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

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.

Messages from the Governor.

Reports of standing committees.

The Secretary will read the report of the Finance Committee.

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

As a member of the State Board of Parole, Patrick Gallivan, of Buffalo.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Volker.

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

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

Parole Board.

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

ACTING PRESIDENT MEIER: Senator Stachowski.

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

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

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

Thank you, Mr. President.

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Mr. Gallivan is with us today in the gallery.

So we congratulate you and wish you well, sir.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President,

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

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

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

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

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, very quickly.

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Mr. Johnson is with us today in the gallery. He is accompanied by his fiancee, Deborah Colosanta, and his nephew, Corey Rivers.

Mr. Johnson, we congratulate you

and we wish you well with your important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

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

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

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

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

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

rehabilitation in this individual should warrant denial of parole.

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

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

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

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

We congratulate you and wish you well.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

Smith, Jr., of Clarence Center.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on the nomination.

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

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

ACTING PRESIDENT MEIER: Senator Maziarz.

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Rath.

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

So we're very glad to have you back.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Mr. Smith is with us today in the gallery.

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

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Ms. Blakeman is with us today in the gallery.

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

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Mr. Frost is with us in the gallery.

Congratulations, Mr. Frost, and best wishes.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Young.

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

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

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

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

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

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

Congratulations, Sheriff.

The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MEIER: Senator Volker.

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

Good man, a police officer's police

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

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

ACTING PRESIDENT MEIER: Senator Stachowski.

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

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

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

Thank you.

ACTING PRESIDENT MEIER: Senator Rath.

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

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

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

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

ACTING PRESIDENT MEIER: Senator Brown.

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

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

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

I would also like to take this opportunity to also congratulate Sheriff Patrick Gallivan on being appointed to the Parole Board, and George Johnson for also being appointed to the Control Board -- to the Parole Board.

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

(Laughter.)

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those

opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

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

Sheriff, congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

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

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

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

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

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

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

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

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

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

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

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

Fayetteville.

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

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

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

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

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nominations.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominees are confirmed.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

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

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

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

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

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

ACTING PRESIDENT MEIER: The record will so reflect.

SENATOR BONACIC: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Andrews.

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

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

ACTING PRESIDENT MEIER: The record will so reflect.

SENATOR ANDREWS: Thank you.

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

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

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

ACTING PRESIDENT MEIER: Senator DeFrancisco.

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

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Senator Maltese.

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

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

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

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

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

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

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

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

Senator Malcolm Smith.

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

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

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

Thank you.

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

I'm sorry. Senator Larkin.

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

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

finest.

Thank you very much.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

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

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

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

New York City.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

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

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

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

ACTING PRESIDENT MEIER: Senator Maltese.

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

Judge Carey.

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

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

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

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

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

renomination as a judge of the Court of Claims.

ACTING PRESIDENT MEIER: Senator Golden.

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Senator Malcolm Smith.

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

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

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

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

It is my pleasure to second her nomination.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

nominee is confirmed.

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

Judge, congratulations and best wishes to you.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator DeFrancisco.

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

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

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: Judge Carro is confirmed.

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

Judge, congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator DeFrancisco.

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

(Laughter.)

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

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

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

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

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

(Laughter.)

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

Senator Golden.

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

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

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

Judge, congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator DeFrancisco.

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

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

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

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: Thank you, Acting President.

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

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

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

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

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

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

Thank you, God bless your family, great success.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

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

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

Judge, congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator DeFrancisco.

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

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

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

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

ACTING PRESIDENT MEIER: Senator Golden.

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

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

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

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

Judge, we congratulate you and wish

you well.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator DeFrancisco.

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

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

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

So I proudly move his nomination

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

ACTING PRESIDENT MEIER: Senator Golden.

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

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

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

And also being an active volunteer

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

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

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

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

ACTING PRESIDENT MEIER: Senator Marchi.

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

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

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

Thank you. All the best.

ACTING PRESIDENT MEIER: Senator Malcolm Smith.

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

(Laughter.)

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

the bench.

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

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Ingram is with us in the

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

Judge, congratulations.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator DeFrancisco.

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

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

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

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

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

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President.

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

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

But you have accomplished so much,

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

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

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

I'm honored to second your nomination.

ACTING PRESIDENT MEIER: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Mr. President.

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

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

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

ACTING PRESIDENT MEIER: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Mr. President.

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

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

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

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

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

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

Judge, congratulations.

(Applause.)

ACTING PRESIDENT MEIER: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

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

ACTING PRESIDENT MEIER: There are.

The Secretary will read the

substitutions.

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

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

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

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

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

Number 5380B, Third Reading Calendar 1299.

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

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

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

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

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

Number 5727, Third Reading Calendar 1733.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, at this time may we have the reading of the calendar.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

Announce the results.

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

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill

is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

SENATOR WINNER: Star the bill.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR LITTLE: Thank you, Mr. President.

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

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

able to retire on a one-third pension.

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

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

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

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR GOLDEN: Thank you, Acting President.

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

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

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

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

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

Thank you, Mr. President. I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

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

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

develop a balanced bill.

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

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

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

Thank you, Mr. President. I vote aye.

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

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

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

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

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

Consumer electronics, high-tech

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

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

Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

SENATOR LaVALLE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR VALESKY: Thank you, Mr. President.

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

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

I vote aye.

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

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Thank you, Mr. President.

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

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

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

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Senator Fuschillo.

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

THE PRESIDENT: The Secretary will read.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

Ayes, 54. Nays, 4.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is

passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Young, to explain your vote.

