MEIER: Senator
11 Johnson.

12 SENATOR JOHNSON: Move the
13 nomination.

14 ACTING PRESIDENT MEIER: Senator
15 Volker.

16 SENATOR VOLKER: Mr. President,
17 this is not only a constituent, a friend; I
18 have to say that I've known Tim Howard for
19 many, many years. One of the -- maybe the
20 only person I know of who was a local police
21 officer, a trooper, member of the BCI, major
22 and troop commander, and undersheriff of Erie
23 County and in about three minutes, I assume,
24 the new sheriff of Erie County.

25 Good man, a police officer's police

1 officer. The kind of person that you would
2 want as sheriff, just as Patrick Gallivan was.

3 And we're happy -- we're unhappy,
4 of course, that Pat's leaving. But I think
5 the citizens of Erie County can feel very
6 secure in the fact that Tim Howard will be the
7 new sheriff of Erie County.

8 ACTING PRESIDENT MEIER: Senator
9 Stachowski.

10 SENATOR STACHOWSKI: Mr.
11 President, I too would like to rise to second
12 the nomination of Tim Howard.

13 He's -- his resume is terrific.
14 He's a professional police officer. He has a
15 great background. As Senator Volker alluded
16 to, he was a village policeman, a town
17 policeman, a trooper, a BCI captain, and an
18 undersheriff. I mean, that's just a great
19 background. He's a very professional person
20 and actually a very nice guy.

21 And I'm glad to get the opportunity
22 to stand and second the nomination.

23 Thank you.

24 ACTING PRESIDENT MEIER: Senator
25 Rath.

1 SENATOR RATH: I rise also to
2 second the nomination of Tim Howard.

3 We're very, very happy that he's
4 going to be assuming this role in Erie County
5 at this time of shifting and changing
6 responsibilities which have made life very
7 difficult for us in Erie County for a lot of
8 reasons.

9 I wish you well. We will be there
10 to work with you as we look at the best way to
11 deliver services at the least possible cost.
12 So you've got your challenge there. And
13 certainly Sheriff Gallivan did that for us
14 through the years.

15 And I'm sorry I missed the
16 opportunity to say congratulations to Pat on
17 his new position, but congratulations to Tim.

18 ACTING PRESIDENT MEIER: Senator
19 Brown.

20 SENATOR BROWN: Thank you, Mr.
21 President. I would also like to rise and take
22 this opportunity to commend and congratulate
23 the Governor on this excellent appointment.

24 Tim Howard has a tremendous
25 reputation in law enforcement, and already he

1 is being seen all over Erie County in his
2 capacity as the person who will be the next
3 sheriff of Erie County. I think this is an
4 excellent appointment, and I am pleased to
5 rise to also second the appointment.

6 I would also like to take this
7 opportunity to also congratulate Sheriff
8 Patrick Gullivan on being appointed to the
9 Parole Board, and George Johnson for also
10 being appointed to the Control Board -- to the
11 Parole Board.

12 I've got Control Board on my mind.
13 Sorry about that, Senator Volker.

14 (Laughter.)

15 SENATOR BROWN: But in any event,
16 Tim, congratulations on your nomination.

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

20 The question, then, is on the
21 confirmation of Timothy B. Howard as the
22 sheriff of Erie County. All those in favor
23 signify by saying aye.

24 (Response of "Aye.")

25 ACTING PRESIDENT MEIER: Those

1 opposed, nay.

2 (No response.)

3 ACTING PRESIDENT MEIER: The
4 nominee is confirmed.

5 Sheriff Howard is with us today in
6 the gallery, and he is accompanied by his son,
7 New York State Trooper David Howard.

8 Sheriff, congratulations.

9 (Appause.)

10 ACTING PRESIDENT MEIER: The
11 Secretary will continue to read.

12 THE SECRETARY: As a member of
13 the New York State Olympic Regional
14 Development Authority, Jerry Strack, of Lake
15 Placid.

16 As a member of the Port Authority
17 of New York and New Jersey, Michael J.
18 Chasanoff, of Oyster Bay.

19 As a member of the Niagara Frontier
20 Transportation Authority, Henry M. Sloma, of
21 Lewiston.

22 As members of the Rochester-Genesee
23 Regional Transportation Authority, Robert
24 Radley, of Batavia, and Milo Turner, of
25 Livonia.

1 As a member of the Dormitory
2 Authority, Jose Alberto Corvalan, M.D., of
3 Armonk.

4 As a trustee of the Power Authority
5 of the State of New York, Elise M. Cusack, of
6 Amherst.

7 As a member of the Industrial Board
8 of Appeals, Susan Sullivan Bisceglia, of
9 LaGrangerville.

10 As a banking member of the State
11 Banking Board, David C. Mancuso, of Dunkirk.

12 As a member of the Correction
13 Medical Review Board, Phyllis Harrison-Ross,
14 M.D., of New York City.

15 As a member of the Central New York
16 State Park, Recreation and Historic
17 Preservation Commission, Sandra Murphy Mead,
18 of Endicott.

19 As a member of the Niagara Frontier
20 State Park, Recreation and Historic
21 Preservation Commission, Donna M. Gioia, of
22 Buffalo.

23 As a member of the board of
24 directors of the New York Convention Center
25 Operating Corporation, Gary Lavine, of

1 Fayetteville.

2 As members of the Advisory Council
3 on Agriculture, Charles P. Bailey, Jr., of
4 Williamson; Philip Herrington, of Troy; and
5 Francis M. Moore, of Malone.

6 As a member of the Continuing Care
7 Retirement Community Council, Robert G. Spann,
8 of South Setauket.

9 As members of the Minority Health
10 Council, Oleg Gutnik, M.D., of New York City,
11 and Mohammad Khalid, of Staten Island.

12 And as members of the State
13 Hospital Review and Planning Council, Vincent
14 James Calamia, Jr., M.D., of Staten Island,
15 and Thomas E. Holt, of Jamestown.

16 ACTING PRESIDENT MEIER: Senator
17 Johnson.

18 SENATOR JOHNSON: Move the
19 nominations.

20 ACTING PRESIDENT MEIER: All
21 those in favor of confirming the
22 aforementioned nominees signify by saying aye.

23 (Response of "Aye.")

24 ACTING PRESIDENT MEIER: Those
25 opposed, nay.

1 (No response.)

2 ACTING PRESIDENT MEIER: The
3 nominees are confirmed.

4 Senator Bonacic.

5 SENATOR BONACIC: Thank you, Mr.
6 President.

7 Due to a tooth abscess that I
8 incurred on Sunday, I've had to have two
9 medical procedures on Monday and Tuesday and
10 for a short period of time was not present in
11 the Senate chambers. And I would like to
12 reflect how I would have voted on those
13 issues.

14 First of all, starting with
15 Monday's calendar, Senate Bill 4087A, Senate
16 Bill 4517A, Senate Bill 4556A, Senate Bill
17 5162B, Senate Bill 5163 all deal with
18 tax-exempts, and I would have voted no.

19 With respect to Senate Bill 477,
20 Senate Bill 5615, Senate Bill 2431, Senate
21 Bill 4995, I would have voted yes.

22 With respect to Tuesday's calendar,
23 I would have voted yes on the following bills:
24 Senate Bill 407, Senate Bill 5532A, Senate
25 Bill 5620, Senate Bill 4737B, Senate Bill

1 5655A, Senate Bill 5664, Senate Bill 1405,
2 Senate Bill 2206, Senate Bill 4175, and Senate
3 Bill 5534A.

4 ACTING PRESIDENT MEIER: The
5 record will so reflect.

6 SENATOR BONACIC: Thank you, Mr.
7 President.

8 ACTING PRESIDENT MEIER: Senator
9 Andrews.

10 SENATOR ANDREWS: Yes, Mr.
11 President. I'd like to enter into the record
12 that had I been present in chambers for
13 Calendar 319, Bill S3592, I would have been
14 voting yes on that bill.

15 Also the following bills, if I had
16 been present, I would have been voting no.
17 And those bills are the following: Calendar
18 Number 713, Bill S1003; Calendar Number 1263,
19 Bill S3541; Calendar Number 1356, Bill S407;
20 Calendar 1428, Bill S5532; Calendar Number
21 1627, Bill S5664; and finally, Calendar 1645,
22 Bill S2206.

23 ACTING PRESIDENT MEIER: The
24 record will so reflect.

25 SENATOR ANDREWS: Thank you.

1 ACTING PRESIDENT MEIER: The
2 Secretary will read the report of the
3 Judiciary Committee.

4 THE SECRETARY: Senator
5 DeFrancisco, from the Committee on Judiciary,
6 reports the following nominations.

7 As a justice of the Supreme Court
8 of the First Judicial District, Lawrence V.
9 Cullen.

10 ACTING PRESIDENT MEIER: Senator
11 DeFrancisco.

12 SENATOR DeFRANCISCO: Yes, Mr.
13 President, I move the nomination of Lawrence
14 V. Cullen as a justice of the Supreme Court of
15 the First Judicial District.

16 His qualifications have been
17 thoroughly reviewed. He appeared before the
18 committee and was unanimously recommended for
19 confirmation before the full Senate.

20 And in order to save some time,
21 since it's going to be a very long day, we
22 also reviewed the qualifications of other
23 judges -- for the Court of Claims, in this
24 case -- all of whom are reappointments. Each
25 of them, whose names will be coming up

1 shortly, their qualifications were also
2 reviewed, they also appeared before the
3 committee, and the Judiciary Committee
4 unanimously recommended their confirmations.

5 As to Lawrence V. Cullen, I just
6 would like to say one thing. His resume
7 speaks for itself, and I think it's an
8 exemplary resume. But also in that resume are
9 references to a period of time that he spent
10 in Vietnam as a combat -- in combat, and where
11 he received various medals. He served in
12 combat with the Marines.

13 And, you know, it's really
14 wonderful for us to see an individual who has
15 served his country progress through the legal
16 profession, and as a sole practitioner -- not
17 a member of a large law firm, but a sole
18 practitioner -- become a court examiner for
19 the Appellate Division, for the First
20 Department and the Second Department, and then
21 be nominated by the Governor for the Supreme
22 Court.

23 So I'm proud to move his
24 nomination, and I would request that you would
25 recognize Senator Maltese to second.

1 ACTING PRESIDENT MEIER: Senator
2 Maltese.

3 SENATOR MALTESE: Mr. President,
4 I'm very pleased to second the nomination of
5 Lawrence Cullen as a justice of the Supreme
6 Court.

7 As chairman of the Judiciary
8 Committee Senator DeFrancisco has indicated,
9 he is a combat veteran of the Vietnam War, a
10 wounded combat veteran of the Vietnam War, and
11 I think that gives him an insight that would
12 be helpful in his capacity as a Supreme Court
13 justice.

14 But more than that, he is a
15 graduate of the school of hard knocks in many
16 ways and has very well merited this judicial
17 position.

18 In addition, he, as some of our
19 colleagues kid us, those of us on the
20 Judiciary Committee from Fordham College and
21 Fordham University and Fordham Law School, he
22 has those qualifications, not only from
23 Fordham College and Fordham in reference to a
24 master's degree, but because of my
25 Irish-American constituents I'm very pleased

1 that his master's was in Irish history, which
2 no doubt accounts for the many, many calls
3 that I've had from prominent attorneys,
4 members of the bar and jurists on his behalf.

5 But it is very well merited because
6 of his eminent qualifications, the work that
7 he's spent on a pro bono basis involved with
8 the World Trade Center, his work as a court
9 examiner, as Senator DeFrancisco has
10 indicated. But his experience in the courts,
11 his experience that will serve him well as a
12 jurist. I'm very proud to second the
13 nomination of Larry Cullen as a Supreme Court
14 judge.

15 He's present, by the way, as you
16 will indicate at the present time, with his
17 wife, Margaret, and his children, Anya and
18 Patrick, who are very proud of their daddy.

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

22 Senator Malcolm Smith.

23 SENATOR MALCOLM SMITH: Thank
24 you, Mr. President. I also rise to second the
25 nomination of Justice Cullen.

1 I think you've heard from both
2 Senator DeFrancisco and Senator Maltese with
3 regard to statements of his military record,
4 obviously his experience on the bench.
5 Senator Maltese said he comes from the Fordham
6 University family, which clearly would
7 distinguish himself on the bench, no
8 disrespect to Syracuse or Duke.

9 But he is someone who I've known
10 for quite some time, and I'm looking forward
11 to his service on the bench.

12 Thank you.

13 ACTING PRESIDENT MEIER: The
14 question is on the confirmation of Lawrence V.
15 Cullen as a justice of the Supreme Court --

16 I'm sorry. Senator Larkin.

17 SENATOR LARKIN: Mr. President,
18 I've been asked by my good friend and
19 colleague Senator Maltese to ask Judge Cullen:
20 We're very proud of you, but we're also proud
21 that you are a member of the military order of
22 the Purple Heart.

23 But Serph asked me to ask you
24 publicly, will you please send us a copy of
25 your 214? We want you enrolled in America's

1 finest.

2 Thank you very much.

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

5 The question, then, is on the
6 confirmation of Lawrence V. Cullen as a
7 justice of the Supreme Court. All those in
8 favor signify by saying aye.

9 (Response of "Aye.")

10 ACTING PRESIDENT MEIER: Those
11 opposed, nay.

12 (No response.)

13 ACTING PRESIDENT MEIER: The
14 nominee is confirmed.

15 Justice Cullen is with us today in
16 the gallery. And as Senator Maltese said,
17 he's accompanied by his wife, Margaret; his
18 daughter, Anya Sinead, and his son, Patrick.

19 Judge, we congratulate you and we
20 certainly wish you well.

21 (Applause.)

22 ACTING PRESIDENT MEIER: The
23 Secretary will continue to read.

24 THE SECRETARY: As a judge of the
25 Court of Claims, Joan Barbara Carey, of

1 New York City.

2 ACTING PRESIDENT MEIER: Senator
3 DeFrancisco.

4 SENATOR DeFRANCISCO: Yes, I'm
5 proud to rise to move the nomination of Joan
6 Carey for the Court of Claims position.

7 Her resume is just unbelievable. I
8 certainly cannot go through this resume. But
9 I just wanted to point out one thing, and that
10 is presently she's deputy chief administrative
11 judge and is charged with the responsibility
12 of overseeing the operation of all state
13 courts within New York, Bronx, Kings, Queens
14 and Richmond Counties. That's 600 judges,
15 8,000 nonjudicial employees. That's about the
16 judicial structure of most countries.

17 And -- but her qualifications are
18 incredible, and I'm very proud to move her
19 nomination and request that you would
20 acknowledge Senator Maltese to second the
21 nomination.

22 ACTING PRESIDENT MEIER: Senator
23 Maltese.

24 SENATOR MALTESE: Mr. President,
25 I'm very proud to second the nomination of

1 Judge Carey.

2 As Senator DeFrancisco has
3 indicated, her experience is varied and so
4 distinguished that it isn't often that we have
5 the opportunity to confirm a justice with her
6 experience and knowledge.

7 In addition to her duties as an
8 administrative judge supervising hundreds of
9 staff members and literally, over the years,
10 thousands of people at various positions in
11 the court system, we also have the advantage
12 of her experience as a prosecutor.

13 She served in the Queens County
14 District Attorney's office at the same time as
15 I did, and as a matter of fact somewhat after
16 me served as -- in the same position I did, as
17 a deputy chief in the homicide bureau, and
18 boasts a very distinguished record thereafter
19 in all capacities of the law.

20 Her publications are legend, her
21 articles, her seminars. She has lectured as a
22 distinguished lecturer and jurist for many,
23 many years.

24 I am very pleased and proud to
25 second the nomination of Joan Carey for

1 renomination as a judge of the Court of
2 Claims.

3 ACTING PRESIDENT MEIER: Senator
4 Golden.

5 SENATOR GOLDEN: Thank you very
6 much, Mr. President. I too rise in seconding
7 the nomination of the Honorable Joan B. Carey
8 today.

9 She is, as has been pointed out by
10 my colleagues, extremely well qualified and
11 has done an outstanding job for the city and
12 state of New York. And she oversees, as my
13 good colleague has said, the 600 judges and
14 the 8,000 nonjudicial appointments as well as
15 a \$500 million budget, which I think says an
16 awful lot that she's been able to do for the
17 court.

18 She was an appointment by Mayor
19 Koch way back when, as a prosecutor, and she's
20 also worked as a teacher and a social worker
21 and with a great education from St. Joseph
22 College, St. John's University, and New York
23 Law School.

24 And we are very proud of her
25 nomination today and moving her nomination.

1 She has seen the city at its worst. She has
2 seen the city when we had thousands of
3 homicides and robberies and burglaries, and
4 she's worked to bring this city together and
5 to bring that crime rate down to the lowest
6 we've ever seen since the 1950s. And it's a
7 record-setter. It's also something that is
8 looked at or looked upon not only in the city
9 and state of New York, but around this country
10 and around this world.

11 She's done a great job. And I too
12 move to second her nomination.

13 ACTING PRESIDENT MEIER: Senator
14 Malcolm Smith.

15 SENATOR MALCOLM SMITH: Thank you
16 very much, Mr. President.

17 Again I rise, Mr. President, to
18 also second the nomination of Judge Carey.
19 But I must tell you, for the most part most
20 people will talk about her in terms of how she
21 dispenses justice and manages the court. But
22 we all remember what happened on 9/11. We
23 know how many officers that we lost from the
24 fire department. We know how many police
25 officers that we lost. What many people

1 didn't recognize and failed to put any
2 tremendous amount of attention to is that we
3 also had lost some court officers.

4 Judge Carey was -- had enough
5 humility and sensitivity in terms of the
6 people that she managed to recognize that
7 loss. She had a special program that she was
8 a part of and spoke very well about those
9 officers. The court officers are very --
10 responded to her. I think it's that kind of
11 character and judgment that makes her the kind
12 of judge that she will be as well as what
13 she's doing on the bench.

14 It is my pleasure to second her
15 nomination.

16 ACTING PRESIDENT MEIER: The
17 question is on the confirmation of Joan
18 Barbara Carey as a judge of the Court of
19 Claims. All those in favor signify by saying
20 aye.

21 (Response of "Aye.")

22 ACTING PRESIDENT MEIER: Those
23 opposed, nay.

24 (No response.)

25 ACTING PRESIDENT MEIER: The

1 nominee is confirmed.

2 Judge Carey is with us in the
3 chamber, and she is accompanied by her
4 husband, Thomas Dana.

5 Judge, congratulations and best
6 wishes to you.

7 (Applause.)

8 ACTING PRESIDENT MEIER: The
9 Secretary will continue to read.

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

13 ACTING PRESIDENT MEIER: Senator
14 DeFrancisco.

15 SENATOR DeFRANCISCO: Yes, I move
16 the nomination of Gregory Carro, of New York
17 City, for the reappointment to the Court of
18 Claims.

19 And at this point I think it's
20 important to note the experience that each of
21 these reappointments, the judges have. And
22 this is a Criminal Court of Claims judgeship
23 that Judge Carro is being reappointed to.

24 And if you look at the background
25 in criminal justice from the trial bureau in

1 one of the largest prosecutor's offices in the
2 state, trial of complex conspiracy cases,
3 murder cases, homicide investigations --
4 obviously, this individual, as all of the
5 nominees, are very, very well qualified.

6 And I'm proud to move the
7 nomination of Gregory Carro for reappointment
8 to the Court of Claims.

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

12 The question, then, is on the
13 nomination of Gregory Carro as a judge of the
14 Court of Claims. All those in favor signify
15 by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT MEIER: Those
18 opposed, nay.

19 (No response.)

20 ACTING PRESIDENT MEIER: Judge
21 Carro is confirmed.

22 Judge Carro is present with us
23 today in the gallery. He's accompanied by his
24 wife, Mary Elizabeth Carro, and his daughter,
25 Mackenzie Carro.

1 Judge, congratulations.

2 (Applause.)

3 ACTING PRESIDENT MEIER: The
4 Secretary will continue to read.

5 THE SECRETARY: As a judge of the
6 Court of Claims, Thomas J. Carroll, of
7 New York City.

8 ACTING PRESIDENT MEIER: Senator
9 DeFrancisco.

10 SENATOR DeFRANCISCO: I move the
11 nomination of Thomas J. Carroll, of New York
12 City, a Georgetown graduate who played
13 basketball for Georgetown -- against Syracuse
14 University, no doubt.

15 (Laughter.)

16 SENATOR DeFRANCISCO: But despite
17 that problem, he is eminently qualified for
18 this position.

19 Once again, looking at his resume,
20 you know, you look for judges that have been
21 in the trenches before they became judges.
22 And the resume shows that he's tried many,
23 many cases to verdict in State Supreme Court,
24 and he has had legislation responsibility with
25 the U.S. Department of Housing and Urban

1 Development, and he's been a Court of Claims
2 judge since 1997.

3 Another fantastic appointment by
4 the Governor, and I'm proud to move his
5 nomination.

6 ACTING PRESIDENT MEIER: Senator
7 DeFrancisco, as a fellow SU graduate I
8 compliment you on your tolerance and charity.

9 (Laughter.)

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

13 Senator Golden.

14 SENATOR GOLDEN: I too rise,
15 Acting President, to second the nomination of
16 the Honorable Thomas J. Carroll for his
17 contributions to the city and state of
18 New York.

19 Not only is he a former district
20 attorney and worked for the Commissioner of
21 Investigation, working for the Housing and
22 Urban Development with the general attorney's
23 office, and also being a judge since 1997. He
24 worked at Dewey Ballantine, was associate real
25 estate director, and he's also worked at the

1 St. Francis College with Frank Macchiarola and
2 is presently teaching there on trial advocacy,
3 an adjunct professor at that college. And
4 also worked at Fordham University Law as an
5 adjunct professor, also as a trial advocacy
6 attorney.

7 He has made many contributions to
8 our city and state. We're very, very proud of
9 him. And I second his nomination as well.

10 ACTING PRESIDENT MEIER: Does any
11 other member wish to be heard?

12 The question is on the confirmation
13 of Thomas J. Carroll as a judge of the Court
14 of Claims. All those in favor signify by
15 saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT MEIER: Those
18 opposed, nay.

19 (No response.)

20 ACTING PRESIDENT MEIER: The
21 nominee is confirmed.

22 Judge Carroll is with us in the
23 gallery. He's accompanied by his wife,
24 Margaret, and his son, Brendan.

25 Judge, congratulations.

1 (Applause.)

2 ACTING PRESIDENT MEIER: The
3 Secretary will continue to read.

4 THE SECRETARY: As a judge of the
5 Court of Claims, Matthew J. D'Emic, of
6 Brooklyn.

7 ACTING PRESIDENT MEIER: Senator
8 DeFrancisco.

9 SENATOR DeFRANCISCO: I move the
10 nomination of Matthew J. D'Emic, from
11 Brooklyn, as a Court of Claims judge, a
12 reappointment.

13 He's been a Court of Claims judge
14 since 1996. And immediately prior to that,
15 from 1993 to 1996, he was a law secretary to a
16 couple of judges. And those who practice law
17 know how important law secretaries are. And
18 sometimes they actually make decisions, if the
19 truth be known.

20 But in any event, another fantastic
21 appointment by the Governor. I'm proud to
22 move his nomination. And I request that you
23 recognize Senator Golden, who seems to have a
24 monopoly on these seconds because of all the
25 fine people from his area of the state.

1 ACTING PRESIDENT MEIER: Senator
2 Golden.

3 SENATOR GOLDEN: Thank you,
4 Acting President.

5 And to my esteemed colleague, it's
6 good when home boys can do well from Brooklyn,
7 New York, and come up here from the city of
8 New York and represent the city and the state
9 of New York as well they do. We're proud of
10 each and every one of them.

11 And today I'm personally pleased
12 that I have two outstanding individuals
13 here -- I have several outstanding individuals
14 here for reappointment. But Judge D'Emic has
15 done an outstanding job.

16 I had the privilege of growing up
17 in a small Irish Catholic family myself, of
18 eight; I think you have seven, I think, in
19 your family, another small Irish Catholic
20 family that grew up in Bay Ridge -- you have
21 how many, 10? Ten, I apologize -- and has
22 done an outstanding job, especially in our
23 courts.

24 Judge D'Emic is a community leader
25 who's widely recognized for his advocacies on

1 behalf of children, and he's worked in the
2 courts to establish a -- on women's domestic
3 violence issues, the mentally ill and the
4 mentally challenged. He's opened up courts in
5 Brooklyn, and they've made a real difference.

6 To my friends and colleagues with
7 us here today, I'd like to state for the
8 record that any man who's possessed of the
9 knowledge and integrity worthy of appointment
10 is that of Matt D'Emic to the Court of Claims.
11 I second that nomination.

12 Thank you, God bless your family,
13 great success.

14 ACTING PRESIDENT MEIER: The
15 question is on the confirmation of Matthew
16 D'Emic as a judge of the Court of Claims. All
17 those in favor signify by saying aye.

18 (Response of "Aye.")

19 ACTING PRESIDENT MEIER: Those
20 opposed, nay.

21 (No response.)

22 ACTING PRESIDENT MEIER: The
23 nominee is confirmed.

24 Judge D'Emic is with us in the
25 gallery. He's accompanied by his wife,

1 Rosemary; his son, Matthew; and his daughter,
2 Katherine.

3 Judge, congratulations.
4 (Applause.)

5 ACTING PRESIDENT MEIER: The
6 Secretary will continue to read.

7 THE SECRETARY: As a judge of the
8 Court of Claims, Vincent M. Del Giudice, of
9 Brooklyn.

10 ACTING PRESIDENT MEIER: Senator
11 DeFrancisco.

12 SENATOR DeFRANCISCO: I move the
13 nomination of Vincent M. Del Giudice for the
14 Court of Claims position, a reappointment.
15 He's been on the Court of Claims since the
16 year 2002.

17 And I don't think he's Irish, which
18 is an unusual trait with the group that's here
19 today.

20 But in any event, his resume is
21 equally as impressive as the resumes of the
22 others. He was an assistant district attorney
23 for over 13 years, doing very, very complex
24 litigation, and he was always upheld on
25 appeal, which is quite a record.

1 There are other very important
2 aspects of his resume, but I just want to
3 state that this is another great appointment
4 by the Governor, and I'm proud to move his
5 nomination.

6 ACTING PRESIDENT MEIER: Senator
7 Golden.

8 SENATOR GOLDEN: I too rise,
9 Acting President, to second the nomination of
10 Judge Vincent Del Giudice, another outstanding
11 contributor to the city and state of New York,
12 for his great contributions and his activities
13 and community activity and being involved in
14 our communities.

15 I think he was shocked when he was
16 brought to the -- in -- recently when he was
17 made a judge and sent to the Bronx. I think
18 he was awakened. And thank God we have him in
19 Brooklyn today. And he started the AD gun
20 court in Kings County, as a pilot program in
21 Kings County.

22 As my colleague has just pointed
23 out, he's never been -- all his cases have
24 been upheld, and he has over a hundred cases
25 in arraignments to -- in trial, in ready

1 status, and he was able to clear those
2 calendars and make a difference and save lives
3 in the city and state of New York by keeping
4 those people, the worst of the worst, off of
5 our streets.

6 He is recognized for his great
7 talent and continues to do a great job for the
8 city and state of New York.

9 God bless you -- and I second this
10 nomination -- and continue to do a great job.
11 Thank you.

12 ACTING PRESIDENT MEIER: The
13 question is on the nomination of Vincent Del
14 Giudice as a judge of the Court of Claims.
15 All those in favor signify by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT MEIER: Those
18 opposed, nay.

19 (No response.)

20 ACTING PRESIDENT MEIER: The
21 nominee is confirmed.

22 Judge Del Giudice is with us today
23 in the gallery. He's accompanied by his son,
24 Anthony.

25 Judge, we congratulate you and wish

1 you well.

2 (Appause.)

3 ACTING PRESIDENT MEIER: The
4 Secretary will continue to read.

5 THE SECRETARY: As a judge of the
6 Court of Claims, John G. Ingram, of Brooklyn.

7 ACTING PRESIDENT MEIER: Senator
8 DeFrancisco.

9 SENATOR DeFRANCISCO: I move the
10 nomination of John G. Ingram, from Brooklyn,
11 for the Court of Claims position, which
12 he's -- for reappointment to the position that
13 he's held since 2003.

14 I'm getting repetitive. And I know
15 that not only does Senator Golden want to
16 speak, but also Senator Marchi.

17 So let me just say that he started
18 in the Court of Claims, right in the thick of
19 things, by being assigned to the narcotics
20 part in his court. Obviously a very serious
21 problem all throughout our communities. And
22 to have a judge of his experience and
23 integrity is really a great thing for the
24 State of New York.

25 So I proudly move his nomination

1 and ask you to recognize the official seconder
2 of judges today, Senator Golden.

3 ACTING PRESIDENT MEIER: Senator
4 Golden.

5 SENATOR GOLDEN: Thank you,
6 Acting President. And to my esteemed
7 colleague, thank you.

8 Again, I rise for a great man, a
9 great family man, somebody who grew up in our
10 communities in Brooklyn and Queens, knows what
11 it's about, and has been out there fighting
12 for the people for many, many years.

13 He is somebody that has an
14 outstanding record of achievement. You could
15 go on here for hours talking about his
16 achievements from his early ages to the
17 present, from his military record, being
18 involved in the Maritime College and being
19 involved with the different organizations that
20 he's been involved with -- the Cathedral of
21 Brooklyn, the Cathedral Club, and the Brooklyn
22 Benevolent Association, the Emerald
23 Associations of Long Island, the Behanda [ph]
24 Law Society.

25 And also being an active volunteer

1 firefighter, member of the Point Breezy
2 Volunteer Fire Department since 1959. He is
3 truly a great, great individual. He's
4 presently the rank of captain.

5 And we are -- I mean, I can't
6 express the gratitude that I have for each and
7 every one of these judges, for what they've
8 been able to do through their lives and
9 continue. I know they don't do it for the
10 money; I know they do it for what they really
11 believe, and that's in the people in this
12 great city, and in their families.

13 Judge Ingram is married, with four
14 of his children and three grandchildren living
15 in Bay Ridge. And Bay Ridge and Brooklyn and
16 New York City are truly proud, as well as
17 New York State.

18 The Governor has made great choices
19 here, and I second his nomination as well.

20 ACTING PRESIDENT MEIER: Senator
21 Marchi.

22 SENATOR MARCHI: Well, I'm really
23 delighted to have an opportunity, because John
24 Ingram is recognized and has an illustrious
25 record going for him, as has been pointed out.

1 But I'd like also to call attention
2 to the fact that he is accompanied, and I
3 don't -- by his wife, Maureen. Now, his wife,
4 Maureen, is the daughter of Assemblyman and
5 Senator Walter Cooke, who was a good friend, a
6 warm friend, and we served together for many
7 years.

8 So I'm so delighted. You start out
9 with a great advantage, Judge, to have a
10 marvelous spouse like that, because she
11 carried with her the goodwill and the
12 intelligence and the warm friendship of an
13 individual -- you know, I'm very proud to see
14 that the Irish are getting their day today.

15 Thank you. All the best.

16 ACTING PRESIDENT MEIER: Senator
17 Malcolm Smith.

18 SENATOR MALCOLM SMITH: Thank
19 you, Mr. President. I also rise to join my
20 colleagues. This seems to be judgment day for
21 me.