SENATOR YOUNG: Thank you, Madam

President, to explain my vote.

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

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

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

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

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

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

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

Senator Farley, to explain your vote.

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

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

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

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

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Young, to explain your vote.

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

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

THE PRESIDENT: Excuse me,

Senator Young.

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

You may proceed.

SENATOR YOUNG: Thank you, Madam President.

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

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

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

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

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

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

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

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

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

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

Senator Fuschillo.

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

THE PRESIDENT: The Senate stands at ease.

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

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

THE PRESIDENT: Senator Fuschillo.

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

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

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

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

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

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

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

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

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

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

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

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

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

5486, by the Senate Committee on Rules, an act to amend the Labor Law;

5487, by the Senate Committee on Rules, an act to amend the Civil Service Law;

5553B, by Senator Winner, an act to amend the Environmental Conservation Law;

5602, by Senator Fuschillo, an act to amend the General Business Law;

5650A, by Senator Johnson, an act to amend the Environmental Conservation Law;

5679, by Senator Nozzolio, an act authorizing;

5690, by Senator Wright, an act to amend the Public Service Law;

5708, by Senator Leibell, an act to amend the Public Authorities Law;

5719, by Senator Maziarz, an act to amend the General Business Law;

5724, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

5726A, by Senator Young, an act to amend the Correction Law;

5733, by Senator Morahan, an act to amend the Penal Law;

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

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

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

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

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

5818, by Senator Padavan, an act authorizing;

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

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

All bills ordered direct to third reading.

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Fuschillo.

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

THE PRESIDENT: The Secretary will read.

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

THE PRESIDENT: The Secretary will ring the bell.

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

The Secretary will read.

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

SENATOR MONTGOMERY: Explanation.

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

SENATOR GOLDEN: Thank you, Madam President.

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

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

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

children and for the administration of that school building.

THE PRESIDENT: Senator Montgomery.

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

THE PRESIDENT: You may proceed.

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

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

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

I'm going to be voting no.

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

Senator Stavisky.

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

THE PRESIDENT: You may proceed, Senator.

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

aid in that respect.

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

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

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

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

Then the debate is closed.

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

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of July.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Golden, to explain your vote.

SENATOR GOLDEN: Thank you, Madam President.

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

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

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

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

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

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

Senator Oppenheimer, to explain her vote.

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

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

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

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

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

The Secretary will announce the results.

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

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

Ayes, 39. Nays, 18.

THE PRESIDENT: The bill is passed.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

I had a brief meeting off the floor

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

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

SENATOR BONACIC: Thank you, Madam President.

THE PRESIDENT: You're welcome.

The Secretary will continue to read.

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

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR WRIGHT: Thank you, Madam President.

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

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you,

Madam President. If the sponsor could please yield.

THE PRESIDENT: Senator Wright, do you yield?

SENATOR WRIGHT: Yes, I will, Madam President.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Could you define biofuels as you think they'll be meant here in New York State, Senator?

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

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

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

SENATOR WRIGHT: I will, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

What's the estimated cost of this tax credit, Senator?

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

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

SENATOR LIZ KRUEGER: Thank you.

On the bill, Madam President.

THE PRESIDENT: You may proceed on the bill.

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

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

In the final episode of "The West

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

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

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

Thank you, Madam President.

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

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

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Wright, to explain your vote.

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

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

(Laughter.)

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

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

Renewable Energy Center of Excellence in Syracuse.

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

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

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

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

Senator Montgomery, to explain your vote.

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

I think this is an extremely

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

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

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

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

Thank you, Madam President.

THE PRESIDENT: You will be

recorded as voting in the affirmative, Senator.

Senator Volker, to explain your vote.

SENATOR VOLKER: Madam President, to explain my vote.

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

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

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

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

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

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

Anyways, I vote aye.

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

Senator Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Thank you, Madam President.

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

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

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

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

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

Thank you, Madam President.

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

The Secretary will announce the results.

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

Absent from voting: Senators Flanagan and Sampson.

Ayes, 55. Nays, 4.

THE PRESIDENT: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, Calendar Number 1726 was

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

THE PRESIDENT: So ordered.

The Secretary will read.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read the controversial calendar.

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

SENATOR FUSCHILLO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: The bill is laid aside temporarily.

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

SENATOR LIZ KRUEGER: Explanation.

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

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

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

ACTING PRESIDENT MEIER: Senator Krueger.

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

ACTING PRESIDENT MEIER: Senator Spano, do you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

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

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

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

SENATOR LIZ KRUEGER: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, we had this debate twice

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

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

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

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

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

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

Thank you, Mr. President.

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

Debate is closed, then.

The Secretary will sound the bell.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR STACHOWSKI: Mr. President, to explain my vote.

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

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

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

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

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

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

I vote yes.

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

Announce the results.

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

Absent from voting: Senators Flanagan and Sampson.

Ayes, 49. Nays, 10.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

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

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

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

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

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

THE SECRETARY: -- Third Reading Calender 1745.

ACTING PRESIDENT MEIER: Substitution ordered.

Lay the bill aside for the day.

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

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

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

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

act shall take effect on the first of April.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane, why do you rise?

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

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

Senator Duane is recognized to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

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

Thank you, Mr. President.

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

The Secretary will announce the results.

THE SECRETARY: In relation to

Calendar Number 1751: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR PADAVAN: Lay it aside for the day.

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

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

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR DIAZ: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

Ayes, 57. Nays, 2.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR FARLEY: To explain my

vote very quickly.

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

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

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

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

(Laughter.)

SENATOR DUANE: Thank you, Mr. President.

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

Thank you very much.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill

is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo, that completes Supplemental Calendar A.

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

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, 58. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill

is passed.

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

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

The Senate will stand at ease.

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

The Senate will stand at ease pending the report.

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

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

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Yes, there are.

The Secretary will read the substitutions.

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

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

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

following bills:

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

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

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

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

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

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

5748, by Senator Maziarz, an act to amend the Labor Law;

5754, by Senator Meier, an act to amend the Domestic Relations Law;

5769, by the Senate Committee on Rules, an act to amend the Insurance Law;

5770, by the Senate Committee on Rules, an act to amend Chapter 650 of the Laws of 1998;

5774, by Senator Little, an act to amend the Labor Law;

5775, by Senator Balboni, an act authorizing the Commissioner of General Services;

5786, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5789, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

5791, by Senator Little, an act to enact;

5793, by Senator LaValle, an act in relation to the implementation;

5801, by Senator Johnson, an act to amend the Insurance Law;

5803, by Senator Hannon, an act to amend the Surrogate's Court Procedure Act;

5804, by Senator Golden, an act to amend the Social Services Law;

5810A, by Senator Golden, an act to amend the Social Services Law;

5811, by Senator Hannon, an act to amend the Tax Law;

5812, by the Senate Committee on Rules, an act to amend Chapter 179 of the Laws of 2000;

5817, by Senator Saland, an act to amend the Education Law;

5823, by Senator Saland, an act to grant;

5830, by Senator Trunzo, an act to amend the Criminal Procedure Law;

5831, by Senator Skelos, an act to amend the Criminal Procedure Law;

5833, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5834, by Senator Wright, an act to amend the Social Services Law;

5838, by Senator Rath, an act to amend the Penal Law;

5842, by Senator Seward, an act to amend the Insurance Law;

5843, by Senator Fuschillo, an act to amend a chapter of the Laws of 2005;

5851, by Senator Robach, an act directing the state comptroller;

5858, by Senator Rath, an act relating to the payment;

5859, by Senator Morahan, an act to authorize;

5863, by Senator Golden, an act in

relation;

5873, by Senator Winner, an act to amend the Legislative Law;

5888, by Senator Seward, an act to amend the Insurance Law;

And Senate Print 5897, by Senator Skelos, an act to amend the General Business Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Move to accept the report.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr.

President, please return to the controversial reading of the supplemental active list and take up Calendar Number 701.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 701 from the supplemental active list.

The Secretary will ring the bell. Members should be aware that we're on the controversial list.

The Secretary will read Calendar 701.

THE SECRETARY: Calendar Number 701, by Senator Bonacic, Senate Print 265, an act to amend the Environmental Conservation Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Bonacic, Senator Schneiderman has requested an explanation of Calendar 701.

SENATOR BONACIC: This bill requires that city-owned lands in the watershed area, which are lands in Delaware, Greene, Schoharie, Sullivan, and Ulster County, be open to recreational purposes

similar to those allowed on state lands.

This emanates out of a watershed agreement on January 21, 1997, an agreement that was signed by 95 different parties, including 72 towns and villages in several counties.

This bill does not require the DEP lands to be opened for recreation where there is some safety, homeland security or related to water supply protection.

The reason we need this bill is that the city is spending $250 million a year in my Senate district and in other adjoining counties, and they're restricting their lands to recreational uses. And under the watershed agreement, they were required to allow the same historical recreation activities that had existed prior to the watershed agreement of 1997.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Through you, Mr. President, if the sponsor would yield for a question.

ACTING PRESIDENT MEIER: Senator

Bonacic, do you yield?

SENATOR BONACIC: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Thank you.

I just want to clarify a couple of things about this bill. In addition to imposing the requirements -- this is about the land around the watershed that protects the water supply for the City of New York.

In addition to requiring that if the city purchased new land it make it available for recreational use similar to the adjoining land, or similar land in the same area, that the City of New York is going to be required to go back, within 90 days or the effective date of this bill, and pass new regulations -- and I'm reading now from Section 4 of the bill -- to ensure that the land is the same -- land already owned by the city has the same recreational uses as state lands which are nearby geographically and have similar topography.

Is that not correct?

SENATOR BONACIC: If the city

doesn't do this, then a petitioner could petition the DEC to force the city to do this.

SENATOR SCHNEIDERMAN: So through you, Mr. President --

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

SENATOR BONACIC: Yes. Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: So this imposes a requirement on any future purchases of land, but it also provides this 90-day window that requires the city to go back and pass regulations on all preexisting purchases of land.

SENATOR BONACIC: Yes.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Thank the sponsor.

On the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: This is a piece of legislation that I think tampers with a very delicate balance that has been achieved and was achieved through the memorandum of

agreement that Senator Bonacic referred to. This tampers with that balance.

Right now we have an investment by the City of New York of $1 billion in the most critical resource which sustains our city, which sustains the economic engine of our state, which is the water supply. This is one of the great accomplishments of the 19th century in terms of science, engineering and politics. There are -- every year the city pays more than $80 million in local property taxes in watershed areas.

But because of the need to protect this aquifer and prevent us from having to invest much more money in filtration plants, the city has, on an ongoing basis, acquired additional land around the protected area.

What this bill will do is require the city, unless the city makes an affirmative showing to justify why it shouldn't do it, to open up the land that is intended to be pristine and to protect the aquifer to recreational use.