22 (Laughter.)

23 SENATOR MALCOLM SMITH: I will
24 tell you, Judge Ingram, who is a personal
25 friend, has clearly distinguished himself on

1 the bench.

2 But you should know one of the
3 things about him, boards -- he's on the board
4 of the Maritime College, also on the Alumni
5 Association of New York Maritime College, the
6 Brooklyn Benevolent Society, Emerald
7 Association, and most significantly, he is an
8 honorary usher at St. Patrick's Cathedral and
9 a voluntary firefighter for the Breezy Point
10 Fire Association. And that's a tremendous
11 honor.

12 And I am just delighted to stand
13 here before you and my colleagues to support
14 his nomination once again. Thank you.

15 ACTING PRESIDENT MEIER: The
16 question is on the confirmation of John G.
17 Ingram as a judge of the Court of Claims. All
18 those in favor signify by saying aye.

19 (Response of "Aye.")

20 ACTING PRESIDENT MEIER: Those
21 opposed, nay.

22 (No response.)

23 ACTING PRESIDENT MEIER: The
24 nominee is confirmed.

25 Judge Ingram is with us in the

1 gallery. He's accompanied by his wife,
2 Maureen.

3 Judge, congratulations.
4 (Applause.)

5 ACTING PRESIDENT MEIER: The
6 Secretary will continue to read.

7 THE SECRETARY: As a judge of the
8 Court of Claims, Juanita Bing Newton, of
9 New Rochelle.

10 ACTING PRESIDENT MEIER: Senator
11 DeFrancisco.

12 SENATOR DeFRANCISCO: Before I
13 move the nomination, I was a little concerned
14 that Senator Golden brought up the issue of
15 money, because that's been on everybody's mind
16 for a little while here.

17 But I am very proud to move the
18 nomination of Juanita Bing Newton, who has
19 been a Court of Claims judge, if my numbers
20 are correct, since January of 1987. And
21 through that period of time, since she became
22 a Court of Claims judge, she has moved through
23 various administrative positions and now holds
24 two extremely important ones: Deputy chief
25 administrative judge for justice initiatives

1 for the State of New York, she's held that
2 since 1999; and administrative judge of the
3 Criminal Court of the City of New York, which
4 she's held from February of 2003.

5 An outstanding jurist, a fantastic
6 lawyer, and we're really proud that we have
7 her to continue on acting as a Court of Claims
8 judge.

9 Would you please recognize Senator
10 Oppenheimer, to second the nomination.

11 ACTING PRESIDENT MEIER: Senator
12 Oppenheimer.

13 SENATOR OPPENHEIMER: Thank you,
14 Mr. President.

15 Well, I'm glad that we have crossed
16 the New York City border and are heading
17 north -- only 25 minutes on Metro North, but
18 glad to see you here, Judge Newton. Glad we
19 finally went beyond the New York City judges,
20 who I'm proud of also. But I couldn't be more
21 proud of you and what you've done.

22 In fact, in going through your
23 resume, I must say I had a moment of feeling
24 very inadequate.

25 But you have accomplished so much,

1 and it's all with such good purpose, that you
2 are evaluating, identifying and assessing the
3 impediments to justice, and doing this through
4 establishing -- looking at least to focus on
5 and hopefully establish stable funding for
6 civil legal services and criminal indigent
7 defense, increasing attorney pro bono
8 participation. And I'm very familiar with
9 that, because my husband's law firm
10 participates a great deal in that program.

11 These are things that are focused
12 on making our courts more accessible, more
13 friendly, more fair, more just, more equal.
14 And I'm just very proud of the work that you
15 do. And I'm also very delighted to see that
16 your bachelor's is from Northwestern, where my
17 second son went.

18 So all told, I think you have done
19 great things for our community as well as for
20 our courts, because by making our courts more
21 equal to all, it provides justice for everyone
22 in the community. So thank you for the work
23 you do.

24 I'm honored to second your
25 nomination.

1 ACTING PRESIDENT MEIER: Senator
2 Ada Smith.

3 SENATOR ADA SMITH: Thank you,
4 Mr. President.

5 I would like to commend the
6 Governor for this renomination and to state to
7 Senator Oppenheimer that the judge's roots
8 began in the Bronx, so she has moved just a
9 little bit further away. But she is still a
10 product of the City of New York, where her
11 reputation precedes her. She is admired by
12 many, and she is trusted by all in the legal
13 profession.

14 But especially those of us in
15 communities of color, the name Juanita Bing
16 Newton is synonymous with fair judicial
17 practices, and she is known to be eminently
18 qualified, as her resume states.

19 And I am so very pleased and proud
20 that I can stand today to second this
21 nomination.

22 ACTING PRESIDENT MEIER: Senator
23 Malcolm Smith.

24 SENATOR MALCOLM SMITH: Thank
25 you, Mr. President.

1 This is obviously a banner day for
2 judicial appointments. And Judge Bing Newton
3 deserves to be in that class. She has
4 obviously been to Queens and been involved in
5 the program that we educated quite a few
6 people about the other programs that exist in
7 the judicial department.

8 Most people think that it's just a
9 matter of dispensing justice, but clearly the
10 programs that they administer -- educational
11 programs, the programs that they talk about in
12 terms of supporting young adults in terms of
13 knowing what the system does. I would
14 encourage all my colleagues to reach out to
15 Judge Newton and find out what they do in that
16 system and the other programs that they have,
17 because it is tremendous what they offer to
18 the community in terms of understanding what
19 goes on in that department.

20 So it is with great pleasure that I
21 join Senator Smith and Senator Oppenheimer in
22 seconding that nomination.

23 ACTING PRESIDENT MEIER: The
24 question is on the confirmation of Juanita
25 Bing Newton as a judge of the Court of Claims.

1 All those in favor signify by saying aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT MEIER: Those
4 opposed, nay.

5 (No response.)

6 ACTING PRESIDENT MEIER: The
7 nominee is confirmed.

8 Judge Bing Newton with us today in
9 the gallery. She is accompanied by her
10 sister, Patricia Bing, and by her staff,
11 Beverly Russell and Steven Ingenito.

12 Judge, congratulations.

13 (Applause.)

14 ACTING PRESIDENT MEIER: Reports
15 of select committees.

16 Communications and reports from
17 state officers.

18 Motions and resolutions.

19 Senator Fuschillo.

20 SENATOR FUSCHILLO: Mr.
21 President, are there any substitutions at the
22 desk?

23 ACTING PRESIDENT MEIER: There
24 are.

25 The Secretary will read the

1 substitutions.

2 THE SECRETARY: On page 14,
3 Senator Spano moves to discharge, from the
4 Committee on Rules, Assembly Bill Number 8834
5 and substitute it for the identical Senate
6 Bill Number 3417, Third Reading Calendar 515.

7 On page 26, Senator Padavan moves
8 to discharge, from the Committee on Rules,
9 Assembly Bill Number 5622A and substitute it
10 for the identical Senate Bill Number 3169A,
11 Third Reading Calendar 844.

12 On page 33, Senator Padavan moves
13 to discharge, from the Committee on Rules,
14 Assembly Bill Number 1979A and substitute it
15 for the identical Senate Bill Number 1055A,
16 Third Reading Calendar 1036.

17 On page 37, Senator Fuschillo moves
18 to discharge, from the Committee on Rules,
19 Assembly Bill Number 8025B and substitute it
20 for the identical Senate Bill Number 5370B,
21 Third Reading Calendar 1185.

22 On page 43, Senator DeFrancisco
23 moves to discharge, from the Committee on
24 Rules, Assembly Bill Number 8137A and
25 substitute it for the identical Senate Bill

1 Number 5380B, Third Reading Calendar 1299.

2 On page 43, Senator Morahan moves
3 to discharge, from the Committee on Rules,
4 Assembly Bill Number 7878B and substitute it
5 for the identical Senate Bill Number 4877B,
6 Third Reading Calendar 1304.

7 On page 47, Senator Volker moves to
8 discharge, from the Committee on Rules,
9 Assembly Bill Number 8777 and substitute it
10 for the identical Senate Bill Number 5680,
11 Third Reading Calendar 1701.

12 On page 48, Senator Seward moves to
13 discharge, from the Committee on Rules,
14 Assembly Bill Number 8532 and substitute it
15 for the identical Senate Bill Number 5687,
16 Third Reading Calendar 1704.

17 On page 48, Senator Seward moves to
18 discharge, from the Committee on Local
19 Government, Assembly Bill Number 567A and
20 substitute it for the identical Senate Bill
21 Number 1404A, Third Reading Calendar 1710.

22 On page 50, Senator DeFrancisco
23 moves to discharge, from the Committee on
24 Rules, Assembly Bill Number 8699B and
25 substitute it for the identical Senate Bill

1 Number 5727, Third Reading Calendar 1733.

2 ACTING PRESIDENT MEIER:

3 Substitutions ordered.

4 Senator Fuschillo.

5 SENATOR FUSCHILLO: Mr.

6 President, at this time may we have the
7 reading of the calendar.

8 ACTING PRESIDENT MEIER: The
9 Secretary will conduct the noncontroversial
10 reading of the calendar.

11 THE SECRETARY: Calendar Number
12 80, by Member of the Assembly Weinstein,
13 Assembly Print Number 5770, an act to amend
14 the Estates, Powers and Trusts Law.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

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

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT MEIER: Senator
23 DeFrancisco, to explain his vote.

24 SENATOR DeFRANCISCO: Yes, this
25 bill enacts the Transfer-on-Death Security

1 Registration Act. Unfortunately, this bill
2 has taken this long to pass. It's an
3 important bill.

4 If people are familiar with joint
5 accounts, bank accounts that automatically
6 pass to the survivor without having to go
7 through probate, that wasn't the case until
8 hopefully very soon when the Governor signs
9 this bill, that allows to securities to pass
10 in that same fashion, saving a lot of money
11 for people who are inheriting assets from a
12 loved one.

13 So it's an important bill. We've
14 been behind the eightball insofar as most
15 states -- probably only three or four states
16 have not passed this as yet -- and I'm happy
17 that we're able to do it this year.

18 ACTING PRESIDENT MEIER: Senator
19 DeFrancisco will be recorded in the
20 affirmative.

21 Announce the results.

22 THE SECRETARY: Ayes, 58.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 112, by Member of the Assembly Weisenberg,
2 Assembly Print Number 112, an act to amend the
3 Public Health Law.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT MEIER: Senator
12 Alesi, to explain his vote.

13 SENATOR ALESI: Thank you. Very
14 briefly, Mr. President.

15 I appreciate the support that my
16 colleagues are showing for this bill. As you
17 know, it has passed in the Assembly already.
18 It runs parallel to a bill that we passed a
19 few years ago requiring schools to have
20 defibrillators. We know right now that we can
21 save upwards of 100,000 lives a year
22 nationally if we simply have these devices in
23 place.

24 So I appreciate the support that
25 this Senate has shown and that the Assembly

1 has shown and appreciate the work that
2 Assemblyman Weisenberg has given on this issue
3 as well.

4 ACTING PRESIDENT MEIER: Senator
5 Alesi will be recorded in the affirmative.

6 Announce the results.

7 THE SECRETARY: Ayes, 57. Nays,
8 1. Senator Meier recorded in the negative.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 556, by Senator Padavan, Senate Print 3972, an
13 act to amend the Retirement and Social
14 Security Law.

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

17 Read the last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 58.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 573, by Senator LaValle, Senate Print 842B, an
3 act to amend the Education Law.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

6 THE SECRETARY: Section 3. This
7 act shall take effect on the first of January.

8 ACTING PRESIDENT MEIER: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 58.

12 ACTING PRESIDENT MEIER: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 588, by Senator Padavan, Senate Print 3266, an
16 act to amend the Real Property Tax Law.

17 ACTING PRESIDENT MEIER: Read the
18 last section.

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

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 58.

25 ACTING PRESIDENT MEIER: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 595, by Member of the Assembly Destito,
4 Assembly Print Number 7293, an act to amend
5 the Uniform District Court Act and others.

6 ACTING PRESIDENT MEIER: Read the
7 last section.

8 THE SECRETARY: Section 10. This
9 act shall take effect on the first of January.

10 ACTING PRESIDENT MEIER: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 58.

14 ACTING PRESIDENT MEIER: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 603, by Senator Golden, Senate Print 2199, an
18 act in relation to requiring.

19 SENATOR SABINI: Lay it aside.

20 ACTING PRESIDENT MEIER: Lay the
21 bill aside.

22 THE SECRETARY: Calendar Number
23 719, by Senator Wright, Senate Print 2473, an
24 act to amend the Penal Law.

25 ACTING PRESIDENT MEIER: Read the

1 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 58.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 780, by Member of the Assembly Crouch,
13 Assembly Print Number 6800A, an act to amend
14 the Tax Law.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

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

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 58.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 866, by Senator DeFrancisco, Senate Print
2 4853, an act to amend the Estates, Powers and
3 Trusts Law.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 58.

12 ACTING PRESIDENT MEIER: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 921, by Member of the Assembly R. Diaz,
16 Assembly Print Number 4186, an act to amend
17 the Administrative Procedure Act and the
18 Executive Law.

19 ACTING PRESIDENT MEIER: Read the
20 last section.

21 THE SECRETARY: Section 6. This
22 act shall take effect on the first of January.

23 ACTING PRESIDENT MEIER: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 58.

2 ACTING PRESIDENT MEIER: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 963, by Senator LaValle, Senate Print 5165, an
6 act to authorize the Independent Group Home
7 Living Program, Inc.

8 ACTING PRESIDENT MEIER: Read the
9 last section.

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

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 58.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 970, by Senator LaValle, Senate Print 4642, an
20 act to amend the Education Law.

21 ACTING PRESIDENT MEIER: Read the
22 last section.

23 THE SECRETARY: Section 14. This
24 act shall take effect on the 180th day.

25 ACTING PRESIDENT MEIER: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 58.

4 ACTING PRESIDENT MEIER: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1087, by Senator Winner, Senate Print 3641A,
8 an act to amend the Education Law.

9 SENATOR SABINI: Lay it aside.

10 ACTING PRESIDENT MEIER: Lay the
11 bill aside.

12 SENATOR WINNER: Star the bill.

13 ACTING PRESIDENT MEIER: Place a
14 sponsor's star on the bill.

15 THE SECRETARY: Calendar Number
16 1109, by Senator Seward, Senate Print 4282A,
17 an act in relation to limiting the size.

18 ACTING PRESIDENT MEIER: Read the
19 last section.

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

22 ACTING PRESIDENT MEIER: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 58.

1 ACTING PRESIDENT MEIER: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 1178, by Member of the Assembly Benjamin,
5 Assembly Print Number 5957A, an act to amend
6 the Agriculture and Markets Law and the Public
7 Health Law.

8 ACTING PRESIDENT MEIER: Read the
9 last section.

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

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 58.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1209, by Senator Padavan, Senate Print 2180,
20 an act in relation to the participation of
21 part-time employees.

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

24 Read the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 58.

6 ACTING PRESIDENT MEIER: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 1222, by Member of the Assembly Abbate,
10 Assembly Print Number 5394A, an act to amend
11 the Civil Service Law.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 58.

20 ACTING PRESIDENT MEIER: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1225, by Senator Little, Senate Print 4912A,
24 an act to grant Christopher Paiser performance
25 of duty disability retirement benefits.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT MEIER: Senator
9 Little, to explain her vote.

10 SENATOR LITTLE: Thank you, Mr.
11 President.

12 I'm very pleased to have sponsored
13 this bill and to have the support of my
14 colleagues for this bill. Christopher Paiser
15 is a young man living in my district who is a
16 correction officer at Franklin Correctional.
17 He's also a member of the National Guard of
18 New York, served in Iraq. He was wounded in
19 Iraq and has lost 98 percent of his vision;
20 therefore, is unable to perform any of the
21 duties as a correction officer again.

22 His colleagues, fellow correction
23 officers, have contributed their time and put
24 together 300 days so that Christopher Paiser
25 will reach the 10-year period and he would be

1 able to retire on a one-third pension.

2 This bill gives him a performance
3 of duty disability as if he had been injured
4 as performing duties at a correctional
5 facility. And therefore, this will certainly
6 help Christopher Paiser as he adjusts to his
7 new type of life, and help his wife and four
8 small children.

9 I thank everyone for their support
10 of this bill. Thank you.

11 ACTING PRESIDENT MEIER: Senator
12 Little will be recorded in the affirmative.

13 Announce the results.

14 THE SECRETARY: Ayes, 58.

15 ACTING PRESIDENT MEIER: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1230, by Senator Golden, Senate Print 5152, an
19 act to amend the Administrative Code of the
20 City of New York and others.

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

23 Read the last section.

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

1 ACTING PRESIDENT MEIER: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 58.

5 ACTING PRESIDENT MEIER: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1325, by Senator Skelos, Senate Print 5425, an
9 act to amend Chapter 846 of the Laws of 1970.

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

12 Read the last section.

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

15 ACTING PRESIDENT MEIER: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 58.

19 ACTING PRESIDENT MEIER: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1542, by Senator Larkin, Senate Print 5376A,
23 an act to amend the Civil Service Law.

24 ACTING PRESIDENT MEIER: Read the
25 last section.

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

3 ACTING PRESIDENT MEIER: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 58.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1588, by Senator Spano, Senate Print 5111B, an
11 act to amend the Vehicle and Traffic Law.

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

14 Read the last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 58.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1710, substituted earlier today by Member of
25 the Assembly Magee, Assembly Print Number

1 567A, an act to amend Chapter 668 of the Laws
2 of 1977.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 58.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1711, by Senator Golden, Senate Print 1936A,
15 an act to amend the Public Health Law and the
16 Education Law.

17 ACTING PRESIDENT MEIER: Read the
18 last section.

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

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

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

1 SENATOR GOLDEN: Thank you,
2 Acting President.

3 This is a great day for the seniors
4 and for the people that live in the city and
5 state of New York, that we finally have, in
6 this great city and state, a drug retail price
7 listing of pharmaceutical drugs so that our
8 seniors and the people across the city and
9 state can look on a web page and can look at
10 their senior centers to find out the zip codes
11 by -- the pharmacies by zip code on the prices
12 of their pharmaceuticals.

13 For instance, we have a small
14 mom-and-pop in my district, and you can buy
15 Zithromax in 250 milligrams for \$39.99, and
16 you go to a larger store, also in my
17 community, a block and a half away, and you
18 pay \$99.99.

19 There's a great disparity in
20 pharmaceutical pricing. And today this bill
21 will allow our seniors across this state to
22 check those web pages and to get the best
23 prices that they can.

24 We started this over 2 1/2 years
25 ago. The Attorney General picked up a piece

1 and started on it a little while ago. And
2 finally we see a real bill that works for the
3 city and state of New York. And the Health
4 Department will be posting that listing, and
5 we're very happy and I think the city and
6 state should be proud of this bill and what it
7 will be able to do for our seniors.

8 Thank you, Mr. President. I vote
9 aye.

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

12 Announce the results.

13 THE SECRETARY: Ayes, 58.

14 ACTING PRESIDENT MEIER: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 1712, by Senator L. Krueger, Senate Print
18 2522, an act to authorize the New York City
19 Employees Retirement System.

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

22 Read the last section.

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

25 ACTING PRESIDENT MEIER: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 58.

4 ACTING PRESIDENT MEIER: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1713, by Senator Valesky, Senate Print 2543,
8 an act authorizing the Village of Hamilton.

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

11 Read the last section.

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

14 ACTING PRESIDENT MEIER: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 58.

18 ACTING PRESIDENT MEIER: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1715, by Senator Little, Senate Print 2936, an
22 act to grant Richard F. Kelly.

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

25 Read the last section.

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

3 ACTING PRESIDENT MEIER: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 58.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1716, by Senator Robach, Senate Print 3638, an
11 act to amend Chapter 657 of the Laws of 2002.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 58.

20 ACTING PRESIDENT MEIER: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1717, by Senator Padavan, Senate Print 4658,
24 an act to amend the Administrative Code of the
25 City of New York.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 58.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1718, by Senator Winner, Senate Print 5273, an
13 act to amend the Highway Law.

14 ACTING PRESIDENT MEIER: Read the
15 last section.

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

18 ACTING PRESIDENT MEIER: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 58.

22 ACTING PRESIDENT MEIER: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 1719, by Senator Wright --

1 SENATOR SCHNEIDERMAN: Lay it
2 aside.

3 ACTING PRESIDENT MEIER: Lay the
4 bill aside.

5 THE SECRETARY: Calendar Number
6 1720, by Senator Nozzolio, Senate Print 5441,
7 an act to amend the Penal Law.

8 ACTING PRESIDENT MEIER: Read the
9 last section.

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

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 58.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1721, by Senator Bonacic, Senate Print 5471B,
20 an act to amend Chapter 172 of the Laws of
21 2002.

22 ACTING PRESIDENT MEIER: Read the
23 last section.

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

1 ACTING PRESIDENT MEIER: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 58.

5 ACTING PRESIDENT MEIER: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1724, by Senator Wright, Senate Print 5614A,
9 an act to amend the Energy Law.

10 ACTING PRESIDENT MEIER: Read the
11 last section.

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

14 ACTING PRESIDENT MEIER: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT MEIER: Senator
18 Wright, to explain his vote.

19 SENATOR WRIGHT: Thank you, Mr.
20 President, to explain my vote.

21 First of all, I'd like to
22 acknowledge the Governor's leadership on this
23 legislation. It originally began as a program
24 bill that was sent up. And we've been working
25 with the Governor's staff and NYSERDA to

1 develop a balanced bill.

2 And I also want to acknowledge the
3 efforts of my colleagues. There have been a
4 number of changes and amendments to this bill
5 that we have developed in concert with a
6 number of my colleagues. And as a result, you
7 have a balanced bill that has the support and
8 endorsement of utilities, consumers,
9 environmental advocates and corporations. And
10 that was our intent, to establish another
11 component to a balanced energy policy here in
12 the Senate.

13 And obviously the bill speaks for
14 itself in terms of the efficiency standards,
15 the ability to lower residential rates, the
16 ability to improve reliability, and increased
17 energy independence here in the nation.

18 So I appreciate the support of my
19 colleagues on this legislation.

20 Thank you, Mr. President. I vote
21 aye.

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

24 Senator Schneiderman, to explain
25 his vote.

1 SENATOR SCHNEIDERMAN: Thank you,
2 Mr. President.

3 I also rise in support of this
4 legislation. And I think it is a good step.
5 This will require NYSEDA to establish energy
6 efficiency and performance standards.

7 Unfortunately, it is a good move by
8 the state because the federal government is
9 increasingly abandoning the field of energy
10 efficiency and promoting alternative forms of
11 energy. So I'm glad that we are stepping up
12 at the state level.

13 I would note, though, that as we go
14 forward and establish these performance
15 standards and regulations, we need to be
16 sensitive to the difference between the
17 consumer electronics that are now included in
18 this bill, which is a change from the
19 Governor's program bill, and larger
20 appliances. We are making an effort to
21 promote the use of consumer electronics in
22 this state, the manufacturing of high-tech
23 equipment. And we have to be very sensitive
24 to the distinctions.

25 Consumer electronics, high-tech

1 equipment, doesn't use a lot of energy. It is
2 included here in this bill. It is a new set
3 of regulations on an area that potentially is
4 economically very significant. So I hope that
5 we will be sensitive to that in the
6 development of the regulations and standards.

7 I vote aye. I compliment the
8 sponsor, and know that he has worked well with
9 Senator Parker and others on the other side of
10 the aisle on this. And I hope that we can
11 address the concerns raised by the consumer
12 electronics people about this issue. But I
13 think this is a very good first step, and I
14 encourage everyone to vote yes.

15 Thank you.

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

19 Announce the results.

20 THE SECRETARY: Ayes, 58.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1725, by Senator Nozzolio, Senate Print 5640,
25 an act to amend the Correction Law.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 58.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1726, by Senator Spano, Senate Print --

13 SENATOR SCHNEIDERMAN: Lay it
14 aside.

15 ACTING PRESIDENT MEIER: Lay the
16 bill aside.

17 THE SECRETARY: Calendar Number
18 1730, by Senator LaValle, Senate Print 57 --

19 SENATOR LaVALLE: Lay it aside,
20 please.

21 ACTING PRESIDENT MEIER: Lay the
22 bill aside.

23 THE SECRETARY: Calendar Number
24 1731, by Senator Robach, Senate Print 5716, an
25 act to amend the Education Law.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 58.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1732, by Senator Larkin, Senate Print 5722, an
13 act to amend the Civil Service Law.

14 ACTING PRESIDENT MEIER: Read the
15 last section.

16 SENATOR SCHNEIDERMAN: Lay it
17 aside.

18 ACTING PRESIDENT MEIER: Lay the
19 bill aside.

20 THE SECRETARY: Calendar Number
21 1733, substituted earlier today by the
22 Assembly Committee on Rules, Assembly Print
23 Number 8699B, an act in relation.

24 ACTING PRESIDENT MEIER: Read the
25 last section.

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

3 ACTING PRESIDENT MEIER: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT MEIER: Senator
7 Valesky, to explain his vote.

8 SENATOR VALESKY: Thank you, Mr.
9 President.

10 Briefly, in explaining my vote, I'd
11 like to thank Senator DeFrancisco for the work
12 he has done on this issue and in bringing this
13 bill to the floor.

14 There are several school buildings
15 in the City of Syracuse School District that
16 are in a significant state of disrepair. The
17 school system and the City of Syracuse has put
18 forward a 10-year reconstruction plan. The
19 bill that we are voting on today provides a
20 cost-effective financing plan for the first
21 phase, up to seven buildings that will be
22 reconstructed beginning early in 2006.

23 I vote aye.

24 ACTING PRESIDENT MEIER: Senator
25 Valesky will be recorded in the affirmative.

1 Senator DeFrancisco, to explain his
2 vote.

3 SENATOR DeFRANCISCO: Thank you,
4 Mr. President.

5 I appreciate the acknowledgment
6 from Senator Valesky. This was an effort from
7 the entire Central New York delegation to try
8 to get these schools in the City of Syracuse
9 back to par.

10 And there was a provision or a bill
11 such as this for the schools in Buffalo. I
12 think we improved upon that process during the
13 course of negotiations with the Assembly and
14 with all interested parties.

15 So it's important to have an
16 up-to-date school plant for kids to learn, and
17 I think Syracuse is going to accomplish it as
18 a result of this bill.

19 Thank you.

20 THE PRESIDENT: Senator
21 DeFrancisco, you will be recorded as voting in
22 the affirmative on this bill.

23 The Secretary will announce the
24 results.

25 THE SECRETARY: Ayes, 58.

1 THE PRESIDENT: The bill is
2 passed.

3 THE SECRETARY: Calendar Number
4 1735, by Senator Spano, Senate Print --

5 THE PRESIDENT: Senator
6 Fuschillo.

7 SENATOR FUSCHILLO: Can we please
8 return to Calendar Number 1732. It was in
9 inadvertently laid aside.

10 THE PRESIDENT: The Secretary
11 will read.

12 THE SECRETARY: Calendar Number
13 1732, by Senator Larkin, Senate Print 5722, an
14 act to amend the Civil Service Law.

15 THE PRESIDENT: Read the last
16 section.

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

19 THE PRESIDENT: Call the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Those recorded in
22 the negative on Calendar Number 1732 are
23 Senators Duane, Hassell-Thompson, L. Krueger
24 and Schneiderman.

25 Ayes, 54. Nays, 4.

1 THE PRESIDENT: The bill is
2 passed.

3 THE SECRETARY: Calendar Number
4 1735, by Senator Spano, Senate Print 5747, an
5 act to amend the Public Authorities Law.

6 THE PRESIDENT: Read the last
7 section.

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

10 THE PRESIDENT: Call the roll.
11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 58.

13 THE PRESIDENT: The bill is
14 passed.

15 THE SECRETARY: Calendar Number
16 1736, by Senator Meier, Senate Print 5751, an
17 act to amend the Highway Law.

18 THE PRESIDENT: Read the last
19 section.

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

22 THE PRESIDENT: Call the roll.
23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 58.

25 THE PRESIDENT: The bill is

1 passed.

2 THE SECRETARY: Calendar Number
3 1738, by Senator Golden, Senate Print 5756, an
4 act to amend the Elder Law.

5 THE PRESIDENT: Read the last
6 section.

7 THE SECRETARY: Section 15. This
8 act shall take effect immediately.

9 THE PRESIDENT: Call the roll.
10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 58.

12 THE PRESIDENT: The bill is
13 passed.

14 THE SECRETARY: Calendar Number
15 1739, by Senator Young, Senate Print 5760, an
16 act to amend the Highway Law.

17 THE PRESIDENT: Read the last
18 section.

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

21 THE PRESIDENT: Call the roll.
22 (The Secretary called the roll.)

23 THE PRESIDENT: Senator Young, to
24 explain your vote.

25 SENATOR YOUNG: Thank you, Madam

1 President, to explain my vote.

2 I want to thank my colleagues for
3 your support on this legislation, because it
4 honors someone who served New York State
5 government for a number of years who hailed
6 from Allegany County, in my district. This
7 bill designates a portion of Route 19, between
8 Scio and Wellsville, as the "William C.
9 Hennessy Memorial Highway."

10 William Hennessy was an ardent
11 supporter of Allegany County and made certain
12 that its concerns were heard and taken care of
13 in Albany. He served in the State Department
14 of Transportation for 36 years, working his
15 way up the ranks until his appointment as
16 commissioner from 1977 to 1982.

17 Among his many accomplishments,
18 Commissioner Hennessy oversaw property
19 acquisition for such notable projects as the
20 Southern Tier Expressway, Interstate 88, and
21 the Empire State Plaza. He also contributed
22 to the development of the New York State
23 Thruway Authority, becoming chair of it in
24 1987. And as a native son of Scio and a
25 graduate of Wellsville Central School, this

1 memorial highway is a fitting tribute to the
2 memory of Commissioner Hennessy.

3 He is survived by his wife,
4 Corinne; their two sons, Bill and Ed; and four
5 daughters, some of whom are with us today --
6 Trish Hennessy, Sheila Michaels, Liz Bennison,
7 and Sue Hennessy.

8 So I very proudly vote in the
9 affirmative for this bill. Thank you.

10 THE PRESIDENT: You will be
11 recorded as voting in the affirmative on this
12 bill, Senator Young.

13 Senator Farley, to explain your
14 vote.

15 SENATOR FARLEY: Thank you. I'm
16 delighted to get up and speak in support of
17 this bill.

18 I knew Bill Hennessy quite well for
19 a number of years, and he was a remarkable
20 servant, Commissioner of Transportation, and a
21 native of Allegany County, as I recall.

22 And I think it's so appropriate
23 that this roadway or highway be named after
24 him, and that I think that would be very
25 meaningful to him and to his family. And he

1 was one of my favorite people, and he had a
2 beautiful family. And I applaud Senator Young
3 for doing this on behalf of Bill Hennessy.

4 THE PRESIDENT: The Secretary
5 will announce the results.

6 THE SECRETARY: Ayes, 58.

7 THE PRESIDENT: The bill is
8 passed.

9 THE SECRETARY: Calendar Number
10 1740, by Senator Spano, Senate Print 57 --

11 SENATOR SCHNEIDERMAN: Lay it
12 aside.

13 THE PRESIDENT: The bill is laid
14 aside.

15 THE SECRETARY: Calendar Number
16 1742, by Senator Marcellino, Senate Print
17 5799, an act to amend the Military Law.