In my view, this contravenes both the letter and the spirit of the memorandum of

understanding. And quite honestly, the bill -- you know, I understand that people in that area may want to use this property. But I think the whole idea of the memorandum of agreement is that there is some property there they simply cannot use because we have to protect the aquifer, we have to protect the purity from pollution. But more essentially, now, is that we have to ensure that it is secure.

This bill states land uses may not be identical if the purchaser can show with good cause a safety or security reason for not allowing recreational use. Well, I would respectfully submit that the research done by Riverkeeper, the Riverkeeper report issued in 1999 showing the vulnerability of the water supply, and additional information that has been developed since September 11th, has shown that our water supply is extraordinarily vulnerable.

And were it not for the fact that we're late in the session and we're all trying to move along quickly, I would ask Senator Balboni to expound on this issue. But I'm

going to try and do it briefly myself.

We have security concerns. And in my view, the City of New York should not be required on a piecemeal basis to identify each separate piece of land and what the specific security issue is there, what the specific pollution protection issue is there.

I don't think this is a bill that strikes a fair balance between the needs to preserve the purity and the safety of our water supply and the needs of the residents of the area -- who admittedly put up with a burden, you know, and suffer a burden. They do get benefits pursuant to the memorandum of agreement.

This breaks the balance of the memorandum of agreement, in my view. And everyone -- certainly, people from the city should be opposed to this. But I think anyone who cares about the security of our greatest city and our economic development, the economic development in downstate New York, I think should also oppose this.

I would also note that there's a lot of land that the city has acquired that

was never used for recreational purposes. Some of it was just fallow land or decommissioned agricultural land. This would require the city to go back and make available for recreational purposes land that was never even used for recreation.

So I think it's an unfair bill. I think it tilts against the city. I think it does not fairly address the security and environmental concerns. And I would urge all of my colleagues to vote against, and I'd urge the sponsor that we need to go back to the drawing board if there are needs for adjustments to the memorandum of agreement.

I think this really goes far too far in the direction of putting a burden on the city and exposing all the residents of the city to the potential of pollution, the potential of security problems, and unfairly requires the government of New York City to justify, on a piecemeal basis, every possible piece of property and why it shouldn't be used for recreational purposes.

In my view, the requirement that the city show a safety or security reason has

been met with regard to all of the land around the aquifer. And I think that, if anything, the burden should be in the opposite direction.

So I will be voting no on this, Mr. President. I understand the sponsor's intent, and I appreciate the issues that are raised by his constituents about this. But this bill is not the way to solve the problem.

Thank you.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Yes, Mr. President, very briefly.

With all due respect to the sponsor and his intention, I think you should all understand, for those of you who may not be familiar with it, that these reservoirs, the properties in and about these reservoirs, are open to recreation. You can go in there and fish, you can have a boat from which to fish, you could hunt. However, you have to get a permit from DEP. And it's a very simple process. You can do it by mail.

So they are imposing some

restrictions. You just don't walk in there and do the things that you might do in a state park -- Harriman State Park or any other state park -- for the very reasons that have been articulated. These are reservoirs, critical to the life of the City of New York and other areas that acquire their drinking water from those reservoirs.

As far as I know, this opportunity to get a permit to fish and hunt and boat in these reservoirs continues as of this day. It has not been eliminated. And as far as I know, it will continue under the agreements that were referred to.

You should also understand that these reservoirs and the surrounding areas are maintained to a reasonable degree, are improved upon by the City of New York DEP as the property owner. In some cases, they would not be as desirable a place to fish in. I know; I've fished in a number of them.

I've fished in Ashokan, I think is how you pronounce it. I've fished in Schoharie. I've fished in Pepacton. And because of what they are and how they are

kept, they were desirable places to go to. And I've been doing that since I was 14 years of age. And, I'm sure, so have thousands of others in the past and in the future.

So you should understand that when you are considering what we're dealing with here today.

I don't believe it's necessary to pass this bill to allow people in these localities, local residents, to continue to have the benefit of fishing and hunting and boating in these properties.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Thank you, Mr. President. If the sponsor would yield for a question.

SENATOR BONACIC: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SABINI: Through you, Mr. President. I believe I heard the sponsor say that -- and maybe I misheard, that the bill was necessary to continue to implement the memorandum of agreement.

SENATOR BONACIC: The watershed agreement of 1997, as part of the agreement -- and I have the language with me -- it said that the city shall allow historical recreational uses.

The problem is they do not allow historical recreational uses. And the barometer of the historical recreation uses is what the state lands have, in compatible property next to the city's lands, that have been in existence over a hundred years.

Now the city comes up, and they do parcel by parcel, and there's no consistent policy as to what recreation uses you can do on each of those lands.

And I'll just give you a perfect example: hunting. You can hunt white doe, deer. That's it. But on state lands, you can hunt everything. You can hunt bear, muskrat, rabbit, deer. So when they use the broad category of allowing hunting, that is -- it's only a small percentage of what the state allows.

And why is this important? I'll tell you why this is important. Forty-five

thousand acres is reservoir land, the waters. They are entitled to be protected. We don't want anybody going near the waters. And under this bill, the DEC is required to consult with homeland security when they lay out the buffers on this city land, where you can go and don't go.

What other city or municipality anywhere in this nation, outside of its city lines, can go buy $250 million worth of property and tell the people up there, You basically are restricted in using it, when the people up there have been the protectors of the environment, have been watching the water, and are the eyes and ears in terms of security of that region?

SENATOR SABINI: Mr. President, through you, would the sponsor continue to yield.

SENATOR BONACIC: Yes.

SENATOR SABINI: It just seems to me that the 1997 memorandum of agreement, which I helped work on when I was a member of the Environmental Protection Committee of the New York City Council, that this was known

then when it was signed by people in the Catskill region, that there would be restrictions on certain parts of the land to protect the integrity of the water, in light of September 11, 2001, to protect the integrity of our homeland security around the water system, and that this is nothing new.

And now what this bill seeks to do is to take land that was acquired that had never been recreated on before -- and if I'm wrong, please tell me. Because some of this land had not been recreated on before; it was someone's farm, someone's estate, someone's home -- and now say, this is open season, everyone can go hunt and fish on it. And even though it was never intended for recreational purposes, we're now saying, well, everything that the city owns is now going to be, in effect, like a state park.

And I have a big problem with that, as does the city. I mean, are you saying that this is something that was understood in the memorandum of agreement in '97?

SENATOR BONACIC: The purpose of this agreement was to avoid litigation and to

help the city avoid building a water filtration plant that would cost city taxpayers between $8 billion and $10 billion.

So this consensus agreement was put together. And they used language -- and the people who were a party to it, when they said historical recreation activities, they thought that was easy to show. Look what the state has been doing for over 90 years.

But the city comes up and -- I'm only talking now of lands that are comparable to the state lands. Not near the water. Anything near the water can be restricted. And in terms of fishing, you can use a rowboat and you can do kayaking, but you can't do any motorized boating. And we don't have a problem with that.

What they have done is they're going and buying up all of the land, as much as they can, in the name of water protection. And then they make it a wasteland in terms of attracting tourism by diminishing the recreational activities that bring the people up there that are enjoyed on state-owned lands.

SENATOR SABINI: Mr. President, if the sponsor would continue to yield.

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

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SABINI: Is it the sponsor's assertion that the land is being sold under duress?

I mean, it's my recollection, having worked on this a long time, that it was a very strong effort to get willing buyer-willing seller and to get community agreement on this.

And that the residents of the Catskills region who get, and they deserve, free water treatment for their sewage, free water supply from the City of New York -- you have the benefit of our Art Commission decorating the water treatment facilities that I see on Route 28 that frankly are an embarrassment, because the Art Commission dictates what the wainscotting has to look like -- you knew this was the case when the

memorandum of understanding was signed.

And Senator Schneiderman said it very well, that this will sort of upset the balance, if you will, of a hundred years of animosity, to tip it again and make the balance more, frankly, one that we as residents of the city, have to defend against.

I mean, is there something that we didn't know in 1997 that you know today that causes this to happen? Or didn't you know this was going to be the case?

SENATOR BONACIC: Absolutely. If this agreement was proposed today, there's no way that any of these counties would sign on to this watershed agreement, because the city did not keep its word in allowing historical recreational activities.

What else could it mean but the activities on state lands for a hundred years? What else could it mean?

And I will say to you that this agreement is in jeopardy. Because every five years it gets renewed. And they're prepared -- when I say "they," the coalition of towns -- to commence a war chest to go

after the city for a breach of the watershed agreement.

Do you want me to tell you some other things the city is doing other than this? Because I could share that with you too.

SENATOR SABINI: No. No.

Thank you, Mr. President.

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

Debate is closed, then.

The Secretary will sound the bell.

Members are asked to return to the chamber for a vote, which will occur shortly.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR BONACIC: What I would like to do is just read a letter --

ACTING PRESIDENT MEIER: Senator

Bonacic has the floor.

SENATOR BONACIC: Thank you, Mr. President.

I'd like to read a letter to you from a soldier serving in Iraq who comes from Delaware County.

He says: "I've received a flyer in the mail regarding the DEP and the historical use of land. I am currently deployed to Iraq as a reservist, and I'm home on leave, and I saw your notice.

"I'm a deer hunter and a bird hunter. This issue has been a sore spot for me for some time. One of the best pieces of partridge cover in Roxbury was purchased by the DEP and is no longer open to bird hunting. I hunted it for years, along with several friends of mine. It is located in the West Settlement. It breaks my heart to drive past it all the time and not being able to hunt on it. I am very interested in being part of this fight.

"Brian Perazone, Commander from Iraq."

Thank you, Mr. President.

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

Senator Sabini, to explain his vote.

SENATOR SABINI: Thank you, Mr. President.

You know, the historic tension between those in the Catskill region and those who use the water system in New York City, which is considered one of the modern miracles, where we get all our water, basically through gravity, from Ulster and Greene and counties like it, there's been tension for a hundred years, and we know that.

And the city, over the last few years, worked very hard to try and quell that tension and be partners with people in that region. I unfortunately think that it's -- it makes for good -- good grist for the mill, if you will, in those areas to continue to rail about New York City and the water supply. It makes for good water-cooler chatter.

And while I just heard the letter the sponsor read, that's nice that -- and unfortunate that this soldier can't hunt where

he wants to hunt. But I would submit to you that the water supply of I believe it's 11 million people who at some point touch New York City's water, the sanctity of that water supply, the purity of it, the security of it -- because we hear so much in this chamber about homeland security -- should take a little precedence over whether or not someone can quail-hunt where they used to or whether or not that was even legal hunting then because it may have been someone's land. I don't know.

But a balance has to be -- has been struck, I think, and we are playing with a very delicate ecosystem there. There is a reason we bought all the land in that watershed area, and there's a reason we have to keep it pristine. I'll be voting in the negative.

Thank you.

ACTING PRESIDENT MEIER: Senator Sabini will be recorded in the negative.

Senator Balboni, to explain his vote.

SENATOR BALBONI: Mr. President,

I would hope that everybody who votes on this bill had had the opportunity, at least once in their lives, to go up the watershed. It's one of those issues where if you haven't seen it, it's hard to comprehend it.