18 THE PRESIDENT: Read the last
19 section.

20 THE SECRETARY: Section 3. This
21 act shall take effect on the same date and in
22 the same manner as a chapter of the Laws of
23 2005.

24 THE PRESIDENT: Call the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 58.

2 THE PRESIDENT: The bill is
3 passed.

4 THE SECRETARY: Calendar Number
5 1743, by Senator Young, Senate Print 5800, an
6 act to amend the Highway Law.

7 THE PRESIDENT: Read the last
8 section.

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

11 THE PRESIDENT: Call the roll.
12 (The Secretary called the roll.)

13 THE PRESIDENT: Senator Young, to
14 explain your vote.

15 SENATOR YOUNG: Thank you, Madam
16 President, to explain my vote.

17 I am so proud to carry this bill
18 today because it's in honor of someone who is
19 well known in this chamber, someone who was a
20 friend to me when I served on the Cattaraugus
21 County Legislature, and that is our Senator
22 Jess Present, who passed away in 1998. This
23 would name Route 430 in Chautauqua County in
24 his honor --

25 THE PRESIDENT: Excuse me,

1 Senator Young.

2 Can I ask the members to stop their
3 conversations, please.

4 You may proceed.

5 SENATOR YOUNG: Thank you, Madam
6 President.

7 There are so many great reasons to
8 do this honor. For nearly 40 years, Senator
9 Present was a compassionate public servant
10 dedicated to his constituency and to helping
11 his communities in his district. He was a
12 very positive force in people's lives.

13 He started in politics when he was
14 elected to the Jamestown City Council in 1959,
15 and he served as president of that body from
16 1962 to 1963. He was then elected to the
17 Assembly in 1965, in the general election, and
18 then went on to the Senate in 1968.

19 He served with the Eighth Air Force
20 in England during World War II and was a
21 lifetime member of the American Legion and the
22 Veterans of Foreign Wars. Among his many
23 accomplishments -- and I underscore many, he
24 was known for so many things. But he did
25 oversee the development of Interstate 86,

1 which was a great economic boon to the
2 Southern Tier area.

3 So it's a most fitting tribute to
4 name this section of roadway in honor of
5 Senator Present, mostly because it winds
6 around his beloved Chautauqua Lake and also
7 goes through his hometown of Bemus Point. And
8 those who served with Jess know how much he
9 loved Bemus Point.

10 He is survived by his two sons,
11 Jeffrey and Randall, and three grandchildren.

12 And so, Madam President, it's very
13 important that we support this legislation,
14 and that is why I so proudly vote yes.

15 Thank you.

16 THE PRESIDENT: You will be
17 recorded in the affirmative on this bill,
18 Senator Young.

19 The Secretary will announce the
20 results.

21 THE SECRETARY: Ayes, 58.

22 THE PRESIDENT: The bill is
23 passed.

24 Senator Fuschillo, that completes
25 the noncontroversial reading of the calendar.

1 SENATOR FUSCHILLO: Madam
2 President, thank you. There will be an
3 immediate meeting of the Rules Committee in
4 the Majority Conference Room.

5 THE PRESIDENT: There will be an
6 immediate meeting of the Rules Committee in
7 the Majority Conference Room.

8 Senator Fuschillo.

9 SENATOR FUSCHILLO: The Senate
10 will stand at ease pending the report.

11 THE PRESIDENT: The Senate stands
12 at ease.

13 (Whereupon, the Senate stood at
14 ease at 1:14 p.m.)

15 (Whereupon, the Senate reconvened
16 at 1:33 p.m.)

17 THE PRESIDENT: Senator
18 Fuschillo.

19 SENATOR FUSCHILLO: Madam
20 President, please return to the reports of
21 standing committees. I believe there's a
22 Rules Committee report at the desk.

23 THE PRESIDENT: Reports of
24 standing committees.

25 The Secretary will read.

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

4 Senate Print 33A, by Senator
5 LaValle, an act to amend the Education Law;

6 2157, by Senator Paterson, an act
7 to amend the Public Authorities Law;

8 2583B, by Senator Padavan, an act
9 to amend the Tax Law;

10 4398, by Senator Robach, an act to
11 amend the Parks, Recreation and Historic
12 Preservation Law;

13 4645A, by Senator Libous, an act to
14 amend the Vehicle and Traffic Law;

15 4721, by Senator Nozzolio, an act
16 to amend the Tax Law;

17 4742B, by Senator Spano, an act to
18 amend the Mental Hygiene Law;

19 5055A, by Senator DeFrancisco, an
20 act to amend the Alcoholic Beverage Control
21 Law;

22 5182A, by Senator Johnson, an act
23 to amend the Public Officers Law;

24 5405, by Senator Padavan, an act to
25 amend the Education Law;

1 5486, by the Senate Committee on
2 Rules, an act to amend the Labor Law;
3 5487, by the Senate Committee on
4 Rules, an act to amend the Civil Service Law;
5 5553B, by Senator Winner, an act to
6 amend the Environmental Conservation Law;
7 5602, by Senator Fuschillo, an act
8 to amend the General Business Law;
9 5650A, by Senator Johnson, an act
10 to amend the Environmental Conservation Law;
11 5679, by Senator Nozzolio, an act
12 authorizing;
13 5690, by Senator Wright, an act to
14 amend the Public Service Law;
15 5708, by Senator Leibell, an act to
16 amend the Public Authorities Law;
17 5719, by Senator Maziarz, an act to
18 amend the General Business Law;
19 5724, by Senator Larkin, an act to
20 amend the Racing, Pari-Mutuel Wagering and
21 Breeding Law;
22 5726A, by Senator Young, an act to
23 amend the Correction Law;
24 5733, by Senator Morahan, an act to
25 amend the Penal Law;

1 5750, by Senator Padavan, an act to
2 amend the Real Property Tax Law;

3 5758, by Senator Farley, an act in
4 relation to affecting;

5 5764, by Senator Golden, an act to
6 amend the Agriculture and Markets Law;

7 5766, by Senator Golden, an act to
8 amend the Penal Law;

9 5772, by Senator Duane, an act to
10 amend the Criminal Procedure Law;

11 5818, by Senator Padavan, an act
12 authorizing;

13 5827, by Senator Fuschillo, an act
14 to amend a chapter of the Laws of 2005;

15 And Senate Print 5848, by Senator
16 Winner, an act to amend the Executive Law.

17 All bills ordered direct to third
18 reading.

19 SENATOR FUSCHILLO: Move to
20 accept the report of the Rules Committee.

21 THE PRESIDENT: All in favor of
22 accepting the report of Rules Committee please
23 signify by saying aye.

24 (Response of "Aye.")

25 THE PRESIDENT: Opposed, nay.

1 (No response.)

2 THE PRESIDENT: The report is
3 accepted.

4 Senator Fuschillo.

5 SENATOR FUSCHILLO: Madam
6 President, can we return to the first calendar
7 and take up the reading of the controversial
8 calendar, starting with Calendar Number 603.

9 THE PRESIDENT: The Secretary
10 will read.

11 SENATOR FUSCHILLO: Madam
12 President, can we also ring the bells and
13 inform the members that we are taking up the
14 reading of the controversial calendar and ask
15 them to come to the chambers.

16 THE PRESIDENT: The Secretary
17 will ring the bell.

18 And I request all members to return
19 to their seats so we can continue with the
20 controversial calendar.

21 The Secretary will read.

22 THE SECRETARY: Calendar Number
23 603, by Senator Golden, Senate Print 2199, an
24 act in relation to requiring certain state and
25 federal education aid intended.

1 SENATOR MONTGOMERY: Explanation.

2 THE PRESIDENT: Senator Golden,
3 an explanation has been requested.

4 SENATOR GOLDEN: Thank you, Madam
5 President.

6 This bill would require a school
7 district to relinquish any funds received by
8 the school district which is intended for a
9 nonpublic school, to do that within a 45-day
10 period of receipt of such funds. The failure
11 to timely relinquish those funds would result
12 in the school district being charged 5 percent
13 interest per annum on that money.

14 I own a business, or owned a
15 business, and you'd believe within 30 days, if
16 I don't pay my bills, I am charged a percent
17 that's higher than 5 percent. And if I'm 45
18 or 60 days, it's much higher, and it continues
19 to go up.

20 This is 5 percent on a total for
21 the year, and I believe the nonpublic
22 schools -- it should be plenty of time to
23 relinquish those dollars to those nonpublic
24 schools. They, like any other business, need
25 to be able to use those dollars for their

1 children and for the administration of that
2 school building.

3 THE PRESIDENT: Senator
4 Montgomery.

5 SENATOR MONTGOMERY: Yes, Madam
6 President, on the bill.

7 THE PRESIDENT: You may proceed.

8 SENATOR MONTGOMERY: I have
9 obviously some questions about this policy
10 that we are looking to implement requiring
11 school districts to disperse funds within
12 45 days of receiving them or be penalized at
13 5 percent on the funds that are not passed on
14 in 45 days.

15 Now, obviously we are not
16 challenging the fact that the nonpublic
17 schools receive public assistance for various
18 of their activities. But to place a burden on
19 the school district to be liable to be charged
20 if they are not able, for whatever reasons --
21 and there could be any number of reasons that
22 they don't pass it on within this very limited
23 period of time -- I think is bad policy. And
24 it could indeed place a burden that the school
25 districts are not really able to live up to.

1 So I'm going to vote no on this
2 legislation, because while I understand the
3 intent that Senator Golden, he wants the
4 nonpublics to receive their funding as quickly
5 as possible, at the same time I don't think
6 that we should be moving to penalize the
7 public system because they're unable to
8 function as efficiently as many of us would
9 like them to in this case.

10 I'm going to be voting no.

11 THE PRESIDENT: Does any other
12 member wish to be heard?

13 Senator Stavisky.

14 SENATOR STAVISKY: Very briefly
15 on the bill, Madam President.

16 THE PRESIDENT: You may proceed,
17 Senator.

18 SENATOR STAVISKY: As my
19 colleague indicated, there are many programs
20 that have been held constitutional that are
21 utilized by the nonpublic schools, whether it
22 be the Textbook Loan Act or putting a school
23 crossing guard at the intersection or school
24 health programs. These are all
25 constitutional, and government is providing

1 aid in that respect.

2 However, the legislation says that
3 any state -- on line 2, "any state or federal
4 education aid received." And I have questions
5 as to whether this is actually enforceable.

6 Secondly, there are very few
7 dollars available for public education. And
8 to penalize the school districts I think is
9 unconscionable. We should be trying to help
10 the school districts, not trying to hurt them.

11 And lastly, I heard the sponsor's
12 explanation. And school districts are not a
13 money-making, not a profit-making venture.
14 And I urge a no vote on this bill.

15 THE PRESIDENT: Does any other
16 member wish to be heard?

17 Then the debate is closed.

18 The Secretary will ring the bell,
19 and the members should please return to their
20 seats.

21 The members should be in their
22 seats so that we can proceed with the calendar
23 promptly.

24 Read the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the first of July.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE PRESIDENT: Senator Golden,
5 to explain your vote.

6 SENATOR GOLDEN: Thank you, Madam
7 President.

8 Briefly, just -- I know some of my
9 colleagues are against this bill; I don't know
10 why. But just briefly, one of my colleagues
11 said that it might not be enforceable. It is.
12 Because of New York City not-for-profit
13 contracting law, it would be enforceable.

14 But the other reason that I rise is
15 because the -- you know, simple, if a dairy
16 was delivering milk to that not-for-profit
17 school, would we expect the dairy not to be
18 paid in 45 days or 60 days or 90 days because
19 of clerical errors at the school board? I
20 think it's up to the school board to make sure
21 that these bills are paid.

22 If I'm a small-time businessperson,
23 I have to be able to keep my business
24 operating. And if I can't, I have to go to a
25 bank to get a loan, of which I will have

1 interest, so I can have operating dollars to
2 keep my business alive.

3 I don't think we really want that
4 for our children across the city and state of
5 New York, and that's why this bill was
6 introduced. And I vote aye, Madam President.

7 THE PRESIDENT: You will be
8 recorded, Senator Golden, as voting in the
9 affirmative on this bill.

10 Senator Oppenheimer, to explain her
11 vote.

12 SENATOR OPPENHEIMER: Thank you
13 very much. To explain my vote.

14 I agree with Senator Golden, we
15 ought to be paying our bills promptly, all of
16 us and every agency of government and
17 personally. However, I think it's very poor
18 public policy, poor education policy to be
19 fining school districts. It's at a time when
20 public education should be keeping every penny
21 it can find, under carpets, wherever they find
22 it.

23 I am in support of all the services
24 that we do provide -- the health services, the
25 transportation services, the library services,

1 computer software services. But I think that
2 this is a poor public policy direction, and
3 that's why I'm voting no.

4 THE PRESIDENT: You will be
5 recorded as voting in the negative on this
6 bill, Senator.

7 The Secretary will announce the
8 results.

9 THE SECRETARY: Those recorded in
10 the negative on Calendar Number 603 are
11 Senators Brown, Duane, Fuschillo, Gonzalez,
12 Klein, L. Krueger, LaValle, Marcellino,
13 Montgomery, Oppenheimer, Paterson, Sabini,
14 Serrano, A. Smith, Stavisky and Valesky. Also
15 voting in the negative, Senator Schneiderman.
16 Also voting in the negative, Senator Spano.

17 Those Senators absent from voting:
18 Balboni, Connor, Flanagan and Sampson.

19 Ayes, 39. Nays, 18.

20 THE PRESIDENT: The bill is
21 passed.

22 Senator Bonacic.

23 SENATOR BONACIC: Thank you,
24 Madam President.

25 I had a brief meeting off the floor

1 and as a result, if I had been present, I
2 would have voted no on Calendar Number 963,
3 Senate Bill 5165.

4 THE PRESIDENT: The record will
5 so reflect, Senator Bonacic.

6 SENATOR BONACIC: Thank you,
7 Madam President.

8 THE PRESIDENT: You're welcome.
9 The Secretary will continue to
10 read.

11 THE SECRETARY: Calendar Number
12 1719, by Senator Wright, Senate Print 5285, an
13 act to amend the Tax Law.

14 SENATOR LIZ KRUEGER:
15 Explanation.

16 THE PRESIDENT: Senator Wright,
17 an explanation has been requested.

18 SENATOR WRIGHT: Thank you, Madam
19 President.

20 The bill before us this afternoon
21 provides for a tax credit for a biofuel
22 production. Its intent is to encourage the
23 development of biofuels here in the state.

24 THE PRESIDENT: Senator Krueger.

25 SENATOR LIZ KRUEGER: Thank you,

1 Madam President. If the sponsor could please
2 yield.

3 THE PRESIDENT: Senator Wright,
4 do you yield?

5 SENATOR WRIGHT: Yes, I will,
6 Madam President.

7 THE PRESIDENT: You may proceed,
8 Senator Krueger.

9 SENATOR LIZ KRUEGER: Thank you.
10 Could you define biofuels as you
11 think they'll be meant here in New York State,
12 Senator?

13 SENATOR WRIGHT: Yes. It will be
14 fuels that are derivatives of corn, willow, a
15 number of different renewable products, as
16 well as the production of ethanol.

17 SENATOR LIZ KRUEGER: Madam
18 President, if the sponsor would continue to
19 yield.

20 THE PRESIDENT: Senator Wright,
21 do you yield for a question?

22 SENATOR WRIGHT: I will, Madam
23 President.

24 THE PRESIDENT: You may proceed,
25 Senator.

1 SENATOR LIZ KRUEGER: Thank you.
2 What's the estimated cost of this
3 tax credit, Senator?

4 SENATOR WRIGHT: It is capped by
5 the legislation not to exceed a million
6 dollars per year per tax claimant.

7 And at the present time, there is
8 no production in the state, so there is no
9 impact on the current budget.

10 SENATOR LIZ KRUEGER: Thank you.
11 On the bill, Madam President.

12 THE PRESIDENT: You may proceed
13 on the bill.

14 SENATOR LIZ KRUEGER: Well, this
15 is a bill to provide tax credits for biofuels,
16 with the most well-known category being
17 ethanol, which is production of gasoline from
18 corn, although certainly it can be other
19 products.

20 I'd like to start by referencing
21 briefly the last episode of "The West Wing"
22 this year. I know Senator Spano likes "The
23 West Wing," and I do also. We've both
24 referenced that before.

25 In the final episode of "The West

1 Wing" this year, the Republican candidate for
2 president pointed out that making a gallon of
3 ethanol takes almost a gallon of oil and so in
4 fact has been the largest unexplained subsidy
5 in this country and is a billion dollars a
6 year from the federal government.

7 Certainly we don't want to use "The
8 West Wing" as our base for expertise. But I
9 found myself agreeing with Alan Alda, playing
10 Republican presidential candidate Arnold
11 Vinick in that show.

12 But perhaps more substantively, the
13 science shows us that this isn't a good deal
14 for anyone, that the production of ethanol has
15 been subsidized on an annual basis for decades
16 without moving forward. There's actually a
17 total of \$3 billion in subsidies to the
18 ethanol industry, federal and various states.
19 That despite the fact that Archer Daniels
20 Midland, the largest ethanol producer, is
21 drawing down most of these subsidies, they're
22 never adding capacity over the years.

23 And the fact is that the research
24 shows that it takes 1.3 gallons of petroleum
25 to produce one gallon of ethanol. Therefore,

1 ethanol production, claimed to be a
2 replacement for our dependence on foreign oil,
3 actually increases our dependence on foreign
4 oil. And that in fact when you analyze the
5 total cost of a gallon of ethanol, it's
6 \$4.70 per gallon. And this is research done
7 out of Cornell University, Professor David
8 Pimentel.

9 There is data from throughout the
10 country, the states that have active ethanol
11 programs, and some of those who are providing
12 tax credits, that it has never met the
13 standards that we hoped for itself. And in
14 fact, the data is pretty clear that ethanol is
15 not cost-effective as a replacement for oil,
16 that it uses more energy than it generates.
17 That while it has negligible environmental
18 impacts, it does appear to have some negative
19 environmental impacts. And that studies in
20 California by the California Air Resources
21 Board show that blending ethanol with gasoline
22 increases nitrogen oxide and other
23 smog-forming emissions.

24 The use of ethanol as a gasoline
25 additive also voids car warranties, which

1 might be a concern to some of us who own and
2 operate cars. It actually appears to lower
3 gas mileage when blended with gasoline,
4 decreasing gas mileage by between 3 and
5 5 percent and 6 to 10 percent with higher
6 mixes of ethanol.

7 Unfortunately -- and I understand
8 the Farm Bureau supports this bill -- but
9 national studies show that ethanol production
10 actually hurts livestock and poultry farmers.
11 So there appears to be a little disagreement
12 between different people in the farm industry
13 as to the pluses and minuses of ethanol.

14 The General Accounting Office of
15 the federal government concluded that higher
16 corn prices generated by ethanol hurts
17 livestock producers and poultry producers
18 because the cost of feedstock increases. The
19 National Center for Policy Analysis estimated
20 that ethanol production adds \$1 billion
21 annually to the cost of beef production. So
22 we seem to perhaps have some disagreement
23 between different agricultural sectors about
24 the pluses and minuses from a farm
25 perspective.

1 It appears to increase food prices.
2 The cost of feedstock for livestock, poultry
3 producers increases the price to consumers for
4 meat, milk and eggs. It doesn't appear to
5 create net jobs, based on economic analysis
6 done in various states that have an ethanol
7 industry.

8 And unfortunately, it won't improve
9 energy security, because again, we have to use
10 more petroleum to produce it than we save by
11 using it.

12 So I would argue that we should not
13 make the mistakes of the federal government or
14 23 other states and encourage and support with
15 tax credits the use of ethanol in this state.

16 I would also like to point out that
17 sometimes it is argued that this is a tax
18 credit that helps small farmers, but in fact
19 the national data shows that the ethanol
20 subsidies go only to large agribusiness, not
21 to any small family farmers. They really are
22 not in this business and don't compete.

23 Again, to narrow it down, ethanol
24 does not burn clean, it does not process
25 clean, it is not renewable. It is, some

1 argue, one of the larger scams in the universe
2 of the arguments for clean replaceable energy.

3 I'm not going to stand here and say
4 that all biofuels might not have some
5 potential and that they are still in the
6 research process, but I would argue that we
7 should not pass this bill. We don't know how
8 much it will cost us. But if we follow the
9 experience of other states, over time it will
10 cost us a lot. And it's not clear what the
11 environment would get, what our farm universe
12 would get, or what we would get in return.

13 So I would urge that we not pass
14 this bill. The arguments for ethanol have
15 been debated state by state and nationally.
16 And despite the fact that too many of our
17 colleagues, with all due respect, in both
18 parties at the federal level continue to make
19 the arguments for subsidies of ethanol, it's
20 one of those questions after twenty years of
21 production, if it's such a great idea, why do
22 they need so much subsidy?

23 So I'll be voting no and hope
24 others will vote no with me.

25 Thank you, Madam President.

1 THE PRESIDENT: Senator Duane.

2 SENATOR DUANE: Thank you, Madam
3 President.

4 I hate to do this, but I'm going to
5 have to. Thanks to DVR technology, I tape
6 "The West Wing." And the episode that my
7 esteemed colleague referred to is actually not
8 the last episode of the season.

9 And I also -- though I don't want
10 to spoil the surprise, I have it on good
11 authority that Senator Vinick will not be
12 winning and will not be returning next year to
13 "The West Wing." I can't tell you how I know
14 that, but it's excellent authority.

15 Thank you, Madam President.

16 THE PRESIDENT: Moving right
17 along to germane issues, Senator Duane.

18 Does any other Senator wish to be
19 heard on germane issues?

20 Then the debate is closed.

21 The Secretary will ring the bell.

22 Read the last section.

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

25 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE PRESIDENT: Senator Wright,
3 to explain your vote.

4 SENATOR WRIGHT: Thank you, Madam
5 President, to explain my vote.

6 Unlike my colleagues who are
7 watching "West Wing," I happen to be watching
8 reality TV.

9 (Laughter.)

10 SENATOR WRIGHT: That, in turn,
11 recognizes the fact that this Legislature
12 banned MTBE and the federal government did not
13 give us a waiver. Therefore, we need ethanol
14 as an additive in this state to achieve air
15 quality standards, particularly in
16 metropolitan areas of this state. To do that,
17 you either import ethanol or you can produce
18 it in this state, thereby creating jobs.
19 That's number one.

20 But more importantly, the tax
21 credit is intended to generate new technology.
22 And that is currently occurring in this state
23 at universities like Clarkson, universities
24 like Cornell, universities like the
25 Environmental School of Forestry and the

1 Renewable Energy Center of Excellence in
2 Syracuse.

3 All of those new technologies, like
4 any other technology in the renewable arena,
5 are being supported by NYSERDA, New York
6 State, in terms of energy research and
7 development funds. But equally important, we
8 provide tax credits in many arenas to
9 encourage new technologies that will reduce
10 our dependence upon old technology and old
11 fuels.

12 As a result, this is an investment
13 in renewable fuels, energy efficiency, and I
14 believe a good investment in new technology,
15 which is critical to our state's economy.

16 Therefore, I am voting aye and
17 encourage my colleagues to do likewise.

18 THE PRESIDENT: Senator Wright,
19 you will be recorded as voting in the
20 affirmative on this bill.

21 Senator Montgomery, to explain your
22 vote.

23 SENATOR MONTGOMERY: Yes, Madam
24 President, to explain my vote.

25 I think this is an extremely

1 important legislation. I certainly have heard
2 some of the testimony of my colleague Senator
3 Krueger. But I do want to say that I view
4 this as an environmental issue. Certainly
5 we're all looking for alternative sources of
6 energy, hopefully that are cleaner, renewable
7 sources especially.

8 But I also want to mention, too,
9 that this is an economic development issue, as
10 I see it. It's important for our state, the
11 farmers in our state who produce -- who are
12 going to be involved in producing this.

13 And I'm all for supporting whatever
14 we can do to encourage economic development,
15 especially in the rural and upstate areas.
16 And we hope that this begins a movement to
17 divest in the prison system as an industrial
18 economic development program and move toward
19 more constructive and productive ways of
20 building and expanding our economy, especially
21 upstate.

22 So I'm happy to support this
23 legislation for any number of reasons.

24 Thank you, Madam President.

25 THE PRESIDENT: You will be

1 recorded as voting in the affirmative,
2 Senator.

3 Senator Volker, to explain your
4 vote.

5 SENATOR VOLKER: Madam President,
6 to explain my vote.

7 You know, it's kind of fascinating
8 when I listen to all this. And, Senator, the
9 prison system, if it keeps going the way it's
10 going, is going to go down, so you don't have
11 to worry about that. It's not economic
12 development anyways.

13 But I have to laugh at Senator
14 Kerry. Senator Kerry voted for the Clean Air
15 Act on the national level, which costs us
16 30 cents a gallon on every gallon of gas that
17 we consume in this country, and particularly
18 here. The problem is, ethanol probably is
19 less -- we're not sure what ethanol does. But
20 we have to have it, whether we like it or not,
21 because of the feds, or we'll have to put
22 something worse into the gasoline.

23 But it does help some constituents
24 of this state, as opposed to MTBE or whatever
25 that was that didn't help us. And we're not

1 sure what that did, but it wasn't particularly
2 good. Which is of course the environmental
3 problem, because we're not sure what a lot of
4 this stuff does.

5 But I think the biggest thing is,
6 and what Senator Wright is saying is, as long
7 as we're in this situation, what we have to do
8 is make sure that we use this state's
9 products, and in this case farm products, to
10 help the state as best we can. Because we're
11 certainly not helping our motorists. But
12 that's something we can't deal with.

13 So my only problem with Senator
14 Kerry is -- of course, I think
15 whatchamacallit, the name of that company, I'm
16 pretty sure they contributed to Bush's
17 campaign, too. So I strongly suspect one of
18 the reasons he went after them may have had
19 something to do with the fact that they didn't
20 contribute to him and that they contributed to
21 Bush.

22 Anyways, I vote aye.

23 THE PRESIDENT: You will be
24 recorded as voting in the affirmative, Senator
25 Volker.

1 Senator Krueger, to explain your
2 vote.

3 SENATOR LIZ KRUEGER: Thank you,
4 Madam President.

5 A fair shot that one shouldn't take
6 one's data from "The West Wing," although I
7 also do my homework.

8 Again, just for the record, the
9 reason we shouldn't be endorsing this bill has
10 been verified by studies by the EPA, the
11 National Academy of Sciences, the White House
12 National Science and Technology Council, the
13 Committee on the Environment and Natural
14 Resources of the National Science and
15 Technology Council, Sierra Club, Environmental
16 Defense and Resources for the Future, have all
17 opposed the use of ethanol on environmental
18 grounds.

19 And I think one of my colleagues
20 just raised an interesting issue about the
21 dilemma of MTBE as a mix in our gasoline. The
22 dilemma for changing to ethanol is that the
23 studies show that the higher VOCs emissions
24 that we were attempting to address through
25 removing MTBE from gasoline apparently are

1 equally high in release with the use of
2 ethanol. So we've still got the dilemma. And
3 trading one dilemma for the other is really
4 not the solution for our environment or for
5 the state.

6 So I continue to vote no, and I
7 think the record shows that the data is clear,
8 we should not go down this road.

9 Thank you, Madam President.

10 THE PRESIDENT: You will be
11 recorded as voting in the negative, Senator.

12 The Secretary will announce the
13 results.

14 THE SECRETARY: Those recorded in
15 the negative on Calendar Number 1719 are
16 Senators Duane, L. Krueger, Sabini and
17 Serrano.

18 Absent from voting: Senators
19 Flanagan and Sampson.

20 Ayes, 55. Nays, 4.

21 THE PRESIDENT: The bill is
22 passed.

23 Senator Fuschillo.

24 SENATOR FUSCHILLO: Madam
25 President, Calendar Number 1726 was

1 inadvertently laid aside. Please place it on
2 the noncontroversial calendar and take it up
3 at this moment.

4 THE PRESIDENT: So ordered.

5 The Secretary will read.

6 THE SECRETARY: Calendar Number
7 1726, by Senator Spano, Senate Print 5652, an
8 act to amend Chapter 57 of the Laws of 2005.

9 THE PRESIDENT: Read the last
10 section.

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

13 THE PRESIDENT: Call the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 59.

16 THE PRESIDENT: The bill is
17 passed.

18 The Secretary will continue to read
19 the controversial calendar.

20 THE SECRETARY: Calendar Number
21 1730, by Senator LaValle --

22 SENATOR FUSCHILLO: Lay it aside
23 temporarily.

24 ACTING PRESIDENT MEIER: The bill
25 is laid aside temporarily.

1 THE SECRETARY: Calendar Number
2 1740, by Senator Spano, Senate Print 5771, an
3 act --

4 SENATOR LIZ KRUEGER:
5 Explanation.

6 ACTING PRESIDENT MEIER: Senator
7 Spano, Senator Liz Krueger has requested an
8 explanation of Calendar 1740.

9 SENATOR SPANO: This bill makes
10 technical corrections to the bill on resale
11 pricing of entertainment tickets that we
12 debated on the floor here.

13 It does three things. It clarifies
14 that licensed brokers must still obey the
15 buffer zone within 1500 feet of a facility;
16 requires that the report that we wanted to be
17 done by the Legislature would be done by --
18 completed by the Consumer Protection Board;
19 and the third part caps the resale of tickets
20 at 45 percent of the established price for
21 venues over 6,000 seats.

22 ACTING PRESIDENT MEIER: Senator
23 Krueger.

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

1 ACTING PRESIDENT MEIER: Senator
2 Spano, do you yield?

3 SENATOR SPANO: Yes.

4 ACTING PRESIDENT MEIER: The
5 sponsor yields.

6 SENATOR LIZ KRUEGER: What
7 happened to free-market capitalism for over
8 6,000?

9 SENATOR SPANO: Well, we had a
10 great debate on free market. On the other
11 hand, it became necessary, as we continued our
12 discussions and negotiations with the Second
13 Floor, to offer this chapter amendment. The
14 Governor, frankly, insisted upon capping the
15 resale of tickets at 45 percent.

16 And we were able to reach a
17 three-way agreement which would allow the
18 entire issue to continue without having to
19 expire.

20 SENATOR LIZ KRUEGER: Thank you.
21 On the bill, Mr. President.

22 ACTING PRESIDENT MEIER: Senator
23 Krueger, on the bill.

24 SENATOR LIZ KRUEGER: Thank you.
25 Well, we had this debate twice

1 already, a previous version of the bill and
2 the chapter amendment. And now we're amending
3 it again.

4 And while, frankly, having some
5 limit on the set price above a ticket price
6 that you can resell a ticket for may be an
7 advantage to some consumers, I don't really
8 think it changes any of the concerns I've
9 raised before that we will be expanding
10 dramatically the costs of tickets. We will be
11 limiting consumers' ability to purchase
12 tickets for the ticket price because clearly
13 the, I guess, now legal scalpers will become
14 even more aggressive, ensuring that they get
15 those tickets first and get to charge their
16 45 percent legal supplement to the ticket
17 price.

18 This chapter amendment doesn't do
19 anything to address my previously stated
20 concerns that we're not going to be able to
21 collect the legal sales tax we should be under
22 this system.

23 And while it to some degree puts
24 some regulation back in the process of resale
25 of tickets, it basically still leaves it as an

1 open market for those who figure out how to
2 take all the tickets away from consumers and
3 charge lots and lots of extra money for them.

4 So I'll be voting no. While I
5 think it's a move slightly in the right
6 direction, I think the fundamental question of
7 whether the State of New York should be
8 regulating scalping has not been addressed by
9 this legislation. I think we've done the
10 wrong thing here this year. This is slightly
11 a step back, but not good enough, so I'll vote
12 no.

13 Thank you, Mr. President.

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

16 Debate is closed, then.

17 The Secretary will sound the bell.

18 Read the last section.

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

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT MEIER: Senator
25 Stachowski, to explain his vote.

1 SENATOR STACHOWSKI: Mr.

2 President, to explain my vote.

3 It was sometime in the last three
4 weeks that USA Today carried an article on
5 concerts and tickets to sports venues,
6 et cetera, and it explained, to a large
7 degree, where all the tickets go. And it's
8 not because scalpers are better at the
9 computer and grab tickets and that way get the
10 advantage of selling them at a much higher
11 price.

12 But what goes on in today's market
13 is between the promoters, the record labels,
14 the people that run the facility, there's all
15 these side deals, and so many block tickets
16 are gone to different areas. And most of the
17 good tickets go that way. And so there's very
18 few tickets for people that walk up to the
19 gate and are able to buy it.

20 And the reality is that through
21 this effort to try to regulate scalping, we at
22 least will get some sales tax, because some of
23 the people selling the tickets over the
24 Internet will be located in New York. If
25 they're located in New York, New York will be

1 able to get the sales tax at this time. And
2 the fact is if we don't do anything, they will
3 continue to be located outside of New York,
4 officially, and we will get nothing. We'll
5 get the original amount, and that's it. And
6 people will be left to whatever they're left
7 to.

8 But the reality is, like with the
9 Super Bowl tickets, for those of you that go,
10 it's not meant for the regular fan anymore. I
11 mean, even concerts, the face value is \$125
12 for a lot of concerts. That's \$250 for
13 somebody to go see a concert, and most regular
14 people won't spend that.

15 So the fact is that it's a
16 different age, it's a different market, and I
17 think it's a good-faith effort to try to get a
18 handle on something that was running out of
19 control before we took any steps a couple of
20 years back to do anything in scalping. And I
21 hope that we continue to work at it and
22 continue to try to make sure that the
23 residents of New York and the State of
24 New York benefit from some sort of regulation.

25 I vote yes.

1 ACTING PRESIDENT MEIER: Senator
2 Stachowski will be recorded in the
3 affirmative.

4 Announce the results.

5 THE SECRETARY: Those recorded in
6 the negative on Calendar Number 1740 are
7 Senators L. Krueger, LaValle, Padavan,
8 Paterson, Schneiderman, Serrano and Valesky.
9 Also voting in the negative, Senators Duane,
10 Morahan and M. Smith.

11 Absent from voting: Senators
12 Flanagan and Sampson.

13 Ayes, 49. Nays, 10.

14 ACTING PRESIDENT MEIER: The bill
15 is passed.

16 Senator Fuschillo.

17 SENATOR FUSCHILLO: Mr.
18 President, will you please take up
19 Supplemental Calendar A.

20 ACTING PRESIDENT MEIER: The
21 Secretary will conduct the noncontroversial
22 reading of Supplemental Calendar A.

23 THE SECRETARY: In relation to
24 Calendar Number 1745, Senator LaValle moves to
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 88A and substitute it for
2 the identical Senate Bill Number 33A --

3 SENATOR FUSCHILLO: Lay it aside
4 for the day, please.

5 THE SECRETARY: -- Third Reading
6 Calender 1745.

7 ACTING PRESIDENT MEIER:
8 Substitution ordered.

9 Lay the bill aside for the day.

10 THE SECRETARY: In relation to
11 Calendar Number 1746, Senator Paterson moves
12 to discharge, from the Committee on Rules,
13 Assembly Bill Number 2516 and substitute it
14 for the identical Senate Bill Number 2157,
15 Third Reading Calendar 1746.

16 ACTING PRESIDENT MEIER:
17 Substitution ordered.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 1746, by Member of the Assembly Wright,
21 Assembly Print Number 2516, an act to amend
22 the Public Authorities Law.

23 ACTING PRESIDENT MEIER: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT MEIER: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 1748, by Senator Robach, Senate Print 4398, an
10 act to amend the Parks, Recreation and
11 Historic Preservation Law.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

14 THE SECRETARY: Section 5. This
15 act shall take effect on the 30th day.

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 59.

20 ACTING PRESIDENT MEIER: The bill
21 is passed.

22 THE SECRETARY: In relation to
23 Calendar Number 1749, Senator Libous moves to
24 discharge, from the Committee on Rules,
25 Assembly Bill Number 7493A and substitute it

1 for the identical Senate Bill Number 4645A,
2 Third Reading Calendar 1749.

3 ACTING PRESIDENT MEIER:
4 Substitution ordered.

5 The Secretary will read.

6 THE SECRETARY: Calendar Number
7 1749, by Member of the Assembly Magee,
8 Assembly Print Number 7493A, an act to amend
9 the Vehicle and Traffic Law.

10 ACTING PRESIDENT MEIER: Read the
11 last section.

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

14 ACTING PRESIDENT MEIER: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 59.

18 ACTING PRESIDENT MEIER: The bill
19 is passed.

20 THE SECRETARY: In relation to
21 Calendar Number 1750, Senator Nozzolio moves
22 to discharge, from the Committee on Rules,
23 Assembly Bill Number 5521 and substitute it
24 for the identical Senate Bill Number 4721,
25 Third Reading Calendar 1750.

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ACTING PRESIDENT MEIER:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number
1750, by Member of the Assembly Schimminger,
Assembly Print Number 5521, an act to amend
the Tax Law.

ACTING PRESIDENT MEIER: Read the
last section.

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

ACTING PRESIDENT MEIER: Call the
roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill
is passed.

THE SECRETARY: Calendar Number
1751, by Senator Spano, Senate Print 4742B, an
act to amend the Mental Hygiene Law.

ACTING PRESIDENT MEIER: Read the
last section.

THE SECRETARY: Section 5. This

1 act shall take effect on the first of April.

2 ACTING PRESIDENT MEIER: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT MEIER: The bill
7 is passed.

8 Senator Duane, why do you rise?

9 SENATOR DUANE: To explain my
10 vote, Mr. President.

11 ACTING PRESIDENT MEIER: We'll
12 withdraw the roll call.

13 Senator Duane is recognized to
14 explain his vote.

15 SENATOR DUANE: Thank you, Mr.
16 President.

17 I'm hopeful that this is a step
18 towards passage of what we call Timothy's Law
19 this session. There's still time to do so.

20 Thank you, Mr. President.

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

23 The Secretary will announce the
24 results.

25 THE SECRETARY: In relation to

1 Calendar Number 1751: Ayes, 59.

2 ACTING PRESIDENT MEIER: The bill
3 is passed.

4 THE SECRETARY: In relation to
5 Calendar Number 1752, Senator DeFrancisco
6 moves to discharge, from the Committee on
7 Rules, Assembly Bill Number 7675A and
8 substitute it for the identical Senate Bill
9 Number 5055A, Third Reading Calendar 1752.

10 ACTING PRESIDENT MEIER:
11 Substitution ordered.

12 The Secretary will read.

13 THE SECRETARY: Calendar Number
14 1752, by Member of the Assembly Schimminger,
15 Assembly Print Number 7675A, an act to amend
16 the Alcoholic Beverage Control Law.

17 ACTING PRESIDENT MEIER: Read the
18 last section.

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

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 58. Nays,
25 1. Senator Duane recorded in the negative.

1 ACTING PRESIDENT MEIER: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 1754, by Senator Padavan, Senate Print 5405,
5 an act to amend the Education Law.

6 SENATOR PADAVAN: Lay it aside
7 for the day.

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

10 THE SECRETARY: In relation to
11 Calendar Number 1755, Senator Bruno moves to
12 discharge, from the Committee on Rules,
13 Assembly Bill Number 8336 and substitute it
14 for the identical Senate Bill Number 5486,
15 Third Reading Calendar 1755.

16 ACTING PRESIDENT MEIER:
17 Substitution ordered.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 1755, by Member of the Assembly John, Assembly
21 Print Number 8336, an act to amend the Labor
22 Law.

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

25 Read the last section.

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

3 ACTING PRESIDENT MEIER: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 59.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1756, by the Senate Committee on Rules, Senate
11 Print Number 5487, an act to amend the Civil
12 Service Law.

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

15 Read the last section.

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

18 ACTING PRESIDENT MEIER: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 59.

22 ACTING PRESIDENT MEIER: The bill
23 is passed.

24 THE SECRETARY: In relation to
25 Calendar Number 1758, Senator Fuschillo moves

1 to discharge, from the Committee on Rules,
2 Assembly Bill Number 8381A and substitute it
3 for the identical Senate Bill Number 5602,
4 Third Reading Calendar 1758.

5 ACTING PRESIDENT MEIER:
6 Substitution ordered.

7 The Secretary will read.

8 THE SECRETARY: Calendar Number
9 1758, by Member of the Assembly Gianaris,
10 Assembly Print Number 8381A, an act to amend
11 the General Business Law and the Arts and
12 Cultural Affairs Law.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

15 THE SECRETARY: Section 4. This
16 act shall take effect on the 80th day.

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 59.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1760, by Senator Johnson, Senate Print 5650A,
25 an act to amend the Environmental Conservation

1 Law.

2 ACTING PRESIDENT MEIER: Read the
3 last section.

4 THE SECRETARY: Section 3. This
5 act shall take effect on the same date as the
6 Atlantic States Marine Fisheries Commission.

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 57. Nays,
11 2. Senators Duane and LaValle recorded in the
12 negative.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1764, by Senator Maziarz, Senate Print 5719,
17 an act to amend the General Business Law.

18 ACTING PRESIDENT MEIER: Read the
19 last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect April 1, 2006.

22 SENATOR DIAZ: Call the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 58. Nays,
25 1. Senator Meier recorded in the negative.

1 ACTING PRESIDENT MEIER: The bill
2 is passed.

3 THE SECRETARY: In relation to
4 Calendar Number 1764, Senators Meier and
5 Maltese recorded in the negative.

6 Ayes, 57. Nays, 2.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1765, by Senator Larkin, Senate Print 5724, an
11 act to amend the Racing, Pari-Mutuel Wagering
12 and Breeding Law.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 58. Nays,
21 1. Senator Duane recorded in the negative.

22 ACTING PRESIDENT MEIER: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 1768, by Senator Padavan, Senate Print 5750,

1 an act to amend the Real Property Tax Law.

2 ACTING PRESIDENT MEIER: Read the
3 last section.

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

6 ACTING PRESIDENT MEIER: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 59.

10 ACTING PRESIDENT MEIER: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 1769, by Senator Farley, Senate Print 5758, an
14 act in relation to affecting the health
15 insurance benefits.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT MEIER: Senator
24 Farley, to explain his vote.

25 SENATOR FARLEY: To explain my

1 vote very quickly.

2 This is a very significant bill
3 that protects the health insurance of our
4 retired public employees, and I applaud my
5 colleagues for supporting it. It's a bill
6 that is one of the major priorities of all
7 retired people in this state that work in
8 public service.

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

11 Announce the results.

12 THE SECRETARY: Ayes, 59.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: In relation to
16 Calendar Number 1770, Senator Golden moves to
17 discharge, from the Committee on Rules,
18 Assembly Bill Number 8903 and substitute it
19 for the identical Senate Bill Number 5764,
20 Third Reading Calendar 1770.

21 ACTING PRESIDENT MEIER:
22 Substitution ordered.

23 The Secretary will read.

24 THE SECRETARY: Calendar Number
25 1770, by the Assembly Committee on Rules,

1 Assembly Print Number 8903, an act to amend
2 the Agriculture and Markets Law.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 59.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1771, by Senator Golden, Senate Print 5766, an
15 act to amend the Penal Law.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 59.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1772, by Senator Duane, Senate Print 5772, an
3 act to amend the Criminal Procedure Law.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT MEIER: Senator
12 Maziarz, to explain his vote.

13 SENATOR MAZIARZ: Thank you, Mr.
14 President. Just to explain my vote.

15 I was going to lay this bill aside,
16 as I had many questions about it. But in the
17 interests of time, and this being the
18 second-to-last day of session, I just want to
19 explain my vote and say that I was
20 disappointed with what little information I
21 could find about this bill in the bill memo as
22 to any hearings that were held throughout the
23 State of New York on this particular bill,
24 what the position is of the New York State Bar
25 Association on this rather dramatic change to

1 the Criminal Procedure Law, or what the
2 position was of the New York State District
3 Attorney's Office.

4 But despite those omissions, Mr.
5 President, I am going to be voting in favor of
6 this bill. Thank you.

7 ACTING PRESIDENT MEIER: Senator
8 Maziarz will be recorded in the affirmative.

9 What a surprise. Senator Duane, to
10 explain his vote.

11 (Laughter.)

12 SENATOR DUANE: Thank you, Mr.
13 President.

14 Despite what just happened and
15 ruined my plans for sneaking this bill
16 through, I'm very happy that we're getting
17 this bill accomplished today. And my thanks
18 to members on both sides of the aisle.

19 Thank you very much.

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

22 The Secretary will announce the
23 results.

24 THE SECRETARY: Ayes, 59.

25 ACTING PRESIDENT MEIER: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 1773, by Senator Padavan, Senate Print 5818,
4 an act authorizing the leasing of certain
5 parkland.

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

8 Read the last section.

9 THE SECRETARY: Section 8. This
10 act shall take effect immediately.

11 ACTING PRESIDENT MEIER: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 59.

15 ACTING PRESIDENT MEIER: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1774, by Senator Fuschillo, Senate Print 5827,
19 an act to amend a chapter of the Laws of 2005.

20 ACTING PRESIDENT MEIER: Read the
21 last section.

22 THE SECRETARY: Section 8. This
23 act shall take effect on the same date and in
24 the same manner as a chapter of the Laws of
25 2005.

1 ACTING PRESIDENT MEIER: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 59.

5 ACTING PRESIDENT MEIER: The bill
6 is passed.

7 Senator Fuschillo, that completes
8 Supplemental Calendar A.

9 SENATOR FUSCHILLO: Mr.
10 President, will you please take up the
11 supplemental active list.

12 ACTING PRESIDENT MEIER: The
13 Secretary will conduct the noncontroversial
14 reading of the supplemental active list.

15 THE SECRETARY: Calendar Number
16 645, by Member of the Assembly Abbate,
17 Assembly Print Number 7187, an act to repeal
18 paragraph (e) of subdivision 4 of Section 209
19 of the Civil Service Law.

20 ACTING PRESIDENT MEIER: Read the
21 last section.

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

24 ACTING PRESIDENT MEIER: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 59.

3 ACTING PRESIDENT MEIER: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 701, by Senator Bonacic --

7 SENATOR SCHNEIDERMAN: Lay it
8 aside.

9 ACTING PRESIDENT MEIER: Lay the
10 bill aside.

11 THE SECRETARY: Calendar Number
12 869, by Senator DeFrancisco, Senate Print
13 5062, an act to amend the Estates, Powers and
14 Trusts Law.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

17 THE SECRETARY: Section 2. This
18 act shall take effect on the same date as a
19 chapter of the Laws of 2005.

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 59.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 897, by Senator DeFrancisco, Senate Print
3 4308A, an act to amend Chapter 367 of the Laws
4 of 1999.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

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

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 59.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 964, by Senator LaValle, Senate Print 5166, an
17 act to authorize the Independent Group Home
18 Living Program, Inc.

19 ACTING PRESIDENT MEIER: Read the
20 last section.

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

23 ACTING PRESIDENT MEIER: Call the
24 roll.

25 (The Secretary called the roll.)

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

3 ACTING PRESIDENT MEIER: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 1079, by Member of the Assembly Weinstein,
7 Assembly Print Number 6142A, an act to amend
8 the Retirement and Social Security Law.

9 ACTING PRESIDENT MEIER: Read the
10 last section.

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

13 ACTING PRESIDENT MEIER: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 59.

17 ACTING PRESIDENT MEIER: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 1180, by Member of the Assembly Pheffer,
21 Assembly Print Number 75A, an act to amend the
22 General Business Law.

23 ACTING PRESIDENT MEIER: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the first of
2 November.

3 ACTING PRESIDENT MEIER: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 59.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1214, by Member of the Assembly Brodsky,
11 Assembly Print Number 5618, an act to amend
12 Chapter 103 of the Laws of 2004.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 59.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1233, by Senator Marcellino, Senate Print
25 5348, an act to amend the Education Law and

1 the Administrative Code of the City of
2 New York.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 59.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1272, by Senator Saland, Senate Print 5415, an
15 act to amend Chapter 425 of the Laws of 2002.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 SENATOR DUANE: Lay it aside.

21 ACTING PRESIDENT MEIER: Lay the
22 bill aside.

23 THE SECRETARY: Calendar Number
24 1304, substituted earlier today by Member of
25 the Assembly Brennan, Assembly Print Number

1 7878B, an act to amend the Mental Hygiene Law
2 and the Education Law.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 59.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1481, by the Senate Committee on Rules, Senate
15 Print Number 5545, an act to amend the Tax
16 Law.

17 ACTING PRESIDENT MEIER: Read the
18 last section.

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

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 59.

25 ACTING PRESIDENT MEIER: The bill

1 is passed.

2 Senator Fuschillo, that completes
3 the noncontroversial reading of the
4 supplemental active list.

5 SENATOR FUSCHILLO: Mr.
6 President, thank you. There will be an
7 immediate meeting of the Rules Committee in
8 the Majority Conference Room.

9 The Senate will stand at ease.

10 ACTING PRESIDENT MEIER:
11 Immediate meeting of the Senate Rules
12 Committee in the Majority Conference Room.

13 The Senate will stand at ease
14 pending the report.

15 (Whereupon, the Senate stood at
16 ease at 2:43 p.m.)

17 (Whereupon, the Senate reconvened
18 at 3:02 p.m.)

19 ACTING PRESIDENT MEIER: Senator
20 Fuschillo.

21 SENATOR FUSCHILLO: Mr.
22 President, are there any substitutions at the
23 desk?

24 ACTING PRESIDENT MEIER: Yes,
25 there are.

1 The Secretary will read the
2 substitutions.

3 THE SECRETARY: On page 13,
4 Senator Nozzolio moves to discharge, from the
5 Committee on Rules, Assembly Bill Number 6871B
6 and substitute it for the identical Senate
7 Bill Number 1567B, Third Reading Calendar 478.

8 On page 21, Senator Wright moves to
9 discharge, from the Committee on Rules,
10 Assembly Bill Number 5969 and substitute it
11 for the identical Senate Bill Number 3519,
12 Third Reading Calendar 743.

13 On page 21, Senator Padavan moves
14 to discharge, from the Committee on Rules,
15 Assembly Bill Number 7384A and substitute it
16 for the identical Senate Bill Number 3483A,
17 Third Reading Calendar 756.

18 On page 27, Senator DeFrancisco
19 moves to discharge, from the Committee on
20 Rules, Assembly Bill Number 7255B and
21 substitute it for the identical Senate Bill
22 Number 4854A, Third Reading Calendar 867.

23 On page 42, Senator Morahan moves
24 to discharge, from the Committee on Rules,
25 Assembly Bill Number 7555 and substitute it

1 for the identical Senate Bill Number 3840A,
2 Third Reading Calendar 1283.

3 On page 44, Senator Diaz moves to
4 discharge, from the Committee on Rules,
5 Assembly Bill Number 4433A and substitute it
6 for the identical Senate Bill Number 2234A,
7 Third Reading Calendar 1407.

8 And on page 47, Senator Robach
9 moves to discharge, from the Committee on
10 Rules, Assembly Bill Number 7608A and
11 substitute it for the identical Senate Bill
12 Number 4157B, Third Reading Calendar 1673.

13 ACTING PRESIDENT MEIER:
14 Substitutions ordered.

15 Senator Fuschillo.

16 SENATOR FUSCHILLO: Mr.
17 President, will you please return to the
18 reports of standing committees. I believe
19 there's a report of the Rules Committee.

20 ACTING PRESIDENT MEIER: Reports
21 of standing committees.

22 The Secretary will read the report
23 of the Rules Committee.

24 THE SECRETARY: Senator Bruno,
25 from the Committee on Rules, reports the

1 following bills:

2 Senate Print 1081, by Senator
3 Dilan, an act authorizing the City of
4 New York;

5 2706, by Senator M. Smith, an act
6 to authorizing the City of New York;

7 5606, by Senator Hannon, an act to
8 amend the Public Health Law;

9 5712, by Senator Robach, an act to
10 amend the Retirement and Social Security Law;

11 5740, by Senator Nozzolio, an act
12 to amend the Real Property Tax Law;

13 5744, by Senator DeFrancisco, an
14 act to amend the Judiciary Law;

15 5748, by Senator Maziarz, an act to
16 amend the Labor Law;

17 5754, by Senator Meier, an act to
18 amend the Domestic Relations Law;

19 5769, by the Senate Committee on
20 Rules, an act to amend the Insurance Law;

21 5770, by the Senate Committee on
22 Rules, an act to amend Chapter 650 of the Laws
23 of 1998;

24 5774, by Senator Little, an act to
25 amend the Labor Law;

1 5775, by Senator Balboni, an act
2 authorizing the Commissioner of General
3 Services;

4 5786, by Senator Marcellino, an act
5 to amend the Environmental Conservation Law;

6 5789, by the Senate Committee on
7 Rules, an act to amend the Retirement and
8 Social Security Law;

9 5791, by Senator Little, an act to
10 enact;

11 5793, by Senator LaValle, an act in
12 relation to the implementation;

13 5801, by Senator Johnson, an act to
14 amend the Insurance Law;

15 5803, by Senator Hannon, an act to
16 amend the Surrogate's Court Procedure Act;

17 5804, by Senator Golden, an act to
18 amend the Social Services Law;

19 5810A, by Senator Golden, an act to
20 amend the Social Services Law;

21 5811, by Senator Hannon, an act to
22 amend the Tax Law;

23 5812, by the Senate Committee on
24 Rules, an act to amend Chapter 179 of the Laws
25 of 2000;

1 5817, by Senator Saland, an act to
2 amend the Education Law;

3 5823, by Senator Saland, an act to
4 grant;

5 5830, by Senator Trunzo, an act to
6 amend the Criminal Procedure Law;

7 5831, by Senator Skelos, an act to
8 amend the Criminal Procedure Law;

9 5833, by Senator Marcellino, an act
10 to amend the Environmental Conservation Law;

11 5834, by Senator Wright, an act to
12 amend the Social Services Law;

13 5838, by Senator Rath, an act to
14 amend the Penal Law;

15 5842, by Senator Seward, an act to
16 amend the Insurance Law;

17 5843, by Senator Fuschillo, an act
18 to amend a chapter of the Laws of 2005;

19 5851, by Senator Robach, an act
20 directing the state comptroller;

21 5858, by Senator Rath, an act
22 relating to the payment;

23 5859, by Senator Morahan, an act to
24 authorize;

25 5863, by Senator Golden, an act in

1 relation;

2 5873, by Senator Winner, an act to
3 amend the Legislative Law;

4 5888, by Senator Seward, an act to
5 amend the Insurance Law;

6 And Senate Print 5897, by Senator
7 Skelos, an act to amend the General Business
8 Law.

9 All bills ordered direct to third
10 reading.

11 ACTING PRESIDENT MEIER: Senator
12 Fuschillo.

13 SENATOR FUSCHILLO: Move to
14 accept the report.

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

18 (Response of "Aye.")

19 ACTING PRESIDENT MEIER: Those
20 opposed, nay.

21 (No response.)

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

24 Senator Fuschillo.

25 SENATOR FUSCHILLO: Mr.

1 President, please return to the controversial
2 reading of the supplemental active list and
3 take up Calendar Number 701.

4 ACTING PRESIDENT MEIER: The
5 Secretary will read Calendar 701 from the
6 supplemental active list.

7 The Secretary will ring the bell.
8 Members should be aware that we're on the
9 controversial list.

10 The Secretary will read Calendar
11 701.

12 THE SECRETARY: Calendar Number
13 701, by Senator Bonacic, Senate Print 265, an
14 act to amend the Environmental Conservation
15 Law.

16 SENATOR SCHNEIDERMAN:
17 Explanation.

18 ACTING PRESIDENT MEIER: Senator
19 Bonacic, Senator Schneiderman has requested an
20 explanation of Calendar 701.

21 SENATOR BONACIC: This bill
22 requires that city-owned lands in the
23 watershed area, which are lands in Delaware,
24 Greene, Schoharie, Sullivan, and Ulster
25 County, be open to recreational purposes

1 similar to those allowed on state lands.

2 This emanates out of a watershed
3 agreement on January 21, 1997, an agreement
4 that was signed by 95 different parties,
5 including 72 towns and villages in several
6 counties.

7 This bill does not require the DEP
8 lands to be opened for recreation where there
9 is some safety, homeland security or related
10 to water supply protection.

11 The reason we need this bill is
12 that the city is spending \$250 million a year
13 in my Senate district and in other adjoining
14 counties, and they're restricting their lands
15 to recreational uses. And under the watershed
16 agreement, they were required to allow the
17 same historical recreation activities that had
18 existed prior to the watershed agreement of
19 1997.

20 ACTING PRESIDENT MEIER: Senator
21 Schneiderman.

22 SENATOR SCHNEIDERMAN: Thank you.
23 Through you, Mr. President, if the sponsor
24 would yield for a question.

25 ACTING PRESIDENT MEIER: Senator

1 Bonacic, do you yield?

2 SENATOR BONACIC: Yes, I do.

3 ACTING PRESIDENT MEIER: The
4 sponsor yields.

5 SENATOR SCHNEIDERMAN: Thank you.

6 I just want to clarify a couple of
7 things about this bill. In addition to
8 imposing the requirements -- this is about the
9 land around the watershed that protects the
10 water supply for the City of New York.

11 In addition to requiring that if
12 the city purchased new land it make it
13 available for recreational use similar to the
14 adjoining land, or similar land in the same
15 area, that the City of New York is going to be
16 required to go back, within 90 days or the
17 effective date of this bill, and pass new
18 regulations -- and I'm reading now from
19 Section 4 of the bill -- to ensure that the
20 land is the same -- land already owned by the
21 city has the same recreational uses as state
22 lands which are nearby geographically and have
23 similar topography.

24 Is that not correct?

25 SENATOR BONACIC: If the city

1 doesn't do this, then a petitioner could
2 petition the DEC to force the city to do this.

3 SENATOR SCHNEIDERMAN: So through
4 you, Mr. President --

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

7 SENATOR BONACIC: Yes. Yes.

8 ACTING PRESIDENT MEIER: The
9 sponsor yields.

10 SENATOR SCHNEIDERMAN: So this
11 imposes a requirement on any future purchases
12 of land, but it also provides this 90-day
13 window that requires the city to go back and
14 pass regulations on all preexisting purchases
15 of land.

16 SENATOR BONACIC: Yes.

17 SENATOR SCHNEIDERMAN: Thank you,
18 Mr. President. Thank the sponsor.

19 On the bill.

20 ACTING PRESIDENT MEIER: Senator
21 Schneiderman, on the bill.

22 SENATOR SCHNEIDERMAN: This is a
23 piece of legislation that I think tampers with
24 a very delicate balance that has been achieved
25 and was achieved through the memorandum of

1 agreement that Senator Bonacic referred to.

2 This tampers with that balance.

3 Right now we have an investment by
4 the City of New York of \$1 billion in the most
5 critical resource which sustains our city,
6 which sustains the economic engine of our
7 state, which is the water supply. This is one
8 of the great accomplishments of the 19th
9 century in terms of science, engineering and
10 politics. There are -- every year the city
11 pays more than \$80 million in local property
12 taxes in watershed areas.

13 But because of the need to protect
14 this aquifer and prevent us from having to
15 invest much more money in filtration plants,
16 the city has, on an ongoing basis, acquired
17 additional land around the protected area.

18 What this bill will do is require
19 the city, unless the city makes an affirmative
20 showing to justify why it shouldn't do it, to
21 open up the land that is intended to be
22 pristine and to protect the aquifer to
23 recreational use.

24 In my view, this contravenes both
25 the letter and the spirit of the memorandum of

1 understanding. And quite honestly, the
2 bill -- you know, I understand that people in
3 that area may want to use this property. But
4 I think the whole idea of the memorandum of
5 agreement is that there is some property there
6 they simply cannot use because we have to
7 protect the aquifer, we have to protect the
8 purity from pollution. But more essentially,
9 now, is that we have to ensure that it is
10 secure.

11 This bill states land uses may not
12 be identical if the purchaser can show with
13 good cause a safety or security reason for not
14 allowing recreational use. Well, I would
15 respectfully submit that the research done by
16 Riverkeeper, the Riverkeeper report issued in
17 1999 showing the vulnerability of the water
18 supply, and additional information that has
19 been developed since September 11th, has shown
20 that our water supply is extraordinarily
21 vulnerable.

22 And were it not for the fact that
23 we're late in the session and we're all trying
24 to move along quickly, I would ask Senator
25 Balboni to expound on this issue. But I'm

1 going to try and do it briefly myself.

2 We have security concerns. And in
3 my view, the City of New York should not be
4 required on a piecemeal basis to identify each
5 separate piece of land and what the specific
6 security issue is there, what the specific
7 pollution protection issue is there.

8 I don't think this is a bill that
9 strikes a fair balance between the needs to
10 preserve the purity and the safety of our
11 water supply and the needs of the residents of
12 the area -- who admittedly put up with a
13 burden, you know, and suffer a burden. They
14 do get benefits pursuant to the memorandum of
15 agreement.

16 This breaks the balance of the
17 memorandum of agreement, in my view. And
18 everyone -- certainly, people from the city
19 should be opposed to this. But I think anyone
20 who cares about the security of our greatest
21 city and our economic development, the
22 economic development in downstate New York, I
23 think should also oppose this.

24 I would also note that there's a
25 lot of land that the city has acquired that

1 was never used for recreational purposes.
2 Some of it was just fallow land or
3 decommissioned agricultural land. This would
4 require the city to go back and make available
5 for recreational purposes land that was never
6 even used for recreation.

7 So I think it's an unfair bill. I
8 think it tilts against the city. I think it
9 does not fairly address the security and
10 environmental concerns. And I would urge all
11 of my colleagues to vote against, and I'd urge
12 the sponsor that we need to go back to the
13 drawing board if there are needs for
14 adjustments to the memorandum of agreement.

15 I think this really goes far too
16 far in the direction of putting a burden on
17 the city and exposing all the residents of the
18 city to the potential of pollution, the
19 potential of security problems, and unfairly
20 requires the government of New York City to
21 justify, on a piecemeal basis, every possible
22 piece of property and why it shouldn't be used
23 for recreational purposes.

24 In my view, the requirement that
25 the city show a safety or security reason has

1 been met with regard to all of the land around
2 the aquifer. And I think that, if anything,
3 the burden should be in the opposite
4 direction.