Several years ago, in 1999, the Riverkeeper group came out with a report citing security concerns about the safety of the watershed and the vulnerability to weapons of mass destruction. That actually was the moment which I became involved in the whole issue of weapons of mass destruction.

And at the time, a guy by the name of Jerry Howard came up to Albany and sat and briefed us on this issue. What became very clear was that the size of the watershed was its protection, that something on its dilution, the millions and millions of gallons of water, really prohibited any type of attack against the system at that point.

So from a security perspective, that's really not the concern. It's much more concern in the way that the water is transmitted to New York City. Enough said about that.

Ladies and gentlemen, if you travel through this watershed area, you're struck by its beauty, you're struck by its isolation, and you're struck by the fact that there are so many people there who could walk in and among the waterways, travel through them if they wanted to. There is very little enforcement in terms of people getting out on the actual waterways. And so this whole thing about security is really, I think, a red herring. Not to be punny.

We need to give some more flexibility in how the communities who live around the watershed live there. And I think, frankly, there are greater threats to the purity of the water in the watershed now that are being perpetrated outside of this particular issue. And I wish the Attorney General, frankly, would pay a little bit more attention to that part of the world and to see what's going on now, as opposed to opposing the issue like this.

I'm going to vote aye, Mr. President. Thank you.

ACTING PRESIDENT MEIER: Senator

Balboni will be recorded in the affirmative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Well, thank you. And I do think it's important to share our statewide perspectives on this issue.

I would urge my colleague, who I know sponsors this bill with absolute sincerity, that, as Senator Sabini said, we have a very delicate balance in this state. And we see the tension in this house. And we have a very diverse state. We have the greatest city in the world, an enormous metropolis, dependent for water and for the life of the city on this water supply. And we have vast, beautiful rural areas where people like to hunt partridge, I guess.

So the problem is, how do you strike the balance. And I respectfully submit that this piece of legislation goes beyond the bounds of what is necessary. Requiring the City of New York to justify all preexisting land with a set of regulations that have to be passed within 90 days is unreasonable.

The City of New York has fiscal problems. We don't buy any land we don't absolutely need. We can't afford it. So this is something that is important. Each piece of land is essential. As Senator Padavan noted, you can come in with a permit.

Let's not tamper with a balance that's working pretty well. We have other problems. The people of the City of New York subsidize other parts of the state by approximately $10 billion a year. We don't complain a lot about it. One thing we do need, though, is our water supply to be protected and for our aquifer to be pure.

I appreciate the sponsor's intent. I don't think this bill is going to solve the problem. And I hope we can work on something that's a more moderate compromise between now and the end of next year's session.

I'll be voting no. Thank you, Mr. President.

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

Senator Seward, to explain his vote.

SENATOR SEWARD: Thank you, Mr. President.

First of all, I want to commend my colleague Senator Bonacic for taking a leadership role in developing this legislation. Part of my district is included in the counties listed in this bill.

And other speakers have referenced the concept of some natural tension between the city, who needs the water, and the upstate counties and the Catskills, who have the water and are supplying that to the city. It is true, there's been tension over the years.

And early in Governor Pataki's administration there was a watershed agreement that was reached. It was a really important agreement that was reached. And since that time, however, we have seen DEP and the city move beyond, in our estimation, some of these agreements, buying properties not within the watershed.

Now, I know in the small town of Gilboa, in Schoharie County, they bought for $700,000 the only restaurant in that community, which is now closed. You can't

even get a cup of coffee in the town of Gilboa today. So -- and then to just arbitrarily say no hunting, no fishing, without a true process of evaluation.

This legislation sets up a process that, if the city truly feels that it should not be allowing, for the benefit of the clean water, hunting and fishing and the other recreational purposes which we're so accustomed to upstate, it's so important to our economy, then let's follow that process and let's vet the issue.

So I just want to say to Senator Bonacic: I commend you for coming up with this legislation. We do need to strike a balance. This legislation does that. I vote aye.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 701 are Senators Andrews, Diaz, Dilan, Duane, Golden, Gonzalez, Hassell-Thompson, Klein, L. Krueger,

C. Kruger, Maltese, Montgomery, Padavan, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky. Also Senator Connor. Also Senator Brown. Also Senator Oppenheimer.

Absent from voting on Calendar 701: Senator Sampson.

Ayes, 34. Nays, 26.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please take up Supplemental Calendar B.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of Supplemental Calendar B.

THE SECRETARY: Calendar Number 1759, by Senator Dilan, Senate Print 1081, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1776, by Senator M. Smith, Senate Print 2706, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1777, by Senator Hannon, Senate Print 5606, an act to amend the Public Health Law.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1779, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 4742A and substitute it for the identical Senate Bill Number 5740, Third Reading Calendar 1779.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1779, by Member of the Assembly Cusick, Assembly Print Number 4742A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 2, 2006.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1780, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 7561A and substitute it for the identical Senate Bill Number 5744, Third Reading Calendar 1780.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1780, by Member of the Assembly A. Cohen, Assembly Print Number 7561A, an act to amend the Judiciary Law and others.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1781, by Senator Maziarz, Senate Print 5748, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1782, by Senator Meier, Senate Print 5754, an act to amend the Domestic Relations Law and the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1783, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 2840A and --

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Well, let's substitute it first. Then we'll lay it aside, Senator.