5 So I will be voting no on this, Mr.
6 President. I understand the sponsor's intent,
7 and I appreciate the issues that are raised by
8 his constituents about this. But this bill is
9 not the way to solve the problem.

10 Thank you.

11 ACTING PRESIDENT MEIER: Senator
12 Padavan.

13 SENATOR PADAVAN: Yes, Mr.
14 President, very briefly.

15 With all due respect to the sponsor
16 and his intention, I think you should all
17 understand, for those of you who may not be
18 familiar with it, that these reservoirs, the
19 properties in and about these reservoirs, are
20 open to recreation. You can go in there and
21 fish, you can have a boat from which to fish,
22 you could hunt. However, you have to get a
23 permit from DEP. And it's a very simple
24 process. You can do it by mail.

25 So they are imposing some

1 restrictions. You just don't walk in there
2 and do the things that you might do in a state
3 park -- Harriman State Park or any other state
4 park -- for the very reasons that have been
5 articulated. These are reservoirs, critical
6 to the life of the City of New York and other
7 areas that acquire their drinking water from
8 those reservoirs.

9 As far as I know, this opportunity
10 to get a permit to fish and hunt and boat in
11 these reservoirs continues as of this day. It
12 has not been eliminated. And as far as I
13 know, it will continue under the agreements
14 that were referred to.

15 You should also understand that
16 these reservoirs and the surrounding areas are
17 maintained to a reasonable degree, are
18 improved upon by the City of New York DEP as
19 the property owner. In some cases, they would
20 not be as desirable a place to fish in. I
21 know; I've fished in a number of them.

22 I've fished in Ashokan, I think is
23 how you pronounce it. I've fished in
24 Schoharie. I've fished in Pepacton. And
25 because of what they are and how they are

1 kept, they were desirable places to go to.
2 And I've been doing that since I was 14 years
3 of age. And, I'm sure, so have thousands of
4 others in the past and in the future.

5 So you should understand that when
6 you are considering what we're dealing with
7 here today.

8 I don't believe it's necessary to
9 pass this bill to allow people in these
10 localities, local residents, to continue to
11 have the benefit of fishing and hunting and
12 boating in these properties.

13 ACTING PRESIDENT MEIER: Senator
14 Sabini.

15 SENATOR SABINI: Thank you, Mr.
16 President. If the sponsor would yield for a
17 question.

18 SENATOR BONACIC: Yes.

19 ACTING PRESIDENT MEIER: The
20 sponsor yields.

21 SENATOR SABINI: Through you, Mr.
22 President. I believe I heard the sponsor say
23 that -- and maybe I misheard, that the bill
24 was necessary to continue to implement the
25 memorandum of agreement.

1 SENATOR BONACIC: The watershed
2 agreement of 1997, as part of the agreement --
3 and I have the language with me -- it said
4 that the city shall allow historical
5 recreational uses.

6 The problem is they do not allow
7 historical recreational uses. And the
8 barometer of the historical recreation uses is
9 what the state lands have, in compatible
10 property next to the city's lands, that have
11 been in existence over a hundred years.

12 Now the city comes up, and they do
13 parcel by parcel, and there's no consistent
14 policy as to what recreation uses you can do
15 on each of those lands.

16 And I'll just give you a perfect
17 example: hunting. You can hunt white doe,
18 deer. That's it. But on state lands, you can
19 hunt everything. You can hunt bear, muskrat,
20 rabbit, deer. So when they use the broad
21 category of allowing hunting, that is -- it's
22 only a small percentage of what the state
23 allows.

24 And why is this important? I'll
25 tell you why this is important. Forty-five

1 thousand acres is reservoir land, the waters.
2 They are entitled to be protected. We don't
3 want anybody going near the waters. And under
4 this bill, the DEC is required to consult with
5 homeland security when they lay out the
6 buffers on this city land, where you can go
7 and don't go.

8 What other city or municipality
9 anywhere in this nation, outside of its city
10 lines, can go buy \$250 million worth of
11 property and tell the people up there, You
12 basically are restricted in using it, when the
13 people up there have been the protectors of
14 the environment, have been watching the water,
15 and are the eyes and ears in terms of security
16 of that region?

17 SENATOR SABINI: Mr. President,
18 through you, would the sponsor continue to
19 yield.

20 SENATOR BONACIC: Yes.

21 SENATOR SABINI: It just seems to
22 me that the 1997 memorandum of agreement,
23 which I helped work on when I was a member of
24 the Environmental Protection Committee of the
25 New York City Council, that this was known

1 then when it was signed by people in the
2 Catskill region, that there would be
3 restrictions on certain parts of the land to
4 protect the integrity of the water, in light
5 of September 11, 2001, to protect the
6 integrity of our homeland security around the
7 water system, and that this is nothing new.

8 And now what this bill seeks to do
9 is to take land that was acquired that had
10 never been recreated on before -- and if I'm
11 wrong, please tell me. Because some of this
12 land had not been recreated on before; it was
13 someone's farm, someone's estate, someone's
14 home -- and now say, this is open season,
15 everyone can go hunt and fish on it. And even
16 though it was never intended for recreational
17 purposes, we're now saying, well, everything
18 that the city owns is now going to be, in
19 effect, like a state park.

20 And I have a big problem with that,
21 as does the city. I mean, are you saying that
22 this is something that was understood in the
23 memorandum of agreement in '97?

24 SENATOR BONACIC: The purpose of
25 this agreement was to avoid litigation and to

1 help the city avoid building a water
2 filtration plant that would cost city
3 taxpayers between \$8 billion and \$10 billion.

4 So this consensus agreement was put
5 together. And they used language -- and the
6 people who were a party to it, when they said
7 historical recreation activities, they thought
8 that was easy to show. Look what the state
9 has been doing for over 90 years.

10 But the city comes up and -- I'm
11 only talking now of lands that are comparable
12 to the state lands. Not near the water.
13 Anything near the water can be restricted.
14 And in terms of fishing, you can use a rowboat
15 and you can do kayaking, but you can't do any
16 motorized boating. And we don't have a
17 problem with that.

18 What they have done is they're
19 going and buying up all of the land, as much
20 as they can, in the name of water protection.
21 And then they make it a wasteland in terms of
22 attracting tourism by diminishing the
23 recreational activities that bring the people
24 up there that are enjoyed on state-owned
25 lands.

1 SENATOR SABINI: Mr. President,
2 if the sponsor would continue to yield.

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

5 SENATOR BONACIC: I do.

6 ACTING PRESIDENT MEIER: The
7 sponsor yields.

8 SENATOR SABINI: Is it the
9 sponsor's assertion that the land is being
10 sold under duress?

11 I mean, it's my recollection,
12 having worked on this a long time, that it was
13 a very strong effort to get willing
14 buyer-willing seller and to get community
15 agreement on this.

16 And that the residents of the
17 Catskills region who get, and they deserve,
18 free water treatment for their sewage, free
19 water supply from the City of New York -- you
20 have the benefit of our Art Commission
21 decorating the water treatment facilities that
22 I see on Route 28 that frankly are an
23 embarrassment, because the Art Commission
24 dictates what the wainscotting has to look
25 like -- you knew this was the case when the

1 memorandum of understanding was signed.

2 And Senator Schneiderman said it
3 very well, that this will sort of upset the
4 balance, if you will, of a hundred years of
5 animosity, to tip it again and make the
6 balance more, frankly, one that we as
7 residents of the city, have to defend against.

8 I mean, is there something that we
9 didn't know in 1997 that you know today that
10 causes this to happen? Or didn't you know
11 this was going to be the case?

12 SENATOR BONACIC: Absolutely. If
13 this agreement was proposed today, there's no
14 way that any of these counties would sign on
15 to this watershed agreement, because the city
16 did not keep its word in allowing historical
17 recreational activities.

18 What else could it mean but the
19 activities on state lands for a hundred years?
20 What else could it mean?

21 And I will say to you that this
22 agreement is in jeopardy. Because every five
23 years it gets renewed. And they're
24 prepared -- when I say "they," the coalition
25 of towns -- to commence a war chest to go

1 after the city for a breach of the watershed
2 agreement.

3 Do you want me to tell you some
4 other things the city is doing other than
5 this? Because I could share that with you
6 too.

7 SENATOR SABINI: No. No.

8 Thank you, Mr. President.

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

11 Debate is closed, then.

12 The Secretary will sound the bell.

13 Members are asked to return to the
14 chamber for a vote, which will occur shortly.

15 Read the last section.

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

18 ACTING PRESIDENT MEIER: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT MEIER: Senator
22 Bonacic, to explain his vote.

23 SENATOR BONACIC: What I would
24 like to do is just read a letter --

25 ACTING PRESIDENT MEIER: Senator

1 Bonacic has the floor.

2 SENATOR BONACIC: Thank you, Mr.
3 President.

4 I'd like to read a letter to you
5 from a soldier serving in Iraq who comes from
6 Delaware County.

7 He says: "I've received a flyer in
8 the mail regarding the DEP and the historical
9 use of land. I am currently deployed to Iraq
10 as a reservist, and I'm home on leave, and I
11 saw your notice.

12 "I'm a deer hunter and a bird
13 hunter. This issue has been a sore spot for
14 me for some time. One of the best pieces of
15 partridge cover in Roxbury was purchased by
16 the DEP and is no longer open to bird hunting.
17 I hunted it for years, along with several
18 friends of mine. It is located in the West
19 Settlement. It breaks my heart to drive past
20 it all the time and not being able to hunt on
21 it. I am very interested in being part of
22 this fight.

23 "Brian Perazone, Commander from
24 Iraq."

25 Thank you, Mr. President.

1 ACTING PRESIDENT MEIER: Senator
2 Bonacic will be recorded in the affirmative.

3 Senator Sabini, to explain his
4 vote.

5 SENATOR SABINI: Thank you, Mr.
6 President.

7 You know, the historic tension
8 between those in the Catskill region and those
9 who use the water system in New York City,
10 which is considered one of the modern
11 miracles, where we get all our water,
12 basically through gravity, from Ulster and
13 Greene and counties like it, there's been
14 tension for a hundred years, and we know that.

15 And the city, over the last few
16 years, worked very hard to try and quell that
17 tension and be partners with people in that
18 region. I unfortunately think that it's -- it
19 makes for good -- good grist for the mill, if
20 you will, in those areas to continue to rail
21 about New York City and the water supply. It
22 makes for good water-cooler chatter.

23 And while I just heard the letter
24 the sponsor read, that's nice that -- and
25 unfortunate that this soldier can't hunt where

1 he wants to hunt. But I would submit to you
2 that the water supply of I believe it's
3 11 million people who at some point touch
4 New York City's water, the sanctity of that
5 water supply, the purity of it, the security
6 of it -- because we hear so much in this
7 chamber about homeland security -- should take
8 a little precedence over whether or not
9 someone can quail-hunt where they used to or
10 whether or not that was even legal hunting
11 then because it may have been someone's land.
12 I don't know.

13 But a balance has to be -- has been
14 struck, I think, and we are playing with a
15 very delicate ecosystem there. There is a
16 reason we bought all the land in that
17 watershed area, and there's a reason we have
18 to keep it pristine. I'll be voting in the
19 negative.

20 Thank you.

21 ACTING PRESIDENT MEIER: Senator
22 Sabini will be recorded in the negative.

23 Senator Balboni, to explain his
24 vote.

25 SENATOR BALBONI: Mr. President,

1 I would hope that everybody who votes on this
2 bill had had the opportunity, at least once in
3 their lives, to go up the watershed. It's one
4 of those issues where if you haven't seen it,
5 it's hard to comprehend it.

6 Several years ago, in 1999, the
7 Riverkeeper group came out with a report
8 citing security concerns about the safety of
9 the watershed and the vulnerability to weapons
10 of mass destruction. That actually was the
11 moment which I became involved in the whole
12 issue of weapons of mass destruction.

13 And at the time, a guy by the name
14 of Jerry Howard came up to Albany and sat and
15 briefed us on this issue. What became very
16 clear was that the size of the watershed was
17 its protection, that something on its
18 dilution, the millions and millions of gallons
19 of water, really prohibited any type of attack
20 against the system at that point.

21 So from a security perspective,
22 that's really not the concern. It's much more
23 concern in the way that the water is
24 transmitted to New York City. Enough said
25 about that.

1 Ladies and gentlemen, if you travel
2 through this watershed area, you're struck by
3 its beauty, you're struck by its isolation,
4 and you're struck by the fact that there are
5 so many people there who could walk in and
6 among the waterways, travel through them if
7 they wanted to. There is very little
8 enforcement in terms of people getting out on
9 the actual waterways. And so this whole thing
10 about security is really, I think, a red
11 herring. Not to be punny.

12 We need to give some more
13 flexibility in how the communities who live
14 around the watershed live there. And I think,
15 frankly, there are greater threats to the
16 purity of the water in the watershed now that
17 are being perpetrated outside of this
18 particular issue. And I wish the Attorney
19 General, frankly, would pay a little bit more
20 attention to that part of the world and to see
21 what's going on now, as opposed to opposing
22 the issue like this.

23 I'm going to vote aye, Mr.
24 President. Thank you.

25 ACTING PRESIDENT MEIER: Senator

1 Balboni will be recorded in the affirmative.

2 Senator Schneiderman, to explain
3 his vote.

4 SENATOR SCHNEIDERMAN: Well,
5 thank you. And I do think it's important to
6 share our statewide perspectives on this
7 issue.

8 I would urge my colleague, who I
9 know sponsors this bill with absolute
10 sincerity, that, as Senator Sabini said, we
11 have a very delicate balance in this state.
12 And we see the tension in this house. And we
13 have a very diverse state. We have the
14 greatest city in the world, an enormous
15 metropolis, dependent for water and for the
16 life of the city on this water supply. And we
17 have vast, beautiful rural areas where people
18 like to hunt partridge, I guess.

19 So the problem is, how do you
20 strike the balance. And I respectfully submit
21 that this piece of legislation goes beyond the
22 bounds of what is necessary. Requiring the
23 City of New York to justify all preexisting
24 land with a set of regulations that have to be
25 passed within 90 days is unreasonable.

1 The City of New York has fiscal
2 problems. We don't buy any land we don't
3 absolutely need. We can't afford it. So this
4 is something that is important. Each piece of
5 land is essential. As Senator Padavan noted,
6 you can come in with a permit.

7 Let's not tamper with a balance
8 that's working pretty well. We have other
9 problems. The people of the City of New York
10 subsidize other parts of the state by
11 approximately \$10 billion a year. We don't
12 complain a lot about it. One thing we do
13 need, though, is our water supply to be
14 protected and for our aquifer to be pure.

15 I appreciate the sponsor's intent.
16 I don't think this bill is going to solve the
17 problem. And I hope we can work on something
18 that's a more moderate compromise between now
19 and the end of next year's session.

20 I'll be voting no. Thank you, Mr.
21 President.

22 ACTING PRESIDENT MEIER: Senator
23 Schneiderman will be recorded in the negative.

24 Senator Seward, to explain his
25 vote.

1 SENATOR SEWARD: Thank you, Mr.
2 President.

3 First of all, I want to commend my
4 colleague Senator Bonacic for taking a
5 leadership role in developing this
6 legislation. Part of my district is included
7 in the counties listed in this bill.

8 And other speakers have referenced
9 the concept of some natural tension between
10 the city, who needs the water, and the upstate
11 counties and the Catskills, who have the water
12 and are supplying that to the city. It is
13 true, there's been tension over the years.

14 And early in Governor Pataki's
15 administration there was a watershed agreement
16 that was reached. It was a really important
17 agreement that was reached. And since that
18 time, however, we have seen DEP and the city
19 move beyond, in our estimation, some of these
20 agreements, buying properties not within the
21 watershed.

22 Now, I know in the small town of
23 Gilboa, in Schoharie County, they bought for
24 \$700,000 the only restaurant in that
25 community, which is now closed. You can't

1 even get a cup of coffee in the town of Gilboa
2 today. So -- and then to just arbitrarily say
3 no hunting, no fishing, without a true process
4 of evaluation.

5 This legislation sets up a process
6 that, if the city truly feels that it should
7 not be allowing, for the benefit of the clean
8 water, hunting and fishing and the other
9 recreational purposes which we're so
10 accustomed to upstate, it's so important to
11 our economy, then let's follow that process
12 and let's vet the issue.

13 So I just want to say to Senator
14 Bonacic: I commend you for coming up with
15 this legislation. We do need to strike a
16 balance. This legislation does that. I vote
17 aye.

18 ACTING PRESIDENT MEIER: Senator
19 Seward will be recorded in the affirmative.

20 The Secretary will announce the
21 results.

22 THE SECRETARY: Those recorded in
23 the negative on Calendar Number 701 are
24 Senators Andrews, Diaz, Dilan, Duane, Golden,
25 Gonzalez, Hassell-Thompson, Klein, L. Krueger,

1 C. Kruger, Maltese, Montgomery, Padavan,
2 Parker, Paterson, Sabini, Savino,
3 Schneiderman, Serrano, A. Smith, M. Smith,
4 Stachowski, Stavisky. Also Senator Connor.
5 Also Senator Brown. Also Senator Oppenheimer.

6 Absent from voting on Calendar 701:
7 Senator Sampson.

8 Ayes, 34. Nays, 26.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 Senator Fuschillo.

12 SENATOR FUSCHILLO: Mr.
13 President, will you please take up
14 Supplemental Calendar B.

15 ACTING PRESIDENT MEIER: The
16 Secretary will conduct the noncontroversial
17 reading of Supplemental Calendar B.

18 THE SECRETARY: Calendar Number
19 1759, by Senator Dilan, Senate Print 1081, an
20 act authorizing the City of New York to
21 reconvey its interest.

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

24 Read the last section.

25 THE SECRETARY: Section 5. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT MEIER: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 1776, by Senator M. Smith, Senate Print 2706,
10 an act authorizing the City of New York to
11 reconvey its interest.

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

14 Read the last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1777, by Senator Hannon, Senate Print 5606, an
25 act to amend the Public Health Law.

1 SENATOR MONTGOMERY: Lay it
2 aside.

3 ACTING PRESIDENT MEIER: Lay the
4 bill aside.

5 THE SECRETARY: In relation to
6 Calendar Number 1779, Senator Nozzolio moves
7 to discharge, from the Committee on Rules,
8 Assembly Bill Number 4742A and substitute it
9 for the identical Senate Bill Number 5740,
10 Third Reading Calendar 1779.

11 ACTING PRESIDENT MEIER:
12 Substitution ordered.

13 The Secretary will read.

14 THE SECRETARY: Calendar Number
15 1779, by Member of the Assembly Cusick,
16 Assembly Print Number 4742A, an act to amend
17 the Real Property Tax Law.

18 ACTING PRESIDENT MEIER: Read the
19 last section.

20 THE SECRETARY: Section 3. This
21 act shall take effect January 2, 2006.

22 ACTING PRESIDENT MEIER: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60.

1 ACTING PRESIDENT MEIER: The bill
2 is passed.

3 THE SECRETARY: In relation to
4 Calendar Number 1780, Senator DeFrancisco
5 moves to discharge, from the Committee on
6 Rules, Assembly Bill Number 7561A and
7 substitute it for the identical Senate Bill
8 Number 5744, Third Reading Calendar 1780.

9 ACTING PRESIDENT MEIER:
10 Substitution ordered.

11 The Secretary will read.

12 THE SECRETARY: Calendar Number
13 1780, by Member of the Assembly A. Cohen,
14 Assembly Print Number 7561A, an act to amend
15 the Judiciary Law and others.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 60.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1781, by Senator Maziarz, Senate Print 5748,
3 an act to amend the Labor Law.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 60.

12 ACTING PRESIDENT MEIER: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1782, by Senator Meier, Senate Print 5754, an
16 act to amend the Domestic Relations Law and
17 the Civil Practice Law and Rules.

18 ACTING PRESIDENT MEIER: Read the
19 last section.

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

22 ACTING PRESIDENT MEIER: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60.

1 ACTING PRESIDENT MEIER: The bill
2 is passed.

3 THE SECRETARY: In relation to
4 Calendar Number 1783, Senator Bruno moves to
5 discharge, from the Committee on Rules,
6 Assembly Bill Number 2840A and --

7 SENATOR MONTGOMERY: Lay it
8 aside.

9 ACTING PRESIDENT MEIER: Well,
10 let's substitute it first. Then we'll lay it
11 aside, Senator.

12 THE SECRETARY: -- substitute it
13 for the identical Senate Bill Number 5769,
14 Third Reading Calendar 1783.

15 ACTING PRESIDENT MEIER:
16 Substitution ordered.

17 The Secretary will read.

18 THE SECRETARY: Calendar Number
19 1783, by Member of the Assembly Grannis,
20 Assembly Print Number 2840A, an act to amend
21 the Insurance Law.

22 ACTING PRESIDENT MEIER: The bill
23 is laid aside.

24 THE SECRETARY: In relation to
25 Calendar Number 1784, Senator Bruno moves to

1 discharge, from the Committee on Rules,
2 Assembly Bill Number 2843 and substitute it
3 for the identical Senate Bill Number 5770,
4 Third Reading Calendar 1784.

5 ACTING PRESIDENT MEIER:
6 Substitution ordered.

7 The Secretary will read.

8 THE SECRETARY: Calendar Number
9 1784, by Member of the Assembly Grannis,
10 Assembly Print Number 2843, an act to amend
11 Chapter 650 of the Laws of 1998.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 60.

20 ACTING PRESIDENT MEIER: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1785, by Senator Little, Senate Print 5774, an
24 act to amend the Labor Law.

25 ACTING PRESIDENT MEIER: Read the

1 last section.

2 SENATOR DUANE: Lay it aside,
3 please.

4 ACTING PRESIDENT MEIER: Lay the
5 bill aside.

6 THE SECRETARY: Calendar Number
7 1786, by Senator Balboni, Senate Print 5775,
8 an act authorizing the Commissioner of General
9 Services.

10 ACTING PRESIDENT MEIER: Read the
11 last section.

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

14 ACTING PRESIDENT MEIER: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 60.

18 ACTING PRESIDENT MEIER: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1787, by Senator Marcellino, Senate Print
22 5786, an act to amend the Environmental
23 Conservation Law.

24 ACTING PRESIDENT MEIER: Read the
25 last section.

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

3 ACTING PRESIDENT MEIER: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 60.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1788, by the Senate Committee on Rules, Senate
11 Print Number 5789, an act to amend the
12 Retirement and Social Security Law.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1789, by Senator Little, Senate Print 5791, an
25 act to enact the North Country Flood

1 Assessment Relief Act of 2005.

2 ACTING PRESIDENT MEIER: Read the
3 last section.

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

6 ACTING PRESIDENT MEIER: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 60.

10 ACTING PRESIDENT MEIER: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 1790, by Senator LaValle, Senate Print 5793,
14 an act in relation to the implementation of
15 the terms of a written agreement.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 60.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1791, by Senator Johnson, Senate Print 5801,
3 an act to amend the Insurance Law and the
4 Vehicle and Traffic Law.

5 SENATOR MONTGOMERY: Lay it
6 aside.

7 ACTING PRESIDENT MEIER: Lay the
8 bill aside.

9 THE SECRETARY: Calendar Number
10 1792, by Senator Hannon, Senate Print 5803, an
11 act to amend the Surrogate's Court Procedure
12 Act.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1795, by Senator Hannon, Senate Print 5811, an
25 act to amend the Tax Law.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 60.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1796, by the Senate Committee on Rules, Senate
13 Print Number 5812, an act to amend Chapter 179
14 of the Laws of 2000.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

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

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 60.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1798, by Senator Saland, Senate Print 5823, an
2 act to grant Anthony J. Cuomo performance of
3 duty disability retirement benefits.

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

6 Read the last section.

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

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 60.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: In relation to
16 Calendar Number 1804, Senator Seward moves to
17 discharge, from the Committee on Rules,
18 Assembly Bill Number 8513 and substitute it
19 for the identical Senate Bill Number 5842,
20 Third Reading Calendar 1804.

21 ACTING PRESIDENT MEIER:
22 Substitution ordered.

23 The Secretary will read.

24 THE SECRETARY: Calendar Number
25 1804, by Member of the Assembly Grannis,

1 Assembly Print Number 8513, an act to amend
2 the Insurance Law.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 60.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 THE SECRETARY: In relation to
14 Calendar Number 1809, Senator Golden moves to
15 discharge, from the Committee on Rules,
16 Assembly Bill Number 8927 and substitute it
17 for the identical Senate Bill Number 5863,
18 Third Reading Calendar 1809.

19 ACTING PRESIDENT MEIER:
20 Substitution ordered.

21 The Secretary will read.

22 THE SECRETARY: Calendar Number
23 1809, by the Assembly Committee on Rules,
24 Assembly Print Number 8927, an act in relation
25 to the powers of the Hudson River Park Trust.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 60.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: In relation to
12 Calendar Number 1812, Senator Skelos moves to
13 discharge, from the Committee on Rules,
14 Assembly Bill Number 204 and substitute it for
15 the identical Senate Bill Number 5897, Third
16 Reading Calendar 1812.

17 ACTING PRESIDENT MEIER:
18 Substitution ordered.

19 The Secretary will read.

20 THE SECRETARY: Calendar Number
21 1812, by Member of the Assembly Markey,
22 Assembly Print Number 204, an act to amend the
23 General Business Law.

24 ACTING PRESIDENT MEIER: Read the
25 last section.

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

3 ACTING PRESIDENT MEIER: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 59. Nays,
7 1. Senator Maziarz recorded in the negative.

8 ACTING PRESIDENT MEIER: The bill
9 is passed.

10 Senator Fuschillo, that completes
11 the noncontroversial reading of Supplemental
12 Calendar B.

13 SENATOR FUSCHILLO: Mr.
14 President, Calendar Number 1785 was
15 inadvertently laid aside. Will you please
16 take it up.

17 ACTING PRESIDENT MEIER: The
18 Secretary will read Calendar 1785.

19 THE SECRETARY: Calendar Number
20 1785, by Senator Little, Senate Print 5774, an
21 act to amend the Labor Law.

22 ACTING PRESIDENT MEIER: Read the
23 last section.

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

1 ACTING PRESIDENT MEIER: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 60.

5 ACTING PRESIDENT MEIER: The bill
6 is passed.

7 Now, Senator Fuschillo, that
8 completes the noncontroversial reading of the
9 calendar.

10 SENATOR FUSCHILLO: Will you
11 please take up the controversial reading of
12 the calendar, starting with Calendar Number
13 1777.

14 ACTING PRESIDENT MEIER: The
15 Secretary will conduct the controversial
16 reading, beginning with 1777.

17 Ring the bells.

18 SENATOR MONTGOMERY: Explanation.

19 ACTING PRESIDENT MEIER: Just a
20 second, Senator.

21 The Secretary will read.

22 THE SECRETARY: Calendar Number
23 1777, by Senator Hannon, Senate Print 5606, an
24 act to amend the Public Health Law.

25 SENATOR MONTGOMERY: Explanation.

1 ACTING PRESIDENT MEIER: Senator
2 Hannon, an explanation has been requested by
3 Senator Montgomery.

4 SENATOR HANNON: This legislation
5 would update Article 35 of the Public Health
6 Law so that the current practice of nuclear
7 medicine technology and radiography that is
8 being conducted throughout this state would be
9 properly reflected and regulated in the
10 statutes.

11 ACTING PRESIDENT MEIER: Senator
12 Liz Krueger.

13 SENATOR LIZ KRUEGER: Thank you,
14 Mr. President. If the sponsor could please
15 yield.

16 ACTING PRESIDENT MEIER: Senator
17 Hannon, do you yield?

18 SENATOR HANNON: Yes, sir.

19 ACTING PRESIDENT MEIER: The
20 sponsor yields.

21 SENATOR LIZ KRUEGER: Thank you.

22 This would expand the universe of
23 people who could serve the function of
24 injecting -- I'm looking for the exact
25 terminology -- intravenous contrast media into

1 patients. And it says under the authority of
2 a doctor. But what does that mean? Does the
3 physician have to be right there in case
4 something goes wrong but they don't actually
5 have to do the injection? Or do they not
6 actually have to physically be in the presence
7 of the radiology technician?

8 SENATOR HANNON: First of all, it
9 does not expand the actual practice of what's
10 taking place in the hospitals now. It does
11 change what's in the law, but the law is over
12 50 years old.

13 It would require that the physician
14 be in the same facility and not be involved in
15 anything else that would not allow them to
16 respond immediately if there's -- some event
17 were to take place.

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

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

23 SENATOR HANNON: Yes.

24 ACTING PRESIDENT MEIER: The
25 sponsor yields.

1 SENATOR LIZ KRUEGER: Thank you.

2 I'm sorry, in your answer to my
3 last question you pointed out that this is
4 current practice, but it's not legal because
5 the law is 50 years old. Can you clarify
6 that?

7 SENATOR HANNON: Well, it's
8 really not covered. It's really not covered.

9 SENATOR LIZ KRUEGER: It's not
10 covered. Thank you.

11 Mr. President, if the sponsor would
12 please continue to yield.

13 ACTING PRESIDENT MEIER: Senator
14 Hannon, do you yield?

15 SENATOR HANNON: Yes.

16 ACTING PRESIDENT MEIER: The
17 sponsor yields.

18 SENATOR LIZ KRUEGER: Thank you.

19 I know one should not legislate by
20 anecdote, but I know of at least one
21 constituent of mine who -- and perhaps it was
22 because it was the practice at the site, which
23 may not be legal because the law is not
24 up-to-date -- that went it in for a test, was
25 allergic to the contrast media, had a near

1 death experience because of the allergy, and
2 there was not a doctor immediately present and
3 they had to call an ambulance, take them from
4 the off-site location to a hospital.

5 And again, I'm not saying whether
6 it was legal or not. Maybe they were in
7 violation of the current law. But it raises
8 the concern for me that, is this something
9 that nondoctors should be providing? Is this,
10 you know, a category that we shouldn't be
11 expanding the universe of people who can
12 provide the intravenous contrast media but are
13 not qualified as physicians to deal with what
14 hopefully is a rare but apparently not
15 unheard-of medical emergency from an allergy?

16 SENATOR HANNON: Well, two parts
17 to the answer to your question, Senator.

18 First of all, reaction to contrast
19 media is one of the known contraindications.
20 That is something that is done -- the patient
21 is warned of that, they try to screen for
22 that. So while it is rare, it's also
23 something that does happen.

24 Second, to the extent it was done
25 in either a clinic or an office, this is

1 something that we have been concerned with and
2 tried to address in any number of different
3 ways, because it's -- you don't have that
4 emergency room right there. There is a
5 preference, if you could, to do it in the
6 hospital.

7 So to the extent -- so you
8 obviously know, it's being done. What we
9 would now do is set up some procedures to try
10 to regulate it. And to the extent of the
11 specific situation, as I understand it, that
12 you cited, there would have to be a doctor in
13 that clinic or in that office.

14 SENATOR LIZ KRUEGER: Thank you.

15 Mr. President, if the sponsor would
16 yield to an additional question.

17 ACTING PRESIDENT MEIER: Senator
18 Hannon, do you yield?

19 SENATOR HANNON: Yes, Mr.
20 President.

21 ACTING PRESIDENT MEIER: The
22 sponsor yields.

23 SENATOR LIZ KRUEGER: Thank you.

24 So just to repeat, because I was
25 very happy with your last answer, under this

1 change in the law for freestanding
2 radiological sites -- at least in my district,
3 we have many freestanding MRI sites and other
4 radiological testing sites that are not part
5 of a hospital or a clinic. In some cases,
6 they are actually doctor's offices where of
7 course then you would argue a doctor might be.

8 But these freestanding clinics,
9 under your law it would require that there be
10 a doctor on-site and that currently that is
11 not required?

12 SENATOR HANNON: One of the
13 provisions that would cover that would be on
14 page 4 of the bill, under Section 4.

15 SENATOR LIZ KRUEGER: Were you
16 continuing? I didn't want to cut you off.

17 SENATOR HANNON: No, the
18 provisions would be in Subdivision 4, on
19 page 4 of the bill.

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

22 ACTING PRESIDENT MEIER: Senator
23 Krueger, on the bill.

24 SENATOR LIZ KRUEGER: Thank you.
25 I appreciate the sponsor's answers,

1 because it in fact changes my position on the
2 bill.

3 I thought that I would have to be
4 in opposition to this bill because of my
5 concern that we shouldn't be expanding the
6 situation where doctors would not have to be
7 at a physical site when there were
8 technologists administering these types of IV
9 contrast media -- I don't know that you call
10 them medicines, I suppose you call them test
11 media.

12 But in fact, in response to the
13 sponsor's answers to my question that in fact
14 what this bill would do was ensure that a
15 doctor did have to be on-site and therefore
16 would decrease my concern that we are now in a
17 situation where somebody can unknowingly be
18 injected, have an allergic reaction that I
19 believe does occasionally, unfortunately,
20 cause death or near-death experiences, but
21 that with a doctor on-site who would then be
22 hopefully prepared to deal with the emergency
23 situation and trained to do so, that this
24 actually could protect people who currently
25 are having these procedures done without a

1 doctor.

2 So in response to the Senator's
3 answers that this bill provides for a
4 requirement that there's medical personnel
5 on-site, I can support this bill. And I thank
6 him for his answers.

7 Thank you, Mr. President.

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

10 Debate is closed, then.

11 The Secretary will ring the bell.

12 Read the last section.

13 THE SECRETARY: Section 4. This
14 act shall take effect one year after it shall
15 have become a law.

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT MEIER: Announce
20 the results.

21 THE SECRETARY: Those recorded in
22 the negative on Calendar Number 1777 are
23 Senators Breslin and A. Smith.

24 Absent from voting: Senators
25 Balboni and Sampson.

1 Ayes, 57. Nays, 2.

2 ACTING PRESIDENT MEIER: The bill
3 is passed.

4 Senator Fuschillo.

5 SENATOR FUSCHILLO: Mr.
6 President, on the supplemental active list,
7 Calendar Number 1272 was inadvertently laid
8 aside.

9 Will you please place that on the
10 noncontroversial calendar on the supplemental
11 active list and take it up at this moment.

12 ACTING PRESIDENT MEIER: The
13 Secretary will read Calendar 1272,
14 noncontroversial.

15 THE SECRETARY: Calendar Number
16 1272, by Senator Saland, Senate Print 5415, an
17 act to amend Chapter 425 of the Laws of 2002.

18 ACTING PRESIDENT MEIER: Read the
19 last section.

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

22 ACTING PRESIDENT MEIER: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60.

1 ACTING PRESIDENT MEIER: The bill
2 is passed.

3 Senator Fuschillo.

4 SENATOR FUSCHILLO: Will you
5 please return to Supplemental Calendar B and
6 take up Calendar Number 1783.

7 ACTING PRESIDENT MEIER: The
8 Secretary will read Calendar 1783 on the
9 controversial calendar.

10 THE SECRETARY: Calendar Number
11 1783, substituted earlier today by Member of
12 the Assembly Grannis, Assembly Print Number
13 2840A, an act to amend the Insurance Law.

14 SENATOR SABINI: Explanation.

15 ACTING PRESIDENT MEIER: Senator
16 Seward, an explanation has been requested with
17 regard to Calendar 1783.

18 SENATOR SEWARD: Certainly, Mr.
19 President.

20 This is a very straightforward
21 piece of legislation. It increases by
22 1 percent the percentage of admitted assets
23 that a life insurance company can invest in
24 foreign countries in the aggregate, from 8 to
25 9 percent of their admitted assets.

1 These investments in foreign
2 countries are very beneficial to the
3 policyholders of life insurance companies
4 because they do produce some attractive yields
5 and are a very important investment tool for
6 the benefit of the policyholders of life
7 insurance companies.

8 Many individuals now are looking to
9 foreign investments for their personal
10 portfolio for the very same purposes. This
11 legislation would go from 8 to 9 percent of
12 admitted assets for life insurance companies
13 to do the same.

14 ACTING PRESIDENT MEIER: Senator
15 Sabini.

16 SENATOR SABINI: Mr. President,
17 if the sponsor would yield for a question.

18 ACTING PRESIDENT MEIER: Senator
19 Seward, do you yield for a question?

20 SENATOR SEWARD: Certainly.

21 ACTING PRESIDENT MEIER: The
22 Senator yields.

23 SENATOR SABINI: Through you, Mr.
24 President, I was just wondering if the sponsor
25 can enlighten me as to why there's a limit at

1 all on foreign investment by these insurance
2 companies. Why is it regulated?

3 SENATOR SEWARD: Well, Mr.
4 President, this is something that started well
5 before I became chairman of the Insurance
6 Committee. I really can't speak to the
7 origins of such limitations.

8 But it is common in the law of the
9 State of New York, throughout the various
10 types of insurance, that the statutes of our
11 state do include limitations and various
12 investments and the types of investments that
13 life insurance companies and all other
14 insurance companies can make for the benefit
15 and security of policyholders.

16 ACTING PRESIDENT MEIER: Senator
17 Sabini.

18 SENATOR SABINI: Mr. President,
19 on the bill.

20 I'm sort of torn on this. I want
21 protect the integrity of our insurance
22 industry in the state and the policyholders.
23 At the same time, it seems to me that there is
24 a reason there's a limitation on the amount of
25 money that can be put into foreign investment;

1 probably to protect the policyholders in the
2 company from doing things that may not be in
3 their best interest, even though it may seem
4 that way in the short term. And with all the
5 outsourcing we're seeing with our service
6 jobs, I'm concerned.

7 I will accept the sponsor's
8 explanation, but I do it with some
9 trepidation. I'll vote aye, but I'm not so
10 sure this is the best idea. And I'd like to
11 learn more about the historical perspective of
12 this.

13 Thank you.

14 ACTING PRESIDENT MEIER: Senator
15 Stavisky.

16 SENATOR STAVISKY: Mr. President,
17 perhaps I can add a little bit on this issue.

18 Many, many years ago I worked in
19 the actuarial department of a life insurance
20 company. And that was one of the things we
21 took a look at. Back at the turn of the
22 century in New York State there were abuses as
23 to how the money was invested. And there
24 were -- in fact, I believe it was a
25 legislative committee appointed by the

1 Assembly, known as the Armstrong Commission,
2 at the turn of the 20th century, to
3 investigate the abuses in the investments of
4 the life insurance industry, because there was
5 not enough money to pay claims. And I think
6 that was the nature or the reason behind
7 restrictions.

8 And I too share the same -- I will
9 vote for the bill also, but I have some
10 concerns also about foreign investments.

11 ACTING PRESIDENT MEIER: Does any
12 other member wish to be heard on this bill?

13 Debate is closed, then.

14 The Secretary will sound the bell.
15 Members are asked to return to the chamber for
16 a vote.

17 Read the last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT MEIER: Senator
24 Connor, to explain his vote.

25 SENATOR CONNOR: Thank you, Mr.

1 President.

2 I'm going to be voting no, only
3 because while today, in an international
4 economy, investments overseas look very
5 attractive in terms of yield and are very
6 lucrative, and while today at least large
7 parts of the world seem to be more stable
8 politically and economically than they ever
9 were, the reality is that the United States of
10 America -- and some may argue about some of
11 the regulations we do, but we've never had a
12 government that confiscated property. We have
13 constitutional protections to honor contracts.

14 Not every nation on earth has a
15 constitutional provision that preserves the
16 sanctity of contracts. And so, in my opinion,
17 overseas investments are by definition riskier
18 than domestic investments. I think we ought
19 to keep the cap where they are.

20 Mr. President, the other thing that
21 hasn't been spoken on this is why are some of
22 these overseas investments so lucrative. Oh,
23 because workers work for 11 cents an hour and
24 children work for less. And I don't know that
25 we ought to be encouraging more overseas

1 investments. And I know everybody from our
2 comptroller with the pension fund and
3 everybody invests overseas, but I think the
4 cap right where it is is fine.

5 ACTING PRESIDENT MEIER: Senator
6 Connor will be recorded in the negative.

7 Senator Duane, to explain his vote.

8 SENATOR DUANE: To explain my
9 vote, Mr. President.

10 I'm concerned that the flip side of
11 this issue of the outsourcing argument is that
12 we will lose these companies from New York
13 State and thereby lose the jobs that go along
14 with them. So New York State has to be
15 competitive with other locations around the
16 country.

17 So I will be voting yes, Mr.
18 President.

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

21 Announce the results.

22 THE SECRETARY: Those recorded in
23 the negative on Calendar Number 1783 are
24 Senators Brown, Connor, Dilan, Klein, LaValle,
25 Libous, Maltese, Maziarz, Montgomery, Morahan,

1 Parker, Rath, Robach, Savino, Serrano,
2 A. Smith, Spano, Stachowski, Stavisky and
3 Wright. Also Senator Sabini.

4 Absent from voting on Calendar
5 1783: Senators Balboni and Sampson.

6 Ayes, 38. Nays, 21.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1791, by Senator Johnson, Senate Print 5801,
11 an act to amend the Insurance Law and the
12 Vehicle and Traffic Law.

13 SENATOR SCHNEIDERMAN:
14 Explanation.

15 ACTING PRESIDENT MEIER: Senator
16 Johnson, an explanation has been requested by
17 Senator Schneiderman with regard to Calendar
18 1791.

19 Can we have some order in the house
20 first, please.

21 Senator Johnson.

22 SENATOR JOHNSON: Mr. President,
23 we have on the books for the last 25 years a
24 bill which I adopted called the defensive
25 driving course, point insurance -- a point

1 insurance reduction program. It's a driving
2 program in which you go take a course in
3 somebody's storefront or something and observe
4 how to drive properly, avoid accidents and so
5 forth.

6 And it's been pretty successful for
7 the past 25 years, but technology has reared
8 its ugly head and some places now are giving
9 this course over the Internet.

10 So what we devised in the bill is
11 Assemblyman Gantt and myself have a bill which
12 essentially says you can take the course over
13 the Internet. And it's a five-year
14 experimental program. We're going to
15 evaluate, see if it works properly. And if it
16 does, with proper precautions on who's taking
17 the test and how you identify that person and
18 so on, it will be adopted hopefully
19 permanently after five years.

20 So that's where it is now. This
21 bill has already passed, in case you're
22 questioning why it's here again -- it passed
23 about a month ago in this house, and Gantt
24 made some minor changes to it and it's back
25 here now.

1 SENATOR SCHNEIDERMAN: Thank you.

2 Explanation more than satisfactory.

3 ACTING PRESIDENT MEIER: Any

4 other Senator wish to be heard?

5 Debate is closed, then.

6 The Secretary will sound the bell.

7 Members are asked to come to the chamber for a

8 vote, which will occur shortly.

9 Read the last section.

10 THE SECRETARY: Section 5. This

11 act shall take effect on the 180th day.

12 ACTING PRESIDENT MEIER: Call the

13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT MEIER: Announce

16 the results.

17 THE SECRETARY: Those recorded in

18 the negative on Calendar Number 1791 are

19 Senators C. Kruger, Maltese, Saland and

20 Savino. Also Senator Spano.

21 Those Senators absent from voting:

22 Senator Sampson.

23 Ayes, 55. Nays, 5.

24 ACTING PRESIDENT MEIER: The bill

25 is passed.

1 Senator Fuschillo, that completes
2 Supplemental Calendar B.

3 SENATOR FUSCHILLO: Mr.
4 President, there will be a meeting of the
5 Rules Committee in the Majority Conference
6 Room at 4:40, and the Senate will stand at
7 ease until then.

8 ACTING PRESIDENT MEIER: There
9 will be a meeting of the Rules Committee in
10 the Majority Conference Room at 4:40.

11 The Senate will stand at ease
12 pending the report of the Rules Committee.

13 (Whereupon, the Senate stood at
14 ease at 4:23 p.m.)

15 (Whereupon, the Senate reconvened
16 at 5:01 p.m.)

17 ACTING PRESIDENT MEIER: Senator
18 Fuschillo.

19 SENATOR FUSCHILLO: Mr.
20 President, please return to the reports of
21 standing committees. I believe there's a
22 report of the Rules Committee at the desk.

23 ACTING PRESIDENT MEIER: Reports
24 of standing committees.

25 The Secretary will read the report

1 of the Rules Committee.

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

5 Senate Print 950, by Senator
6 Oppenheimer, an act to amend the Public
7 Officers Law;

8 2158, by Senator Sampson, an act
9 authorizing the City of New York;

10 2519, by Senator Maltese, an act to
11 amend the Retirement and Social Security Law;

12 3100, by Senator Fuschillo, an act
13 to amend the Vehicle and Traffic Law;

14 3159, by Senator Meier, an act to
15 amend the Education Law;

16 3661, by Senator Spano, an act to
17 amend the Education Law;

18 3674, by Senator Maltese, an act to
19 amend the Vehicle and Traffic Law;

20 4697D, by Senator Golden, an act to
21 amend the Vehicle and Traffic Law;

22 4812, by Senator Libous, an act to
23 amend Chapter 912 of the Laws of 1920;

24 4817, by Senator Marchi, an act to
25 amend the New York City charter;

1 4973A, by Senator Hannon, an act to
2 amend the Public Health Law;

3 5072, by Senator Spano, an act to
4 amend the Vehicle and Traffic Law;

5 5192A, by Senator Marcellino, an
6 act to amend the Environmental Conservation
7 Law;

8 5358, by Senator Padavan, an act to
9 amend the Real Property Tax Law;

10 5407, by Senator Maltese, an act to
11 amend the Arts and Cultural Affairs Law;

12 5456A, by Senator Spano, an act to
13 amend the Labor Law;

14 5568, by Senator Marchi, an act to
15 amend the Administrative Code of the City of
16 New York;

17 5579A, by Senator Balboni, an act
18 to amend the County Law;

19 5674, by Senator Leibell, an act to
20 amend the Public Authorities Law;

21 5685, by Senator Young, an act to
22 amend the Penal Law;

23 5732, by Senator Hannon, an act to
24 amend the Public Health Law;

25 5736A, by Senator Saland, an act to

1 amend the General Business Law;
2 5743, by Senator Morahan, an act
3 authorizing;
4 5785, by Senator Alesi, an act to
5 amend the Public Health Law;
6 5787A, by Senator Johnson, an act
7 to amend the Public Authorities Law;
8 5790, by Senator Saland, an act to
9 amend the Education Law;
10 5792, by Senator Young, an act to
11 amend the State Finance Law;
12 5798, by Senator Little, an act to
13 amend the General Municipal Law;
14 5806, by Senator Farley, an act to
15 amend the Banking Law;
16 5808, by Senator Trunzo, an act to
17 amend the Public Authorities Law;
18 5824, by Senator Flanagan, an act
19 to amend the Vehicle and Traffic Law;
20 5829, by Senator Libous, an act to
21 amend the Public Authorities Law;
22 5846, by Senator Wright, an act to
23 amend the Tax Law;
24 5850, by Senator Robach, an act to
25 amend the Executive Law;

1 5855, by the Senate Committee on
2 Rules, an act to amend the Public Health Law;

3 5856, by Senator Flanagan, an act
4 to amend the Election Law;

5 5857, by Senator Saland, an act to
6 amend the Education Law;

7 5866, by Senator Wright, an act to
8 amend the Public Authorities Law;

9 And Senate Print 5886, by the
10 Senate Committee on Rules, an act to amend the
11 Labor Law.

12 All bills ordered direct to third
13 reading.

14 ACTING PRESIDENT MEIER: Senator
15 Fuschillo.

16 SENATOR FUSCHILLO: Move to
17 accept the report of the Rules Committee.

18 ACTING PRESIDENT MEIER: All
19 those in favor of accepting the report of the
20 Rule Committee signify by saying aye.

21 (Response of "Aye.")

22 ACTING PRESIDENT MEIER: Those
23 opposed, nay.

24 (No response.)

25 ACTING PRESIDENT MEIER: The

1 report of the Rules Committee is accepted.

2 Senator Fuschillo.

3 SENATOR FUSCHILLO: Mr.

4 President, are there any substitutions at the
5 desk? If there are, please take them up.

6 ACTING PRESIDENT MEIER: Yes,
7 there are.

8 The Secretary will read the
9 substitutions.

10 THE SECRETARY: On page 27,
11 Senator Hannon moves to discharge, from the
12 Committee on Rules, Assembly Bill Number 8800
13 and substitute it for the identical Senate
14 Bill Number 4943A, Third Reading Calendar 880.

15 On page 30, Senator Balboni moves
16 to discharge, from the Committee on Rules,
17 Assembly Bill Number 4040 and substitute it
18 for the identical Senate Bill Number 4857,
19 Third Reading Calendar 973.

20 And on page 36, Senator Spano moves
21 to discharge, from the Committee on Rules,
22 Assembly Bill Number 3288 and substitute it
23 for the identical Senate Bill Number 3281,
24 Third Reading Calendar 1142.

25 ACTING PRESIDENT MEIER:

1 Substitutions ordered.

2 Senator Farley.

3 SENATOR FARLEY: Thank you, Mr.
4 President.

5 On behalf of Senator Winner, I
6 offer the following amendments to Calendar
7 1775, Senate Print 5848, and I ask that that
8 bill retain its place on the Third Reading
9 Calendar.

10 ACTING PRESIDENT MEIER: The
11 amendments are received, and the bill will
12 retain its place on the order of third
13 reading.

14 Senator Bruno.

15 SENATOR BRUNO: Mr. President,
16 can we at this time take up the
17 noncontroversial Calendar C.

18 ACTING PRESIDENT MEIER: The
19 Secretary will conduct the noncontroversial
20 reading of Supplemental Calendar C.

21 THE SECRETARY: Calendar Number
22 1813, by Senator Oppenheimer, Senate Print
23 950, an act to amend the Public Officers Law.

24 SENATOR OPPENHEIMER: Lay it
25 aside for the day, please.

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

3 THE SECRETARY: Calendar Number
4 1814, by Senator Sampson, Senate Print 2158,
5 an act authorizing the City of New York to
6 reconvey its interest.

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

9 Read the last section.

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

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 61.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1815, by Senator Maltese, Senate Print 2519,
20 an act to amend the Retirement and Social
21 Security Law.

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

24 Read the last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 61.

6 ACTING PRESIDENT MEIER: The bill
7 is passed.

8 THE SECRETARY: In relation to
9 Calendar Number 1816, Senator Fuschillo moves
10 to discharge, from the Committee on Rules,
11 Assembly Bill Number 6146 and substitute it
12 for the identical Senate Bill Number 3100,
13 Third Reading Calendar 1816.

14 ACTING PRESIDENT MEIER:
15 Substitution ordered.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 1816, by Member of the Assembly McLaughlin,
19 Assembly Print Number 6146, an act to amend
20 the Vehicle and Traffic Law.

21 ACTING PRESIDENT MEIER: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the first of
25 September.

1 ACTING PRESIDENT MEIER: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 61.

5 ACTING PRESIDENT MEIER: The bill
6 is passed.

7 THE SECRETARY: In relation to
8 Calendar Number 1817, Senator Meier moves to
9 discharge, from the Committee on Rules,
10 Assembly Bill Number 142 and substitute it for
11 the identical Senate Bill Number 3159, Third
12 Reading Calendar 1817.

13 ACTING PRESIDENT MEIER:
14 Substitution ordered.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 1817, by Member of the Assembly Destito,
18 Assembly Print Number 142, an act to amend the
19 Education Law.

20 ACTING PRESIDENT MEIER: Read the
21 last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect on the first of
24 September.

25 ACTING PRESIDENT MEIER: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 61.

4 ACTING PRESIDENT MEIER: The bill
5 is passed.

6 THE SECRETARY: In relation to
7 Calendar Number 1818, Senator Spano moves to
8 discharge, from the Committee on Higher
9 Education, Assembly Bill Number 116 and
10 substitute it for the identical Senate Bill
11 Number 3661, Third Reading Calendar 1818.

12 SENATOR DIAZ: Lay it aside,
13 please.

14 ACTING PRESIDENT MEIER: Senator,
15 let's get the bill substituted first.

16 Substitution ordered.

17 The Secretary will read.

18 THE SECRETARY: Calendar Number
19 1818, by Member of the Assembly Paulin --

20 SENATOR DIAZ: Lay it aside.

21 ACTING PRESIDENT MEIER: Lay the
22 bill aside.

23 THE SECRETARY: In relation to
24 Calendar Number 1819, Senator Maltese moves to
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 6672 and substitute it
2 for the identical Senate Bill Number 3674,
3 Third Reading Calendar 1819.

4 ACTING PRESIDENT MEIER:
5 Substitution ordered.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 1819, by Member of the Assembly Lafayette,
9 Assembly Print Number 6672, an act to amend
10 the Vehicle and Traffic Law and the State
11 Finance Law.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 61.

20 ACTING PRESIDENT MEIER: The bill
21 is passed.

22 THE SECRETARY: In relation to
23 Calendar Number 1820, Senator Golden moves to
24 discharge, from the Committee on Rules,
25 Assembly Bill Number 7697C and substitute it

1 for the identical Senate Bill Number 4697D,
2 Third Reading Calendar 1820.

3 ACTING PRESIDENT MEIER:
4 Substitution ordered.

5 The Secretary will read.

6 THE SECRETARY: Calendar Number
7 1820, by Member of the Assembly Morelle,
8 Assembly Print Number 7697C, an act to amend
9 the Vehicle and Traffic Law.

10 ACTING PRESIDENT MEIER: Read the
11 last section.

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

14 ACTING PRESIDENT MEIER: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 61.

18 ACTING PRESIDENT MEIER: The bill
19 is passed.

20 THE SECRETARY: In relation to
21 Calendar Number 1821, Senator Libous moves to
22 discharge, from the Committee on Rules,
23 Assembly Bill Number 7496 and substitute it
24 for the identical Senate Bill Number 4812,
25 Third Reading Calendar 1821.

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ACTING PRESIDENT MEIER:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1821, by Member of the Assembly Morelle,
Assembly Print Number 7496, an act to amend
Chapter 912 of the Laws of 1920.

ACTING PRESIDENT MEIER: Read the
last section.

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

ACTING PRESIDENT MEIER: Call the
roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill
is passed.

THE SECRETARY: In relation to
Calendar Number 1823, Senator Hannon moves to
discharge, from the Committee on Rules,
Assembly Bill Number 4122B and substitute it
for the identical Senate Bill Number 4973A,
Third Reading Calendar 1823.

ACTING PRESIDENT MEIER:

Substitution ordered.

1 The Secretary will read.

2 THE SECRETARY: Calendar Number
3 1823, by Member of the Assembly Gottfried,
4 Assembly Print Number 4122B, an act to amend
5 the Public Health Law.

6 ACTING PRESIDENT MEIER: Read the
7 last section.

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

10 ACTING PRESIDENT MEIER: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 61.

14 ACTING PRESIDENT MEIER: The bill
15 is passed.

16 THE SECRETARY: In relation to
17 Calendar Number 1824, Senator Spano moves to
18 discharge, from the Committee on Rules,
19 Assembly Bill Number 7421 and substitute it
20 for the identical Senate Bill Number 5072,
21 Third Reading Calendar 1824.

22 ACTING PRESIDENT MEIER:
23 Substitution ordered.

24 The Secretary will read.

25 THE SECRETARY: Calendar Number

1 1824, by Member of the Assembly Paulin,
2 Assembly Print Number 7421, an act to amend
3 the Vehicle and Traffic Law and the Education
4 Law.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

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

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 61.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1825, by Senator Marcellino, Senate Print
17 5192A, an act to amend the Environmental
18 Conservation Law.

19 ACTING PRESIDENT MEIER: Read the
20 last section.

21 THE SECRETARY: Section 7. This
22 act shall take effect on the 90th day.

23 ACTING PRESIDENT MEIER: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 61.

2 ACTING PRESIDENT MEIER: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1826, by Senator Padavan, Senate Print 5358,
6 an act to amend the Real Property Tax Law and
7 the Administrative Code of the City of
8 New York.

9 ACTING PRESIDENT MEIER: Read the
10 last section.

11 THE SECRETARY: Section 11. This
12 act shall take effect immediately.

13 ACTING PRESIDENT MEIER: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 61.

17 ACTING PRESIDENT MEIER: The bill
18 is passed.

19 THE SECRETARY: In relation to
20 Calendar Number 1827, Senator Maltese moves to
21 discharge, from the Committee on Rules,
22 Assembly Bill Number 8433 and substitute it
23 for the identical Senate Bill Number 5407,
24 Third Reading Calendar 1827.

25 ACTING PRESIDENT MEIER:

1 Substitution ordered.

2 The Secretary will read.

3 THE SECRETARY: Calendar Number
4 1827, by Member of the Assembly Morelle,
5 Assembly Print Number 8433, an act to amend
6 the Arts and Cultural Affairs Law.

7 ACTING PRESIDENT MEIER: Read the
8 last section.

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

11 ACTING PRESIDENT MEIER: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 61.

15 ACTING PRESIDENT MEIER: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1829, by Senator Marchi, Senate Print 5568, an
19 act to amend the Administrative Code of the
20 City of New York.

21 ACTING PRESIDENT MEIER: Read the
22 last section.

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

25 ACTING PRESIDENT MEIER: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 61.

4 ACTING PRESIDENT MEIER: The bill
5 is passed.

6 THE SECRETARY: In relation to
7 Calendar Number 1833, Senator Hannon moves to
8 discharge, from the Committee on Rules,
9 Assembly Bill Number 8799 and substitute it
10 for the identical Senate Bill Number 5732,
11 Third Reading Calendar 1833.

12 ACTING PRESIDENT MEIER:
13 Substitution ordered.

14 The Secretary will read.

15 THE SECRETARY: Calendar Number
16 1833, by the Assembly Committee on Rules,
17 Assembly Print Number 8799, an act to amend
18 the Public Health Law and the Education Law.

19 ACTING PRESIDENT MEIER: Read the
20 last section.

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

23 ACTING PRESIDENT MEIER: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 61.

2 ACTING PRESIDENT MEIER: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1836, by Senator Alesi, Senate Print 5785, an
6 act to amend the Public Health Law.

7 ACTING PRESIDENT MEIER: Read the
8 last section.

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

11 ACTING PRESIDENT MEIER: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 61.

15 ACTING PRESIDENT MEIER: The bill
16 is passed.

17 THE SECRETARY: In relation to
18 Calendar Number 1838, Senator Saland moves to
19 discharge, from the Committee on Rules,
20 Assembly Bill Number 8812 and substitute it
21 for the identical Senate Bill Number 5790,
22 Third Reading Calendar 1838.

23 ACTING PRESIDENT MEIER:
24 Substitution ordered.

25 The Secretary will read.

1 THE SECRETARY: Calendar Number
2 1838, by the Assembly Committee on Rules,
3 Assembly Print Number 8812, an act to amend
4 the Education Law.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

7 THE SECRETARY: Section 3. This
8 act shall take effect September 1.

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 61.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1839, by Senator Young, Senate Print 5792, an
17 act to amend the State Finance Law.

18 ACTING PRESIDENT MEIER: Read the
19 last section.

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

22 ACTING PRESIDENT MEIER: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 61.

1 ACTING PRESIDENT MEIER: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 1840, by Senator Little, Senate Print 5798, an
5 act to amend the General Municipal Law.

6 ACTING PRESIDENT MEIER: Read the
7 last section.

8 SENATOR PATERSON: Lay it aside,
9 please.

10 ACTING PRESIDENT MEIER: Lay the
11 bill aside.

12 THE SECRETARY: Calendar Number
13 1841, by Senator Farley, Senate Print 5806, an
14 act to amend the Banking Law.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

17 THE SECRETARY: Section 13. This
18 act shall take effect immediately.

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 61.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1842, by Senator Trunzo, Senate Print 5808, an
2 act to amend the Public Authorities Law.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 61.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1843, by Senator Flanagan, Senate Print 5824,
15 an act to amend the Vehicle and Traffic Law.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 61.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: In relation to
2 Calendar Number 1848, Senator Flanagan moves
3 to discharge, from the Committee on Rules,
4 Assembly Bill Number 6533 and substitute it
5 for the identical Senate Bill Number 5856,
6 Third Reading Calendar 1848.

7 ACTING PRESIDENT MEIER:
8 Substitution ordered.

9 The Secretary will read.

10 THE SECRETARY: Calendar Number
11 1848, by Member of the Assembly Galef,
12 Assembly Print Number 6533, an act to amend
13 the Election Law.

14 ACTING PRESIDENT MEIER: Read the
15 last section.

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

18 ACTING PRESIDENT MEIER: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 61.

22 ACTING PRESIDENT MEIER: The bill
23 is passed.

24 Senator Bruno, that completes the
25 noncontroversial reading of Supplemental

1 Calendar C.

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

5 ACTING PRESIDENT MEIER: The
6 Secretary will conduct the controversial
7 reading of Supplemental Calendar C.

8 The Secretary will ring the bell.

9 The Secretary will read.

10 THE SECRETARY: Calendar Number
11 1818, substituted earlier today by Member of
12 the Assembly Paulin, Assembly Print Number
13 116, an act to amend the Education Law.

14 ACTING PRESIDENT MEIER: Senator
15 Diaz.

16 SENATOR DIAZ: Will the sponsor
17 yield for a question or two, please.

18 ACTING PRESIDENT MEIER: Senator
19 Spano, do you yield for a question from
20 Senator Diaz?

21 SENATOR SPANO: Yes.

22 ACTING PRESIDENT MEIER: The
23 sponsor yields.

24 SENATOR DIAZ: Thank you.

25 Senator Spano, would -- this bill

1 authorizes the distribution of the pill to
2 everybody over -- to everyone over the
3 counter?

4 SENATOR SPANO: This bill permits
5 dispensing of over-the-counter emergency
6 contraception, yes.

7 SENATOR DIAZ: Mr. President,
8 through you, Mr. President, will the
9 sponsor --

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

12 SENATOR SPANO: Yes.

13 ACTING PRESIDENT MEIER: The
14 sponsor yields.

15 SENATOR DIAZ: Over the counter
16 means to everyone, no prescription necessary;
17 right?

18 SENATOR SPANO: Correct.

19 SENATOR DIAZ: Will a minor be
20 able to buy this pill?

21 SENATOR SPANO: Yes, a minor --
22 our thinking with minors is that it's better
23 to allow a minor an opportunity to prevent an
24 unwanted pregnancy rather than have them
25 become pregnant and have an abortion, which is

1 legal for a minor in New York State.