THE SECRETARY: -- substitute it for the identical Senate Bill Number 5769, Third Reading Calendar 1783.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1783, by Member of the Assembly Grannis, Assembly Print Number 2840A, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1784, Senator Bruno moves to

discharge, from the Committee on Rules, Assembly Bill Number 2843 and substitute it for the identical Senate Bill Number 5770, Third Reading Calendar 1784.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1784, by Member of the Assembly Grannis, Assembly Print Number 2843, an act to amend Chapter 650 of the Laws of 1998.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1785, by Senator Little, Senate Print 5774, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the

last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1786, by Senator Balboni, Senate Print 5775, an act authorizing the Commissioner of General Services.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1787, by Senator Marcellino, Senate Print 5786, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1788, by the Senate Committee on Rules, Senate Print Number 5789, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1789, by Senator Little, Senate Print 5791, an act to enact the North Country Flood

Assessment Relief Act of 2005.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1790, by Senator LaValle, Senate Print 5793, an act in relation to the implementation of the terms of a written agreement.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1791, by Senator Johnson, Senate Print 5801, an act to amend the Insurance Law and the Vehicle and Traffic Law.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1792, by Senator Hannon, Senate Print 5803, an act to amend the Surrogate's Court Procedure Act.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1795, by Senator Hannon, Senate Print 5811, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1796, by the Senate Committee on Rules, Senate Print Number 5812, an act to amend Chapter 179 of the Laws of 2000.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1798, by Senator Saland, Senate Print 5823, an act to grant Anthony J. Cuomo performance of duty disability retirement benefits.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1804, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8513 and substitute it for the identical Senate Bill Number 5842, Third Reading Calendar 1804.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1804, by Member of the Assembly Grannis,

Assembly Print Number 8513, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1809, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 8927 and substitute it for the identical Senate Bill Number 5863, Third Reading Calendar 1809.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1809, by the Assembly Committee on Rules, Assembly Print Number 8927, an act in relation to the powers of the Hudson River Park Trust.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1812, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 204 and substitute it for the identical Senate Bill Number 5897, Third Reading Calendar 1812.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1812, by Member of the Assembly Markey, Assembly Print Number 204, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Maziarz recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo, that completes the noncontroversial reading of Supplemental Calendar B.

SENATOR FUSCHILLO: Mr. President, Calendar Number 1785 was inadvertently laid aside. Will you please take it up.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1785.

THE SECRETARY: Calendar Number 1785, by Senator Little, Senate Print 5774, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Now, Senator Fuschillo, that completes the noncontroversial reading of the calendar.

SENATOR FUSCHILLO: Will you please take up the controversial reading of the calendar, starting with Calendar Number 1777.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading, beginning with 1777.

Ring the bells.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT MEIER: Just a second, Senator.

The Secretary will read.

THE SECRETARY: Calendar Number 1777, by Senator Hannon, Senate Print 5606, an act to amend the Public Health Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT MEIER: Senator Hannon, an explanation has been requested by Senator Montgomery.

SENATOR HANNON: This legislation would update Article 35 of the Public Health Law so that the current practice of nuclear medicine technology and radiography that is being conducted throughout this state would be properly reflected and regulated in the statutes.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

ACTING PRESIDENT MEIER: Senator Hannon, do you yield?

SENATOR HANNON: Yes, sir.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

This would expand the universe of people who could serve the function of injecting -- I'm looking for the exact terminology -- intravenous contrast media into

patients. And it says under the authority of a doctor. But what does that mean? Does the physician have to be right there in case something goes wrong but they don't actually have to do the injection? Or do they not actually have to physically be in the presence of the radiology technician?

SENATOR HANNON: First of all, it does not expand the actual practice of what's taking place in the hospitals now. It does change what's in the law, but the law is over 50 years old.

It would require that the physician be in the same facility and not be involved in anything else that would not allow them to respond immediately if there's -- some event were to take place.

SENATOR LIZ KRUEGER: Mr. President, if through you the sponsor would continue to yield.

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

SENATOR HANNON: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

I'm sorry, in your answer to my last question you pointed out that this is current practice, but it's not legal because the law is 50 years old. Can you clarify that?

SENATOR HANNON: Well, it's really not covered. It's really not covered.

SENATOR LIZ KRUEGER: It's not covered. Thank you.

Mr. President, if the sponsor would please continue to yield.

ACTING PRESIDENT MEIER: Senator Hannon, do you yield?

SENATOR HANNON: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

I know one should not legislate by anecdote, but I know of at least one constituent of mine who -- and perhaps it was because it was the practice at the site, which may not be legal because the law is not up-to-date -- that went it in for a test, was allergic to the contrast media, had a near

death experience because of the allergy, and there was not a doctor immediately present and they had to call an ambulance, take them from the off-site location to a hospital.

And again, I'm not saying whether it was legal or not. Maybe they were in violation of the current law. But it raises the concern for me that, is this something that nondoctors should be providing? Is this, you know, a category that we shouldn't be expanding the universe of people who can provide the intravenous contrast media but are not qualified as physicians to deal with what hopefully is a rare but apparently not unheard-of medical emergency from an allergy?

SENATOR HANNON: Well, two parts to the answer to your question, Senator.

First of all, reaction to contrast media is one of the known contraindications. That is something that is done -- the patient is warned of that, they try to screen for that. So while it is rare, it's also something that does happen.

Second, to the extent it was done in either a clinic or an office, this is

something that we have been concerned with and tried to address in any number of different ways, because it's -- you don't have that emergency room right there. There is a preference, if you could, to do it in the hospital.

So to the extent -- so you obviously know, it's being done. What we would now do is set up some procedures to try to regulate it. And to the extent of the specific situation, as I understand it, that you cited, there would have to be a doctor in that clinic or in that office.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if the sponsor would yield to an additional question.