2 SENATOR DIAZ: Mr. President,
3 through you, will the sponsor continue to
4 yield.

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

7 SENATOR SPANO: Yes.

8 ACTING PRESIDENT MEIER: The
9 sponsor yields.

10 SENATOR DIAZ: Would this minor,
11 he or she, to buy this pill, would the minor
12 need the parental consent?

13 SENATOR SPANO: No.

14 SENATOR DIAZ: So any minor could
15 go and purchase this pill?

16 SENATOR SPANO: Yes.

17 SENATOR DIAZ: Mr. President,
18 through you, would the sponsor continue to
19 yield.

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

22 SENATOR DIAZ: Would the minor --

23 ACTING PRESIDENT MEIER: Just a
24 second, Senator Diaz.

25 Do you continue to yield, Senator

1 Spano?

2 SENATOR SPANO: Yes.

3 SENATOR DIAZ: Senator Spano --

4 ACTING PRESIDENT MEIER: Senator
5 Diaz, please.

6 SENATOR DIAZ: Oh, I'm sorry.

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

9 SENATOR DIAZ: He said yes.

10 ACTING PRESIDENT MEIER: I'm
11 sorry, I didn't hear him.

12 SENATOR SPANO: Yes.

13 ACTING PRESIDENT MEIER: The
14 sponsor yields.

15 SENATOR DIAZ: Can I continue,
16 Mr. President? Thank you, sir.

17 Senator Spano, we already said that
18 this pill could be bought by anyone over the
19 counter. We already said that anyone means
20 could buy it without prescription. We already
21 said that -- you already said that a minor
22 could buy this pill, and you already said that
23 the minor doesn't need the parental consent.

24 Would a -- would the minor need a
25 physician's oversight?

1 SENATOR SPANO: Would the minor
2 need what?

3 SENATOR DIAZ: Does the minor
4 need a physician's oversight to use the pill?

5 SENATOR SPANO: No.

6 SENATOR DIAZ: Mr. President,
7 through you, would the sponsor continue to
8 yield.

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

11 SENATOR SPANO: Yes.

12 ACTING PRESIDENT MEIER: Senator
13 Spano, I can't hear you. Are you continuing
14 to yield?

15 SENATOR SPANO: Yes.

16 ACTING PRESIDENT MEIER: The
17 sponsor yields.

18 SENATOR DIAZ: Senator Spano,
19 would this drug or this pill, would this pill
20 cause an abortion?

21 SENATOR SPANO: Will it cause an
22 abortion? Absolutely not.

23 SENATOR DIAZ: Mr. President,
24 through you.

25 ACTING PRESIDENT MEIER: Senator

1 Spano, do you continue to yield?

2 SENATOR SPANO: I'll yield for
3 one more question, sure.

4 SENATOR DIAZ: Oh, only one more?
5 I have a few more.

6 SENATOR SPANO: Ask them both at
7 the same time.

8 (Laughter.)

9 SENATOR DIAZ: You don't know.
10 You're going to show me that now?

11 When you say absolutely not -- when
12 you respond to when I asked you if this pill
13 would cause an abortion, you say absolutely
14 not. How can you prove that? Any
15 documentation, any proof on that?

16 SENATOR SPANO: We have looked at
17 a lot of scientific testimony and
18 presentations from experts across the country
19 who have told us that this pill will simply
20 prevent a pregnancy, would not cause an
21 abortion.

22 You didn't ask the second question.

23 ACTING PRESIDENT MEIER: Senator
24 Diaz.

25 SENATOR DIAZ: One more?

1 SENATOR SPANO: Last question.

2 SENATOR DIAZ: Senator Spano,
3 yesterday or the day before, I think it was
4 yesterday, in the newspaper there came in the
5 news about the new book written by Pope
6 Benedict XVI. In his -- did you read that?
7 Did you read that yesterday in the news?

8 SENATOR SPANO: Did I read it
9 yesterday?

10 SENATOR DIAZ: Yeah.

11 SENATOR SPANO: Not yet.

12 SENATOR DIAZ: But in that -- in
13 his new book, Pope Benedict --

14 SENATOR SPANO: Once we're done
15 with you, we'll read it tonight.

16 SENATOR DIAZ: In his new book,
17 Pope Benedict XVI says that there are no such
18 things as small murders. Abortion is a
19 murder.

20 And even though, Senator Spano,
21 you're absolutely sure that this pill will not
22 cause an abortion, because of experts, we have
23 other experts and other indications that this
24 pill might cause an abortion.

25 Thank you, Mr. President. Thank

1 you.

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

4 Debate is closed, then.

5 The Secretary will sound the bell.

6 Read the last section.

7 THE SECRETARY: Section 9. This
8 act shall take effect on the 180th day.

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT MEIER: Senator
13 Spano, to explain his vote.

14 SENATOR SPANO: Thank you, Mr.
15 President.

16 As we spoke with the previous
17 questions, this bill is probably the most
18 significant bill that we will pass this
19 legislative session, allowing or permitting
20 the dispensing of over-the-counter emergency
21 contraception, which is a safe and effective
22 way to prevent pregnancy, to reduce the
23 abortion rate in this state.

24 We'll join with seven other states
25 across this nation in reducing the abortion

1 rate, such as we see in Washington, the state
2 of Washington, where it's gone down
3 30 percent.

4 There have been advocates who have
5 been staunch supporters of this, including the
6 Family Planning Advocates and NARAL and so
7 many others who have made sure that we have
8 led the way in this state to reduce abortion,
9 to reduce unwanted pregnancies. And this bill
10 will do that.

11 I vote aye.

12 ACTING PRESIDENT MEIER: Senator
13 Spano will be recorded in the affirmative.

14 Senator DeFrancisco, to explain his
15 vote.

16 SENATOR DeFRANCISCO: I vote in
17 the negative.

18 And in the bill memo it talks about
19 that the first pill has to be given, taken
20 within 72 hours. Now, unless sperm are just
21 sitting there for 72 hours waiting to be
22 affected by this pill, I think that that's
23 kind of unlikely. I would think that there
24 would be some joining of the sperm and an egg
25 at some point in some human beings in

1 72 hours. If that happens, then the pill
2 aborts the pregnancy. So I just don't believe
3 that there is not an aborting of a pregnancy.

4 Beyond that, what is in my mind, I
5 don't quite understand what a
6 nonpatient-specific order is. We're going to
7 prescribe drugs that are nonpatient-specific?
8 What a precedent this is going to raise in our
9 state.

10 Senator Diaz mentioned about minors
11 and parental consent and you don't have to see
12 a physician. You know, I understand the issue
13 here, and I understand what the advocates are
14 after. But to call something one thing when
15 it really isn't and to change the whole
16 structure of prescription drugs and parents'
17 role in all of these issues I think is a very
18 big mistake.

19 And for those reasons, I'm voting
20 no.

21 ACTING PRESIDENT MEIER: Senator
22 DeFrancisco will be recorded in the negative.

23 Senator Diaz, to explain his vote.

24 SENATOR DIAZ: Day by day, we are
25 seeing how parents have been taken out of the

1 picture and how parental consent have been
2 taken, you know, away. And we see our
3 children growing up, and we say that our
4 children are the precious thing and that we
5 have to care about our children. But
6 taking -- taking -- now, a 13-year-old girl
7 could have an abortion without parental
8 consent. And a parent doesn't have to be
9 notified. We give condoms, parents don't have
10 to be notified.

11 And everything that happens,
12 happens to take away the parental
13 responsibility and the parental discipline.
14 And this is wrong. This is the wrong message.
15 Again, now, we're telling children that he or
16 she could go and buy this pill that could
17 cause an abortion and might cause physical
18 harm, without parental consent.

19 I'm voting no, and I'm asking
20 everyone to hear me and that cares about our
21 children to vote no too.

22 ACTING PRESIDENT MEIER: Senator
23 Diaz will be recorded in the negative.

24 Senator Saland, to explain his
25 vote.

1 SENATOR SALAND: Mr. President,
2 needless to say, all of us were in the chamber
3 during the course of this exchange. And
4 there's very little that I heard Senator Spano
5 say that I could disagree with, including the
6 conclusion that he offered that this does not
7 amount to an act of abortion.

8 My problem, however, lies with the
9 fact that the ability of young children,
10 perhaps adolescents, young teenagers, to have
11 access over the counter with absolutely no
12 attempt whatsoever to intervene or counsel
13 flies in the face of so many of the things
14 that I did when I was chairman of the Senate
15 Children and Families Committee and certainly
16 flies in the face of a bill we just did
17 earlier this week dealing with child
18 protection.

19 For that reason, Mr. President, I
20 cast my vote in the negative.

21 ACTING PRESIDENT MEIER: Senator
22 Saland will be recorded in the negative.

23 Senator Farley, to explain his
24 vote.

25 SENATOR FARLEY: Thank you, Mr.

1 President.

2 I rise -- I think this is a
3 terrible bill. It's flawed seriously. When
4 you think that a 12-year-old girl could go in
5 and get the morning-after pill with the
6 possibility that she might think she's
7 pregnant -- it's absolutely ludicrous that
8 there's no age limit on this bill.

9 Number two, I think it promotes
10 unprotected sex. I think it's a bad way to
11 go. I think it's a bill that is one of the
12 worst pieces of legislation, regardless of
13 however you feel on the issue of abortion. I
14 think it's a very poorly conceived bill and
15 one that should be voted down, and I vote no.

16 ACTING PRESIDENT MEIER: Senator
17 Farley will be recorded in the negative.

18 Senator Maltese, to explain his
19 vote.

20 SENATOR MALTESE: Yes, Mr.
21 President. One thing, just briefly, the bill
22 itself indicates that the Food and Drug
23 Administration has not yet approved that
24 availability of over-the-counter access to
25 this emergency contraception.

1 In addition, I share Senator Diaz's
2 concern with minors being able to obtain this,
3 apparently with no age restriction at all.

4 In addition, I take issue with my
5 colleague's adamant reply that this is not in
6 fact an abortion. I share DeFrancisco's
7 concern that once the egg is fertilized and in
8 any way it is hampered from attaching itself
9 to a portion of the woman's anatomy, that that
10 in fact can be considered an abortion.

11 In addition, Mr. President, I take
12 issue with the fact that young children can
13 take, apparently in unlimited amounts,
14 depending on how many pharmacists they visit,
15 hormones that could very well be determined in
16 later years to have permanent adverse effects
17 on them, their ability to bear children, and
18 their futures as far as their health and
19 welfare.

20 And therefore, Mr. President, I
21 will vote no on this legislation.

22 ACTING PRESIDENT MEIER: Senator
23 Maltese will be recorded in the negative.

24 Senator Seward, to explain his
25 vote.

1 SENATOR SEWARD: Thank you, Mr.
2 President.

3 I certainly appreciate and support
4 the objective of the sponsor of this
5 legislation. Certainly it's important to
6 avoid unwanted pregnancies. It's certainly
7 important to prevent even the need for an
8 ultimate abortion because of an unwanted
9 pregnancy.

10 But as I review this legislation
11 before us, I have some problems with it. I'm
12 concerned about the precedents that this sets
13 in terms of a blanket prescription at the
14 drugstore that anyone can come in and receive
15 this medication.

16 Perhaps this type of pharmaceutical
17 should be available over the counter. I think
18 that's a decision for the FDA, not the New
19 York State Senate. And so I just don't feel
20 qualified to make that decision. Let's have
21 the FDA continue their vetting process and
22 give us the results of their analysis.

23 I also have concerns, as others
24 have expressed, with the fact that there's no
25 age restriction even for the notification of a

1 parent when this minor may go in to receive
2 this pharmaceutical.

3 So for all those reasons, as much
4 as I support the objective of the legislation,
5 Mr. President, I find myself voting no.

6 ACTING PRESIDENT MEIER: Senator
7 Seward will be recorded in the negative.

8 Senator Oppenheimer, to explain her
9 vote.

10 SENATOR OPPENHEIMER: There seems
11 to be -- thank you, Mr. President. There
12 seems to be a lot of anxiety about this bill.
13 And I think we should note that millions of
14 women around the world have used emergency
15 contraception both safely and effectively for
16 decades now. It is available, emergency
17 contraception, in 100 countries and in six of
18 our states.

19 So, I mean, millions of women have
20 been using this. And it is only used as a
21 backup, normally, to their regular birth
22 control. If they are sexually active, they
23 normally are on some kind of birth control.
24 So this is only in an emergency when something
25 unforeseen has happened and they have not

1 taken their medication.

2 So I don't think people should be
3 worried about the health effects. I mean, I
4 can understand some of your concerns.

5 Depending, as I've said in the past, on what
6 our backgrounds are, what our upbringing is,
7 we may have different views on this. But
8 certainly to view it as a safe -- it is a safe
9 and effective and healthy way to approach this
10 problem.

11 And there have been several polls
12 taken of our voters, and we see that in the
13 country and in our state that somewhere
14 between 60 -- it's always between 60 and
15 70 percent of the voters and the pharmacists
16 believe that this is the right way to go. And
17 they want to participate in it, the
18 pharmacists.

19 So I just wanted to get that into
20 the record, that this is a safe thing and has
21 been utilized by millions of women around the
22 world.

23 ACTING PRESIDENT MEIER: Senator
24 Oppenheimer will be recorded in the
25 affirmative.

1 Senator Schneiderman, to explain
2 his vote.

3 SENATOR SCHNEIDERMAN: Thank you,
4 Mr. President.

5 I'm very pleased to be able to rise
6 in support of this legislation. What we have
7 heard, I think, really is, from my point of
8 view, a lot of myth, myth based on prejudice.

9 The experts and the scientists who
10 weighed in with the FDA all agreed this should
11 be -- this is safe, demonstrably safe, as
12 Senator Oppenheimer has pointed out, and
13 should be legal. It's the political fix in
14 Washington that is forcing the State of
15 New York to act because the federal government
16 has abandoned the field on this issue.

17 Many of us who believe in abortion
18 rights -- and we have people who have
19 disagreements about this -- view this as a
20 fundamental issue of human freedom. But
21 whatever your view on the issue, we have over
22 240,000 unwanted pregnancies in this state
23 every year. This is a safe method of
24 preventing pregnancy. How can you tell me the
25 women of the State of New York that they don't

1 have the right to control their own bodies and
2 prevent a pregnancy through this safe means?
3 And many of these pregnancies result in
4 abortions, so people who want to make abortion
5 rare -- and we hear a lot of rhetoric about
6 that -- a vote for this bill is a vote to make
7 abortion rare.

8 This is safe, this is fundamentally
9 an issue of freedom and we should vote for it
10 for that reason. But most essentially, it is
11 a statement of our confidence in the women of
12 this state that they have this ability to make
13 these decisions for themselves.

14 I'd like to commend Senator Spano
15 for taking a Schneiderman bill and making it
16 much better, because he made it into a law.
17 And good work. And I commend all of my
18 colleagues on both sides of the aisle, and all
19 the advocates who worked very hard to get
20 everyone here in this room today -- NARAL,
21 Pro-Choice New York, FPA, ACOG, the nurses
22 association, the pharmacists. Thank you all.

23 And this is a great moment for the
24 State of New York and for this Legislature.
25 Thank you, Mr. President. I vote yes.

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

4 Senator Liz Krueger, to explain her
5 vote.

6 SENATOR LIZ KRUEGER: Thank you,
7 Mr. President.

8 I rise in support of this bill.
9 But I, as I often do, think that we should use
10 some science and some facts on this floor. So
11 just in response to some people's concerns
12 that this actually allows for abortion, I'd
13 like to go on the record that emergency
14 contraception cannot end a pregnancy.
15 According to the Food and Drug Administration,
16 emergency contraception pills are not
17 effective if the woman is pregnant. They act
18 by delaying or inhibiting ovulation and/or
19 altering tubal transport of sperm and/or ova,
20 thereby inhibiting fertilization or altering
21 the endometrium, therefore inhibiting
22 implantation.

23 So this is not a debate about
24 abortion. This is the reality that seems to
25 make many of my male colleagues uncomfortable,

1 but unfortunately women do get pregnant
2 unintentionally. Young women have sex,
3 whether we approve of it or not, and they end
4 up with unwanted pregnancies. And the
5 statistics show that one-third of young women
6 become pregnant at least once before they
7 reach the age of 20, and about 80 percent of
8 these 820,000 teenage pregnancies a year are
9 unintended, and a third of these end in
10 abortion.

11 Passing this law means we will have
12 fewer pregnancies that are unintended in the
13 State of New York, we will have fewer
14 abortions, we will have better public health,
15 better protections for our youth and our adult
16 women. And there's no argument that, other
17 than politics, this would already have been
18 the law in this state. I vote yes and hope
19 all of my colleagues will join me.

20 Thank you, Mr. President.

21 ACTING PRESIDENT MEIER: Senator
22 Liz Krueger will be recorded in the
23 affirmative.

24 Senator Golden, to explain his
25 vote.

1 SENATOR GOLDEN: Thank you,
2 Acting President.

3 I'm hearing so many good things
4 about this bill, maybe we should sell it in a
5 candy store.

6 It's pretty sad that people can
7 actually believe that this pill is not an
8 abortion. Pretty sad to believe that people
9 believe that when you have an egg in 72 hours
10 that it will not terminate the egg that has
11 already been promulgated.

12 It is amazing that I hear Senator
13 Schneiderman representing the Senate Majority,
14 especially on issues like this. I think it's
15 wrong. I think we send the wrong message.

16 And, yes, this is nothing more than
17 a termination, a termination of a child, an
18 abortion, and any which way you want to look
19 at it. There's no difference between a
20 morning-after pill and an abortion, as far as
21 I'm concerned, and many people here in the
22 State of New York. And the 120,000 abortions
23 that this state had last year will not
24 dramatically be reduced by this bill.

25 As a matter of fact, I dare to say

1 some of our children, some of our adults will
2 think, Hey, I'll be safe, I'll take this pill.
3 And everybody here believes that this pill is
4 like 100 percent, this is the silver bullet.
5 Well, it's not. And there will be
6 pregnancies. And there will be abortions from
7 this pill.

8 And there may be a hundred nations
9 out there that have been doing this for
10 10 years. But there are other nations out
11 there that aren't doing it. And the
12 Philippines and one of them that outlawed it
13 had it removed.

14 If anybody really thinks that we're
15 doing the right thing here on this bill
16 because we're protecting women's rights here,
17 I think they're making a mistake. I think
18 what you're doing is encouraging the incentive
19 for unprotected sex. I think we're acting too
20 fast, with only seven states authorizing this
21 and many countries not.

22 And this bill is about as broad as
23 you can get. As I said, pharmacists, nurses,
24 midwives, candy stores. I don't know what's
25 next.

1 It's sad to see this bill here on
2 the floor. It's sad that we have to vote for
3 this bill, for those that did vote for it. I
4 will be voting no. I'll be voting no for the
5 women of this state. I think it's the wrong
6 thing to do.

7 ACTING PRESIDENT MEIER: Senator
8 Golden will be recorded in the negative.

9 Senator Stavisky, to explain her
10 vote.

11 SENATOR STAVISKY: Mr. President,
12 as I listened to the opponents, it seems to me
13 that if they had been willing to accept the
14 idea that in our schools we should be
15 educating our children, and if they had been
16 more willing to accept birth control
17 dissemination, then we might not be here
18 today.

19 There are seven states, I
20 understand, in the nation. I understand that
21 the Massachusetts Senate has passed an EC
22 bill. And I certainly hope that the number of
23 abortions will be reduced. 120,000 -- and I
24 support a woman's right to choose, but I don't
25 think there's a person here today who likes

1 the idea of an abortion. We all view it as
2 something to avoid. And hopefully this
3 legislation will do that.

4 Thank you, Mr. President.

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

7 Senator Montgomery, to explain her
8 vote.

9 SENATOR MONTGOMERY: Yes, Mr.
10 President. I want to thank and commend
11 Senators Spano, Alesi, Bonacic, Leibell, and
12 Winner for sponsoring this legislation. And
13 I'm sure that if things were different, you
14 would have a number of other members on this
15 bill as well. But I thank you.

16 And I'm pleased to see that the
17 bill -- it says this act shall be known and
18 may be cited as the Unintended Pregnancy
19 Prevention Act. It further states that the
20 Legislature finds that the United States Food
21 and Drug Administration has declared emergency
22 contraceptive pills to be safe and effective
23 in preventing pregnancy.

24 So clearly the bill is being guided
25 by the findings of the FDA, and therefore I'm

1 assured that it is safe.

2 I have information that says nearly
3 half of America's 6.3 million annual
4 pregnancies are accidental. So clearly there
5 are -- 7 in 10 women of reproductive age are
6 sexually active and, though they're sexually
7 active, do not necessarily want to become
8 pregnant. But there are many, many millions
9 of instances where women do become pregnant
10 unintentionally.

11 Widespread use of emergency
12 contraception could prevent an estimated
13 1.7 million unintended pregnancies and 800,000
14 abortions each year. So clearly we're doing
15 the right thing. This is what we would like
16 to see as women, as health professionals, and
17 as men who care about availability of a safe
18 method of avoiding, avoiding an unintended
19 pregnancy. What more could we ask for?

20 This is not -- this has nothing to
21 do with abortion. And all due respect to our
22 religious leaders and our moral people
23 concerned about moral issues and morality,
24 this does not have anything to do with
25 abortion. It has to do with providing access

1 to women who are capable of becoming pregnant.
2 And it has nothing to do -- doesn't take away
3 the rights of men, and it doesn't take away
4 the rights of anyone, and it doesn't interrupt
5 any religious morality concerns. It clearly
6 just is allowing for access for women who may
7 become pregnant unintentionally to be able to
8 avoid being pregnant.

9 I think this is a wonderful thing.
10 I thank you as a woman. I hate to have to
11 stand up here and defend the rights of women
12 every other week in this house. But this
13 time, I'm thanking the men who have brought
14 this issue to the floor. You're brave, you're
15 courageous, you're doing the right thing.
16 And, Senator Spano, thank you, because we want
17 this.

18 Thank you. I'm voting yes.

19 ACTING PRESIDENT MEIER: Senator
20 Montgomery will be recorded in the
21 affirmative.

22 Senator Duane, to explain his vote.

23 SENATOR DUANE: Thank you, Mr.
24 President.

25 You know, I went through a period

1 where I really thought that I knew all there
2 was to know about protection and people who
3 were involved in sexual activity and how they
4 could protect themselves and the best way for
5 them to protect themselves.

6 But a few years ago I actually
7 learned a lesson from a young girl who was a
8 peer educator on HIV and AIDS issues. And we
9 were talking about the issue of condom
10 availability in high schools and how, if you
11 wanted to get a condom, you needed to go to a
12 resource room where you would meet with a
13 counselor who would give you a lecture on sex.
14 And after that, if the young person still
15 wanted a condom, they were given a condom.
16 But they had to have the lecture.

17 And I said, "Well, you know, I
18 actually think that's a good thing. I mean, I
19 don't object to that at all. I think you
20 should have to go someplace to get sex
21 education if you're thinking about being
22 sexually active."

23 And this young girl said, "You know
24 what? You are absolutely and totally wrong
25 about that." And I said, "Why? Why?"

1 She said, "Because I know if I'm
2 going to the resource room to get a condom, I
3 already know how high the stakes are if I'm
4 deciding to be sexually active. I already
5 know that it's a life-and-death issue. But
6 all those other kids who aren't going to the
7 resource room, who aren't getting their condom
8 that way, they're the ones that are at risk.
9 They're the ones that need the lecture. I
10 already know all this, because I know that I
11 need to get a condom. It's those other kids
12 that don't know about it."

13 And you know what? I figured she
14 was right. It was all those other young
15 people who weren't getting the message that,
16 unfortunately and sadly, today, deciding to be
17 sexually active is a life-and-death decision.

18 You know, the -- you know, we
19 wouldn't even need to be talking about this in
20 the same way if -- you know, frankly, if men
21 would use condoms more or if men would
22 actually think more --

23 ACTING PRESIDENT MEIER: Senator,
24 I've been trying to be indulgent with members,
25 but there is a two-minute limit in the rule.

1 Could I ask you to state your vote.

2 SENATOR DUANE: Well, I just
3 wanted to make clear that in a case -- on an
4 issue like this, it's important to listen to
5 women. And certainly an EC is better than
6 abortions, and it's certainly better for a
7 woman who has been the victim of incest or
8 date rape or sexual assault --

9 ACTING PRESIDENT MEIER: Senator,
10 could I ask you to state your vote, please.

11 SENATOR DUANE: -- to be able to
12 have access to this.

13 I'll be voting yes, Mr. President.

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

16 Members are reminded that the rule
17 states two minutes for the explanation of
18 one's vote.

19 Senator Ada Smith, to explain her
20 vote.

21 SENATOR ADA SMITH: Thank you,
22 Mr. President.

23 I too would like to commend the
24 sponsors of this bill because it has done
25 something positive in my community. I have

1 received more emails than I have received on
2 any other legislation since I've been here.
3 I've received hundreds of emails and letters
4 from women asking that this bill be passed
5 and -- brought to the floor and passed. I
6 only received three in opposition.

7 And when young women and mothers
8 write and ask for something to be done in
9 government, I think it is our responsibility
10 to comply. And therefore, I will be voting in
11 the affirmative.

12 ACTING PRESIDENT MEIER: Senator
13 Ada Smith will be recorded in the affirmative.

14 Senator Connor, to explain his
15 vote.

16 SENATOR CONNOR: Thank you, Mr.
17 President.

18 I want to thank the sponsor for
19 moving this legislation, Senator Spano. I
20 think it's long overdue. Just I guess it was
21 a week ago, in talking on the Medicaid
22 abortion bill, I stated my position that I
23 thought we should do a lot of other things and
24 there were other things we could do and that
25 we hadn't done to make abortion rare. And now

1 we have concrete legislation here that I think
2 will make abortion less frequent.

3 Now, I know opponents say, Oh, but
4 this is an abortion measure. I disagree. The
5 intention, the intention of this pill and the
6 way it acts is to impede ovulation or the
7 motility of sperm. And that prevents
8 pregnancy.

9 Now, we read the memo, oh, it
10 could -- Catholic Conference memo -- it can
11 possibly alter the lining and prevent
12 implantation. Well, that's not the main
13 intention.

14 And I think I know the
15 philosophical premise upon which most
16 opponents to abortion operate, and the
17 operational word is always intentional
18 abortion or the intentional termination of a
19 pregnancy. I don't see, in the way this pill
20 operates, any intent to end the pregnancy.
21 The clear intent and the most operative way
22 that these drugs act is to prevent a
23 pregnancy. And in my mind, that's certainly a
24 better alternative than an unwanted pregnancy
25 or a woman being forced to have an abortion.

1 So, Mr. President, I'm voting aye.

2 ACTING PRESIDENT MEIER: Senator

3 Connor will be recorded in the affirmative.

4 Senator Paterson, to explain his

5 vote.

6 SENATOR PATERSON: Thank you, Mr.

7 President.

8 I think that Senator Connor just
9 explained that quite well, that the
10 legislation provides for the use of a pill
11 that will impede ovulation and also the
12 motility of sperm. Meaning that it is
13 preventative, which is why it is a
14 contraceptive and not any type of an action
15 that does anything further.

16 Because of that, I think that when
17 we review Senator Montgomery's remarks -- and
18 she talks about people listening to women --
19 it's the fact that only women can be in that
20 position. And the issue of age is really far
21 more of a reason why we should consider this
22 legislation, because a younger woman,
23 theoretically not as informed, perhaps in a
24 situation where she made a mistake, as we've
25 all made mistakes, would get a second chance

1 to reverse it without there being an abortive
2 procedure. If it's too late, then she isn't
3 going to get a second chance. And -- but if
4 it isn't, then she does.

5 And I think that's why so many
6 advocacy organizations have come together. We
7 want to thank them for their advocacy on this
8 bill. We want to thank Senator Spano for
9 introducing the bill. And we recognize that
10 this will provide perhaps a second chance to
11 those who didn't exercise the forethought that
12 they would have wished and within 72 hours
13 might be able to prevent a pregnancy which
14 would change the course of their entire lives.

15 So I very much want to thank all of
16 those advocates. And I guess I'm very happy
17 to be one of those men who Senator Montgomery
18 spoke of, along with the men and women of this
19 conference, who would want to provide the
20 votes to pass this bill.

21 We understand the strong feelings
22 on both sides of this issue. We understand
23 the feelings of those who are morally opposed
24 to abortions. But we ask them to reconsider
25 and look at the work of scientific experts,

1 who are on both sides of the issues, who have
2 demonstrated through their research for the
3 federal Food and Drug Administration that the
4 legislation and the medication is safe.

5 Thank you, Mr. President.

6 ACTING PRESIDENT MEIER: Senator
7 Paterson will be recorded in the affirmative.

8 Senator Bruno, to explain his vote.

9 SENATOR BRUNO: Thank you, Mr.
10 President.

11 I'm going to and am supporting this
12 legislation because I became convinced that
13 this will help avoid unwanted pregnancies.
14 And I am also aware that there is an abortion
15 pill that is legal in this state that you can
16 get by prescription, which is an abortion
17 pill. And I'm convinced that this is not.

18 And it concerns me greatly that
19 there are 200,000 plus abortions in this
20 country. I think that is a horrendous fact
21 that we ought to all be aware of. I'm also
22 very conscious of the fact that a 14-year-old
23 child can go in and have an abortion because
24 they have an unwanted pregnancy, Senators --
25 14, 13, 15.

1 I'm also aware that a parent or
2 guardian can take a child by the hand and get
3 this same medication to avoid a pregnancy,
4 which is a very worthwhile thing.

5 And I respect the judgments that
6 people make on behalf of their own
7 constituencies. But I would not be judging
8 others for having feelings when they become
9 convinced that we are doing the right thing to
10 avoid unwanted pregnancies.

11 So I'm proud to vote yes for this
12 legislation.

13 ACTING PRESIDENT MEIER: Senator
14 Bruno will be recorded in the affirmative.

15 Announce the results.

16 THE SECRETARY: Those recorded in
17 the negative on Calendar Number 1818 are
18 Senators DeFrancisco, Diaz, Farley, Flanagan,
19 Fuschillo, Golden, Hannon, Johnson, LaValle,
20 Libous, Little, Maltese, Marcellino, Marchi,
21 Maziarz, Meier, Morahan, Nozzolio, Padavan,
22 Rath, Saland, Seward, Skelos, Stachowski,
23 Trunzo, Volker and Young.

24 Ayes, 34. Nays, 27.

25 ACTING PRESIDENT MEIER: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 1840, by Senator Little, Senate Print 5798, an
4 act to amend the General Municipal Law.

5 SENATOR PATERSON: Explanation.

6 ACTING PRESIDENT MEIER: Senator
7 Little, an explanation has been requested by
8 Senator Paterson.

9 Can we have some order. Can we
10 have some order in the chamber, please, and in
11 the gallery as well.

12 Senator Little, an explanation has
13 been requested.

14 SENATOR LITTLE: Thank you, Mr.
15 President.

16 Sometimes you get what you wish
17 for. Yesterday we talked about an IDA reform
18 when I had a bill that extended the IDA
19 ability to fund civic facilities. So today we
20 have an IDA reform bill.

21 This is a bill that we have been
22 working on for a number of weeks to address
23 some of the issues that we all have agreed
24 need to happen with Industrial Development
25 Agencies.

1 Some of the things that this bill
2 does is it extends the cap of \$20 million to
3 \$100 million for civic facilities,
4 not-for-profit agencies that could have
5 funding through an IDA that previously had a
6 \$20 million cap.

7 ACTING PRESIDENT MEIER: Just a
8 second, Senator Little.

9 There's entirely too much
10 conversation going on in the chamber. We're
11 trying to deal with bills. And members are
12 asked, please, to preserve some order in the
13 chamber.

14 Senator Little has the floor.

15 SENATOR LITTLE: This, by the
16 way, is also a bill that we came up with after
17 several meetings with the Assembly in trying
18 to get an agreed-upon bill. And yet it is not
19 agreed upon at this point.

20 So it now has a \$100 million cap on
21 the civic facilities that not-for-profit
22 groups would be able to fund through an IDA.
23 Their current cap is \$20 million.

24 It also eliminates the ability to
25 segment projects. That was one of the

1 criticisms that people want to do away with.

2 It also allows that a municipality
3 can lease one-third of a project. For
4 instance, if this were a building that a
5 municipality, in order to fill up the
6 building, would be able to lease one-third of
7 one third of that building. Previously to
8 this, they may do that, but that part of the
9 building could not get funding for the
10 construction costs.

11 It also makes any IDA project
12 subject to the local building codes. It also
13 makes any IDA project comply with the
14 Americans with Disabilities Act.

15 We also wanted to see that IDA
16 funding could fund some agricultural projects.
17 However, the Assembly did not agree to that.
18 Therefore, this bill calls for the Department
19 of Economic Development to issue a report on
20 the value of funding agricultural projects.

21 This bill also requires that a
22 written summary of all hearings held on an IDA
23 project must be given to each member of the
24 IDA board before the project is voted upon.

25 It also says that by 2006, the

1 Empire State Development and the Department of
2 Economic Development must have uniform
3 tax-exempt policies for IDA projects.

4 It also allows for late PILOT
5 projects to have a 5 to 10 percent penalty if
6 they are late.

7 And it also extends the IDA ability
8 to fund civic facilities until 2008.

9 ACTING PRESIDENT MEIER: Senator
10 Liz Krueger.

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

14 ACTING PRESIDENT MEIER: Senator
15 Little, do you yield for a question?

16 SENATOR LITTLE: Yes, I yield.

17 ACTING PRESIDENT MEIER: The
18 sponsor yields.

19 SENATOR LIZ KRUEGER: Thank you.

20 I thought we might be back to IDAs
21 after the previous discussion.

22 Thank you for the explanation. And
23 this is a different bill than the three-year
24 straight extender we passed.

25 And you talked about, in your

1 explanation, that it increases the \$20 million
2 cap on IDA financing for dormitories for
3 educational institutions, not-for-profit
4 healthcare facilities, to \$100 million. Can't
5 these institutions go to the Dormitory
6 Authority already for bonds of much greater
7 than \$20 million? Why do we need to include
8 these categories in IDAs?

9 SENATOR LITTLE: Well, we believe
10 that going through funding with an IDA
11 project, the money stays locally. In many
12 ways it's more control, more public
13 recognition of the project than going through
14 the Dormitory Authority.

15 SENATOR LIZ KRUEGER: Mr.
16 President, if the sponsor would continue to
17 yield.

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

20 SENATOR LITTLE: Yes, I yield.

21 ACTING PRESIDENT MEIER: The
22 sponsor yields.

23 SENATOR LIZ KRUEGER: The bond
24 money doesn't come locally. They still go to
25 the bond market, whether you're talking about

1 it going through the IDA or the Dormitory
2 Authority; is that correct?

3 SENATOR LITTLE: Yes, that's
4 correct.

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

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

10 SENATOR LITTLE: Yes, I continue
11 to yield.

12 ACTING PRESIDENT MEIER: The
13 sponsor yields.

14 SENATOR LIZ KRUEGER: Thank you.
15 There's also a reference in your
16 bill in Section 1 that providing financial
17 assistance for any project where the applicant
18 has any agreement to subsequently contract
19 with a municipality for the lease or for
20 purchase of all or a portion constituting more
21 than one-third of the total project cost of
22 such project for its own use or occupancy.

23 What does that actually mean? Why
24 do we have that section in the bill? How
25 would that change either the deal or what the

1 IDA was doing in that situation?

2 SENATOR LITTLE: Well, there have
3 been occasions when a project may be built --
4 for instance, the Renaissance Plaza in
5 Brooklyn, which involved a complex set of
6 leasing arrangements. The primary beneficiary
7 of IDA incentives was Empire Insurance.
8 However, the city tenant, the municipal
9 tenant, is the Brooklyn District Attorney's
10 Office. But that portion of the billing could
11 not receive -- come under the IDA funding.
12 Therefore, that had to be separate.

13 So what this says is sometimes a
14 particular project may need municipal support
15 while it gets underway. Certainly, as we look
16 at the downtown Lower Manhattan development,
17 there may need to be municipal offices in some
18 of these buildings in order to get the entire
19 building leased. This would allow that
20 one-third of that project could be a municipal
21 lease. Currently, that is not allowed, and
22 that portion of the project would have to be
23 exempt or be outside of the IDA funding for
24 the project.

25 SENATOR LIZ KRUEGER: Thank you.

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

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

5 SENATOR LITTLE: I continue to
6 yield.

7 ACTING PRESIDENT MEIER: The
8 sponsor yields.

9 SENATOR LIZ KRUEGER: Thank you
10 very much.

11 I'll preface by saying I'm very
12 glad to see that there's an evaluation built
13 into this bill of questions about -- that have
14 been raised about IDAs and there are timelines
15 for specific sections and there are
16 restrictions. But again, going back to this
17 provision on the one-third total project cost,
18 am I correct to believe that if this section
19 was implemented in any given project, that
20 that would then allow for the Wicks Law on
21 multicontracting requirements to be ignored or
22 that these projects would be exempt from the
23 Wicks Law?

24 SENATOR LITTLE: I truthfully
25 don't know.

1 SENATOR LIZ KRUEGER: I'm sorry,
2 I couldn't hear the answer.

3 SENATOR LITTLE: I said I don't
4 know.

5 SENATOR LIZ KRUEGER: You don't
6 know, okay. Thank you.

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

9 ACTING PRESIDENT MEIER: Senator
10 Little, do you yield?

11 SENATOR LITTLE: Yes, I yield.

12 ACTING PRESIDENT MEIER: The
13 sponsor yields.

14 SENATOR LIZ KRUEGER: Thank you.

15 Also in this bill there's a section
16 that talks about having an independent entity
17 charged with evaluating IDA activities, which
18 I think is a very good suggestion -- or,
19 excuse me, a good section of your law.

20 But who will decide who this
21 independent entity is? What's the process?
22 Is there a competitive bidding? Why did you
23 decide not to ask the Comptroller's office to
24 do this kind of evaluation, since they've been
25 doing this kind of work on other authorities?

1 SENATOR LITTLE: Well, I suppose
2 if you're trying to get a project through and
3 you go to hearings and have approvals, that
4 you certainly will have someone who is
5 independent. And currently they do this now.

6 This continues to say that the
7 value of tax exemptions provided by IDAs and
8 the value of PILOTs received by municipalities
9 and school districts have to be evaluated and
10 assessed as to the public benefit.

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

14 ACTING PRESIDENT MEIER: Senator
15 Little, do you yield?

16 SENATOR LITTLE: Yes, I yield.

17 ACTING PRESIDENT MEIER: The
18 sponsor yields.

19 SENATOR LIZ KRUEGER: Thank you.

20 I'm sorry, I thought, as I read
21 your bill, that the section I was referencing,
22 Section 4, is not on any specific IDA project
23 but rather an independent entity contracted
24 with through the Department of Economic
25 Development to do a thorough evaluation of the

1 model used by IDAs overall, not on any
2 individual project. Perhaps I misread your
3 bill.

4 SENATOR LITTLE: We changed the
5 date from the last time it was done, in 1996,
6 to 2006. And the Commissioner of the
7 Department of Economic Development shall
8 submit to the director of the Division of
9 Budget, the temporary president of the Senate,
10 the Speaker of the Assembly, the chairman of
11 the Ways and Means Committee, the chairman of
12 the Senate Local Government Committee,
13 et cetera -- it goes on with a number of
14 committees -- an evaluation of the activities
15 of industrial development agencies and
16 authorities in the state prepared by an entity
17 independent of the department.

18 So it couldn't be one of them.

19 SENATOR LIZ KRUEGER: It couldn't
20 be one of them.

21 I'm sorry, Mr. President, if the
22 sponsor would continue to yield.

23 ACTING PRESIDENT MEIER: Senator
24 Little, do you yield?

25 SENATOR LITTLE: Yes, I yield.

1 ACTING PRESIDENT MEIER: The
2 sponsor yields.

3 SENATOR LIZ KRUEGER: Thank you.
4 And thank you for reminding me of the history
5 there.

6 So in the previous law there was a
7 requirement for reports in a different way.
8 Did we ever get those reports, or any reports?

9 SENATOR LITTLE: They did, but I
10 don't have a copy of that --

11 ACTING PRESIDENT MEIER: Senator
12 Little -- just a second, Senator.

13 There are members and staff, I
14 might add, that are having conversations in a
15 tone of voice that's just as loud as the
16 members debating the bill. We need to have
17 order in the chamber.

18 Senator Little.

19 SENATOR LITTLE: I said I believe
20 that they had a report, but I do not have any
21 copy of it. But that was provided for in the
22 law in 1996.

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

25 ACTING PRESIDENT MEIER: Senator

1 Krueger, on the bill.

2 SENATOR LIZ KRUEGER: Thank you.

3 I appreciate the sponsor's detailed
4 answers, and I share her opinion this is
5 complicated.

6 This is a better bill than the bill
7 we passed the other day, which would have been
8 a three-year extender with nothing new. There
9 are some things in here that I can be more
10 comfortable with. I hope that in an
11 independent evaluation, I hope with the input
12 of the Comptroller's office, since they've
13 done so much excellent work already
14 identifying problems with the existing model
15 of IDAs -- that again, as the sponsor pointed
16 out, this is not an agreed-upon bill, and so
17 we'll no doubt see another version somewhere
18 along the line -- that we should be taking a
19 very hard look at evaluating not just where we
20 go with new IDA language but also to truly
21 evaluate, from the reports from the previous
22 law, if they exist, and what their findings
23 were, from the reports of the Comptroller's
24 office, from the documented reports and
25 responses from different counties and IDAs,

1 that we will be looking very seriously at how
2 we make improvements and how we actually
3 penalize IDAs and the people they've been
4 doing business with for failing to meet their
5 obligations.

6 This bill lays out some of the
7 measures that I agree with Senator Little we
8 should be evaluating IDAs on. I have serious
9 concerns about expanding the role of IDAs to
10 finance not-for-profit institutions. Frankly,
11 I think that New York State has a stellar
12 model for this with the Dormitory Authority.
13 And so far I'm not convinced that there's any
14 reason we should have separate public
15 authorities, that technically are set up for
16 industrial purposes, going into the bonding
17 business for a broader universe of
18 institutions.

19 I am concerned that a \$100 million
20 cap is too large a cap -- many of these IDAs
21 represent small towns and municipalities that
22 likely don't have the expertise or the cost to
23 themselves for creating that expertise to
24 successfully move these kinds of programs --
25 is duplicate of what we've already set up very

1 well through the Dormitory Authority, and may
2 result in even greater problems. We already
3 have a history of problems with smaller bonds.
4 Moving that to a much higher level seems to me
5 to increase the chances that we'll have more
6 problems in the future.

7 So I want to congratulate the
8 sponsor. I think we're moving in the right
9 direction. It's still, unfortunately, not a
10 bill I can be comfortable with. But I thank
11 you very much for the explanations, and I
12 thank you for the work you're doing on behalf
13 of this issue.

14 Thank you. I'll be voting no, Mr.
15 President.

16 ACTING PRESIDENT MEIER: Senator
17 Schneiderman.

18 SENATOR SCHNEIDERMAN: Very
19 briefly on the bill, Mr. President.

20 For the reasons set forth in the
21 discussion between Senator Krueger and the
22 sponsor, I'm also going to be voting no on
23 this.

24 And I do think, as I said before
25 when we extended the IDAs, this is, as

1 acknowledged, a one-house bill. It is a bill
2 that again doesn't address the fundamental
3 problems with IDAs. It doesn't do us any
4 going to have a requirement to hold hearings
5 if there's no requirement the IDA board
6 members attend, no requirements relating to
7 notice.

8 And I emphasize again that
9 Section 1 actually is a back-door way to avoid
10 the application of the Wicks Law.

11 So I think that in addition to the
12 fact that this bill is not actually going to
13 reform IDAs, because it's not passing the
14 Assembly, and that much of what it does is
15 really sort of minimal, it actually does harm
16 in Section 1.

17 And I appreciate the sponsor's
18 efforts. I know there have been many long
19 meetings and many hours spent trying to come
20 up with some way to reform IDAs. I'm sorry
21 that we're adjourning without doing it. But
22 under these circumstances, and with the flaws
23 in this bill, I also will be voting no.

24 Thank you, Mr. President.

25 ACTING PRESIDENT MEIER: Any

1 other member wish to be heard?

2 Debate is closed, then.

3 The Secretary will ring the bell.

4 Members are asked to come to the chamber for a
5 vote.

6 Read the last section.

7 THE SECRETARY: Section 11. This
8 act shall take effect immediately.

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT MEIER: Announce
13 the results.

14 THE SECRETARY: Those recorded in
15 the negative on Calendar Number 1840 are
16 Senators Andrews, Diaz, Dilan, Duane,
17 Hassell-Thompson, L. Krueger, Parker,
18 Paterson, Sabini, Savino, Schneiderman,
19 Serrano, A. Smith and Stavisky.

20 Absent from voting: Senator
21 Gonzalez.

22 Ayes, 46. Nays, 14.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 Senator Bruno.

1 SENATOR BRUNO: Mr. President,
2 can we at this time recognize Senator
3 Schneiderman.

4 ACTING PRESIDENT MEIER: Senator
5 Schneiderman.

6 SENATOR SCHNEIDERMAN: Thank you,
7 Mr. President.

8 There will be an immediate
9 conference of the Minority in the Minority
10 Conference Room.

11 And we should turn things now back
12 over to the master of ceremonies, Senator
13 Bruno.

14 SENATOR BRUNO: Thank you,
15 Senator.

16 ACTING PRESIDENT MEIER: There
17 will be an immediate conference of the
18 Minority.

19 Senator Bruno.

20 SENATOR BRUNO: And, Mr.
21 President, I would suggest that we have a
22 conference in the Majority Conference Room
23 with the Majority. And that we could
24 reconvene -- stand at ease in the interim --
25 at 7:00, if that works for everybody, at

1 7:00 p.m. tonight.

2 ACTING PRESIDENT MEIER:

3 Immediate conference of the Majority in the
4 Majority Conference Room.

5 The Senate will stand at ease until
6 7:00.

7 (Whereupon, the Senate stood at
8 ease at 6:46 p.m.)

9 (Whereupon, the Senate reconvened
10 at 7:18 p.m.)

11 ACTING PRESIDENT MEIER: Senator
12 Skelos.

13 SENATOR SKELOS: Mr. President,
14 if we could go to the supplemental active
15 list.

16 ACTING PRESIDENT MEIER: The
17 Secretary will conduct the noncontroversial
18 reading of the supplemental active list.

19 THE SECRETARY: Calendar Number
20 149, by Senator Skelos, Senate Print 484C, an
21 act to amend the Public Health Law.

22 SENATOR SKELOS: Mr. President,
23 is there a message of necessity at the desk?

24 ACTING PRESIDENT MEIER: Yes,
25 there is, Senator.

1 SENATOR SKELOS: Move to accept.

2 ACTING PRESIDENT MEIER: The
3 question is whether to accept the message of
4 necessity. All those in favor signify by
5 saying aye.

6 (Response of "Aye.")

7 ACTING PRESIDENT MEIER: Those
8 opposed, nay.

9 (Response of "Nay.")

10 ACTING PRESIDENT MEIER: The
11 message is accepted.

12 The bill is before the house.

13 Read the last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 61.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 478, substituted earlier today by Member of
25 the Assembly Kolb, Assembly Print Number

1 6871B, an act to amend the Vehicle and Traffic
2 Law.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 61.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 717, by Senator Volker, Senate Print 1628B, an
15 act to amend the Criminal Procedure Law.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT MEIER: The bill
24 is high. It will be laid aside.

25 THE SECRETARY: Calendar Number

1 867, substituted earlier today by Member of
2 the Assembly Weinstein, Assembly Print Number
3 7255B, an act to amend the New York City Civil
4 Court Act and others.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

7 THE SECRETARY: Section 12. This
8 act shall take effect on the 30th day.

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 61.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1283, substituted earlier today by Member of
17 the Assembly Zebrowski, Assembly Print Number
18 7555, an act to amend the Local Finance Law.

19 ACTING PRESIDENT MEIER: Read the
20 last section.

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

23 ACTING PRESIDENT MEIER: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 61.

2 ACTING PRESIDENT MEIER: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1299, substituted earlier today by Member of
6 the Assembly Christensen, Assembly Print
7 Number 8137A, an act to amend the Real
8 Property Tax Law.

9 ACTING PRESIDENT MEIER: Read the
10 last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect on the first of January
13 next succeeding.

14 ACTING PRESIDENT MEIER: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 61.

18 ACTING PRESIDENT MEIER: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1597, by Senator Alesi, Senate Print 5531, an
22 act to authorize the Town of Riga.

23 ACTING PRESIDENT MEIER: Read the
24 last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 61.

6 ACTING PRESIDENT MEIER: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 1673, substituted earlier today by Member of
10 the Assembly Abbate, Assembly Print Number
11 7608A, an act to amend the Criminal Procedure
12 Law.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

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

17 SENATOR MONTGOMERY: Lay it
18 aside.

19 ACTING PRESIDENT MEIER: Lay the
20 bill aside.

21 THE SECRETARY: Calendar Number
22 1701, substituted earlier today by the
23 Assembly Committee on Rules, Assembly Print
24 Number 8777, an act to provide an accelerated
25 schedule.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 61.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1704, substituted earlier today by Member of
13 the Assembly Butler, Assembly Print Number
14 8532, an act to amend the Highway Law.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

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

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 61.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1741, by Senator Golden, Senate Print 5788, an
2 act to amend the Tax Law.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 61.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 Senator Skelos, that completes the
14 noncontroversial reading of the supplemental
15 active list.

16 SENATOR SKELOS: Mr. President,
17 would you please call up Calendar Number 1810.

18 ACTING PRESIDENT MEIER: The
19 Secretary will read Calendar 1810.

20 THE SECRETARY: Calendar Number
21 1810, by Senator Winner, Senate Print 5873, an
22 act to amend the Legislative Law.

23 SENATOR SKELOS: Mr. President,
24 is there a message of necessity at the desk?

25 ACTING PRESIDENT MEIER: There is

1 a message at the desk.

2 SENATOR SKELOS: Move to accept.

3 ACTING PRESIDENT MEIER: All
4 those in favor of accepting the message of
5 necessity signify by saying aye.

6 (Response of "Aye.")

7 ACTING PRESIDENT MEIER: Those
8 opposed, nay.

9 (Response of "Nay.")

10 ACTING PRESIDENT MEIER: The
11 message is accepted.

12 The Secretary will read the last
13 section.

14 THE SECRETARY: Section 16. This
15 act shall take effect immediately.

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT MEIER: Senator
20 Schneiderman, to explain his vote.

21 SENATOR SCHNEIDERMAN: Thank you,
22 Mr. President.

23 It is a pleasure to be able to vote
24 on two very important bills in one evening,
25 the emergency contraception earlier and this

1 bill, which is also long overdue, but a
2 fundamental step forward in the regulation of
3 lobbying and trying to ensure that our
4 constituents get the quality of government and
5 the integrity of government they deserve.

6 This is a great step forward. I'm
7 very pleased that a deal was worked out and
8 that this bill is on the floor for us to vote
9 on this evening. I strongly urge everyone to
10 vote yes.

11 Thank you, Mr. President.

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

15 Senator Winner, to explain his
16 vote.

17 SENATOR WINNER: Thank you, Mr.
18 President.

19 Obviously this is a very historic
20 moment for this body. This is a major step
21 forward in putting forth transparency and
22 openness with regard to the lobbying that goes
23 on in this state. I'm very proud to have
24 sponsored this bill, and I thank Senator Bruno
25 for his assistance and support in making this

1 bill a reality.

2 This bill contains a number of very
3 important factors dealing with opening up the
4 process of lobbying and making sure that the
5 procurement process in this state is -- goes
6 forward from now on with a great deal of not
7 only transparency but a great deal of
8 confidence from the public that in fact things
9 are aboveboard and things are done in the open
10 and things are done properly.

11 And there are a number of other
12 provisions in this legislation that provide
13 for lobbying on the local level. However,
14 there are also protections built in so that
15 certain economic development activities and
16 other things can go forward without the
17 necessity of having -- have them be unfettered
18 and cause dislocation with regard to our
19 ability to try to attract people that do
20 business in this state.

21 We want to bring this practice out
22 in the open. This bill does that. And I
23 thank you all for the support that this
24 measure is receiving. And I think we can
25 proud that we have accomplished a good deal of

1 reform in the area of procurement lobbying
2 tonight.

3 ACTING PRESIDENT MEIER: Senator
4 Winner will be recorded in the affirmative.

5 Senator DeFrancisco, to explain his
6 vote.

7 SENATOR DeFRANCISCO: Yes, I'd
8 like to compliment the sponsor, Senator
9 Winner.

10 We talk -- a lot of people talk
11 about reform and talk about reform, but this
12 is a true reform bill dealing with procurement
13 lobbying. And it's a bill that we all should
14 be proud of, as part of this legislative body,
15 because this is the type of bill that will
16 restore confidence in the Legislature.

17 And, Senator Winner, it's a
18 wonderful job that you did and I'm glad to be
19 able to vote aye.

20 ACTING PRESIDENT MEIER: Senator
21 DeFrancisco will be recorded in the
22 affirmative.

23 Senator Flanagan, to explain his
24 vote.

25 SENATOR FLANAGAN: Thank you, Mr.

1 President. Just briefly to explain my vote.

2 I also compliment Senator Winner.

3 I had the distinction or dubious honor of
4 being the immediate preceding chair of the
5 Ethics Committee. Having worked on some of
6 these issues, I firmly and genuinely believe
7 that when we look back on this year's session,
8 this will be considered one of the top
9 achievements.

10 And, you know, we always hear about
11 reform, and there are people who criticize us.
12 This is really true, fundamental reform in
13 terms of how we do some business practices in
14 the State of New York. We have a couple of
15 bills tomorrow that are going to even add more
16 to what we're doing here this evening.

17 This is a great thing for this
18 body, for this state, and for the citizens of
19 the State of New York.

20 ACTING PRESIDENT MEIER: Senator
21 Flanagan will be recorded in the affirmative.

22 Senator Liz Krueger, to explain her
23 vote.

24 SENATOR LIZ KRUEGER: Thank you,
25 Mr. President.

1 I also stand to applaud our moving
2 forward on this legislation. As Senator
3 Flanagan pointed out, he and I debated
4 different lobbying reform bills in 2002. I
5 carried one then, as I carry one today. We
6 weren't in agreement then. But I'm very glad
7 that much of what I was talking about in 2002
8 through 2005 is included in this bill.

9 And I appreciate that, because
10 everyone who has spoken is right, this is
11 reform we should be doing. And it's reform we
12 need to be doing, of course, because our
13 reputation has been harmed over the years by
14 ethical problems, by some criminal activities.
15 And it is, I think, the minimum the public can
16 expect from us that we would have good laws
17 around lobbying, that we would have
18 transparency. I don't think it's a perfect
19 bill, but we never get perfect bills here.

20 So in fact, this bill is a bill I
21 would be proud to put my name on as a sponsor.
22 And I'm sorry that we actually still have a
23 policy where we don't have open cosponsorship
24 of bills, because so frequently we find that
25 we do reach across the aisle, as we have now

1 earlier today on the emergency contraception
2 bill. And as part of reform for lobbying, I
3 also hope that at some point in time people
4 who want to sign on and cosponsor bills in
5 this house would be able to.

6 Again, this isn't the bill that I
7 think we, if we wrote it in a bipartisan group
8 manner, might have ended up with. I think we
9 might have added some specifics around banning
10 gifts from lobbyists to lawmakers and staff,
11 establishing at least a one-year cooling-off
12 period for legislative staffers and top party
13 officials before they're allowed to lobby the
14 Legislature.

15 I also think there's a couple of
16 questions that are reasonable to continue to
17 ask about the role of lawmakers in lobbying
18 commissioners and other top administration
19 officials on behalf of lobbyists and their
20 clients. I think that may be a loophole we
21 can go back and we can fix it.

22 Again, it is a good day. This is a
23 good bill, if not the best bill --

24 ACTING PRESIDENT MEIER: Senator,
25 the two minutes for you to explain your vote

1 has expired. How do you vote?

2 SENATOR LIZ KRUEGER: Thank you.

3 I'll be voting yes. And I was thanking you.

4 ACTING PRESIDENT MEIER: Senator

5 Krueger will be recorded in the affirmative.

6 Senator Stachowski, to explain his

7 vote.

8 SENATOR STACHOWSKI: I too rise

9 to congratulate the sponsor. Glad to see a

10 lobbying reform bill. As somebody,

11 unfortunately, that has served a life sentence

12 on the Ethics Commission --

13 (Laughter.)

14 SENATOR STACHOWSKI: Senator

15 Flanagan's lucky. He was on, he's gone. You

16 know? But I've been there since the start of

17 it.

18 And I'd like to congratulate

19 Senator Winner and especially on behalf of the

20 people that have worked on the Ethics

21 Commission. Because somehow or other, even if

22 it doesn't fall under our area, everybody

23 thinks it should. So the fact is that we got

24 a bill done and everybody was watching for a

25 bill of this nature, and I'm glad I get an

1 opportunity to vote for it.

2 I vote yes.

3 ACTING PRESIDENT MEIER: Senator
4 Stachowski will be recorded in the
5 affirmative.

6 Senator Connor, to explain his
7 vote.

8 SENATOR CONNOR: Thank you, Mr.
9 President.

10 I'm delighted to support this. The
11 idea of including procurement lobbying under
12 the Lobbying Law was something that I
13 supported many years ago when it was first
14 proposed by Senator Joe Bruno in, I guess,
15 1998. It caused quite an uproar at the time.
16 It was an idea that seemed to be ahead of its
17 time. At least some parts of this Capitol
18 thought so. But here we are today.

19 And thanks to the current sponsor,
20 thanks to support on both sides of the aisle,
21 we I think have done something to ensure that
22 New York State government is more transparent
23 and that the public can be assured that its
24 government is one in which it can have
25 confidence in its integrity.

1 Thank you, Mr. President.

2 ACTING PRESIDENT MEIER: Senator

3 Connor will be recorded in the affirmative.

4 The Secretary will announce the
5 results.

6 THE SECRETARY: Ayes, 61.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 Senator Skelos.

10 SENATOR SKELOS: Mr. President, I
11 believe Calendar Number 1673 was inadvertently
12 laid aside. If we could take it up at this
13 time.

14 ACTING PRESIDENT MEIER: The
15 Secretary will read Calendar Number 1673.

16 THE SECRETARY: Calendar Number
17 1673, substituted earlier today by Member of
18 the Assembly Abbate, Assembly Print Number
19 7608A, an act to amend the Criminal Procedure
20 Law.

21 ACTING PRESIDENT MEIER: Read the
22 last section.

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

25 ACTING PRESIDENT MEIER: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 61.

4 ACTING PRESIDENT MEIER: The bill
5 is passed.

6 Senator Skelos, that completes the
7 supplemental list.

8 SENATOR SKELOS: Mr. President,
9 is there any housekeeping at the desk?

10 ACTING PRESIDENT MEIER: We have
11 some motions, Senator.

12 SENATOR SKELOS: Thank you.

13 ACTING PRESIDENT MEIER: Senator
14 Nozzolio.

15 SENATOR NOZZOLIO: Thank you, Mr.
16 President. I wish to call up, on behalf of
17 Senator Padavan, Calendar Number 844, Assembly
18 Print Number 5622A.

19 ACTING PRESIDENT MEIER: The
20 Secretary will read.

21 THE SECRETARY: Calendar Number
22 844, by Member of the Assembly Canestrari,
23 Assembly Print Number 5622A, an act to amend
24 the Education Law and the Insurance Law.

25 SENATOR NOZZOLIO: I now move to

1 reconsider the vote by which this Assembly
2 bill was substituted for Senate Print Number
3 3169A on June 22nd.

4 ACTING PRESIDENT MEIER: Call the
5 roll on reconsideration.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 61.

8 SENATOR NOZZOLIO: I now move
9 that Assembly Print Number 5622A be
10 recommitted to the Committee on Rules, and the
11 Senate bill be restored to the order of Third
12 Reading Calendar.

13 ACTING PRESIDENT MEIER: So
14 ordered.

15 SENATOR NOZZOLIO: I now offer
16 the following amendments.

17 ACTING PRESIDENT MEIER: The
18 amendments are received.

19 The Secretary will read the
20 substitutions.

21 THE SECRETARY: On page 5,
22 Senator Skelos moves to discharge, from the
23 Committee on Rules, Assembly Bill Number 8894
24 and substitute it for the identical Senate
25 Bill Number 479A, Third Reading Calendar 94.

1 On page 36, Senator Maziarz moves
2 to discharge, from the Committee on Rules,
3 Assembly Bill Number 3163 and substitute it
4 for the identical Senate Bill Number 4818,
5 Third Reading Calendar 1143.

6 On page 46, Senator Oppenheimer
7 moves to discharge, from the Committee on
8 Rules, Assembly Bill Number 8769 and
9 substitute it for the identical Senate Bill
10 Number 5666, Third Reading Calendar 1608.

11 On page 49, Senator Volker moves to
12 discharge, from the Committee on Rules,
13 Assembly Bill Number 8583A and substitute it
14 for the identical Senate Bill Number 5540A,
15 Third Reading Calendar 1722.

16 On page 50, Senator Winner moves to
17 discharge, from the Committee on Rules,
18 Assembly Bill Number 8851 and substitute it
19 for the identical Senate Bill Number 5742,
20 Third Reading Calendar 1734.

21 And Senator Saland moves to
22 discharge, from the Committee on Rules,
23 Assembly Bill Number 8936 and substitute it
24 for the identical Senate Bill Number 5857,
25 Third Reading Calendar 1849.

1 ACTING PRESIDENT MEIER:

2 Substitutions ordered.

3 Senator Skelos.

4 SENATOR SKELOS: Mr. President,
5 tomorrow could be a long day. So I'm just
6 going to suggest that the members be here in a
7 timely fashion.

8 And on the controversial calendar,
9 we are going to try to keep the gap between
10 members coming from whatever business they're
11 performing into the chamber to vote to
12 approximately 2 minutes.

13 ACTING PRESIDENT MEIER:

14 Two-minute rule tomorrow.

15 SENATOR SKELOS: There being no
16 further business to come before the Senate, I
17 move we stand adjourned until Thursday,
18 June 23rd, at 10:00 a.m.

19 ACTING PRESIDENT MEIER: On
20 motion, the Senate stands adjourned until
21 Thursday, June 23rd, at 10:00 a.m.

22 (Whereupon, at 7:36 p.m., the
23 Senate adjourned.)

24

25