ACTING PRESIDENT MEIER: Senator Hannon, do you yield?

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

So just to repeat, because I was very happy with your last answer, under this

change in the law for freestanding radiological sites -- at least in my district, we have many freestanding MRI sites and other radiological testing sites that are not part of a hospital or a clinic. In some cases, they are actually doctor's offices where of course then you would argue a doctor might be.

But these freestanding clinics, under your law it would require that there be a doctor on-site and that currently that is not required?

SENATOR HANNON: One of the provisions that would cover that would be on page 4 of the bill, under Section 4.

SENATOR LIZ KRUEGER: Were you continuing? I didn't want to cut you off.

SENATOR HANNON: No, the provisions would be in Subdivision 4, on page 4 of the bill.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the sponsor's answers,

because it in fact changes my position on the bill.

I thought that I would have to be in opposition to this bill because of my concern that we shouldn't be expanding the situation where doctors would not have to be at a physical site when there were technologists administering these types of IV contrast media -- I don't know that you call them medicines, I suppose you call them test media.

But in fact, in response to the sponsor's answers to my question that in fact what this bill would do was ensure that a doctor did have to be on-site and therefore would decrease my concern that we are now in a situation where somebody can unknowingly be injected, have an allergic reaction that I believe does occasionally, unfortunately, cause death or near-death experiences, but that with a doctor on-site who would then be hopefully prepared to deal with the emergency situation and trained to do so, that this actually could protect people who currently are having these procedures done without a

doctor.

So in response to the Senator's answers that this bill provides for a requirement that there's medical personnel on-site, I can support this bill. And I thank him for his answers.

Thank you, Mr. President.

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

Debate is closed, then.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect one year after it shall have become a law.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1777 are Senators Breslin and A. Smith.

Absent from voting: Senators Balboni and Sampson.

Ayes, 57. Nays, 2.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on the supplemental active list, Calendar Number 1272 was inadvertently laid aside.

Will you please place that on the noncontroversial calendar on the supplemental active list and take it up at this moment.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1272, noncontroversial.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Will you please return to Supplemental Calendar B and take up Calendar Number 1783.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1783 on the controversial calendar.

THE SECRETARY: Calendar Number 1783, substituted earlier today by Member of the Assembly Grannis, Assembly Print Number 2840A, an act to amend the Insurance Law.

SENATOR SABINI: Explanation.

ACTING PRESIDENT MEIER: Senator Seward, an explanation has been requested with regard to Calendar 1783.

SENATOR SEWARD: Certainly, Mr. President.

This is a very straightforward piece of legislation. It increases by 1 percent the percentage of admitted assets that a life insurance company can invest in foreign countries in the aggregate, from 8 to 9 percent of their admitted assets.

These investments in foreign countries are very beneficial to the policyholders of life insurance companies because they do produce some attractive yields and are a very important investment tool for the benefit of the policyholders of life insurance companies.

Many individuals now are looking to foreign investments for their personal portfolio for the very same purposes. This legislation would go from 8 to 9 percent of admitted assets for life insurance companies to do the same.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Mr. President, if the sponsor would yield for a question.

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

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SABINI: Through you, Mr. President, I was just wondering if the sponsor can enlighten me as to why there's a limit at

all on foreign investment by these insurance companies. Why is it regulated?

SENATOR SEWARD: Well, Mr. President, this is something that started well before I became chairman of the Insurance Committee. I really can't speak to the origins of such limitations.

But it is common in the law of the State of New York, throughout the various types of insurance, that the statutes of our state do include limitations and various investments and the types of investments that life insurance companies and all other insurance companies can make for the benefit and security of policyholders.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Mr. President, on the bill.

I'm sort of torn on this. I want protect the integrity of our insurance industry in the state and the policyholders. At the same time, it seems to me that there is a reason there's a limitation on the amount of money that can be put into foreign investment;

probably to protect the policyholders in the company from doing things that may not be in their best interest, even though it may seem that way in the short term. And with all the outsourcing we're seeing with our service jobs, I'm concerned.

I will accept the sponsor's explanation, but I do it with some trepidation. I'll vote aye, but I'm not so sure this is the best idea. And I'd like to learn more about the historical perspective of this.

Thank you.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, perhaps I can add a little bit on this issue.

Many, many years ago I worked in the actuarial department of a life insurance company. And that was one of the things we took a look at. Back at the turn of the century in New York State there were abuses as to how the money was invested. And there were -- in fact, I believe it was a legislative committee appointed by the

Assembly, known as the Armstrong Commission, at the turn of the 20th century, to investigate the abuses in the investments of the life insurance industry, because there was not enough money to pay claims. And I think that was the nature or the reason behind restrictions.

And I too share the same -- I will vote for the bill also, but I have some concerns also about foreign investments.

ACTING PRESIDENT MEIER: Does any other member wish to be heard on this bill?

Debate is closed, then.

The Secretary will sound the bell. Members are asked to return to the chamber for a vote.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR CONNOR: Thank you, Mr.

President.

I'm going to be voting no, only because while today, in an international economy, investments overseas look very attractive in terms of yield and are very lucrative, and while today at least large parts of the world seem to be more stable politically and economically than they ever were, the reality is that the United States of America -- and some may argue about some of the regulations we do, but we've never had a government that confiscated property. We have constitutional protections to honor contracts.

Not every nation on earth has a constitutional provision that preserves the sanctity of contracts. And so, in my opinion, overseas investments are by definition riskier than domestic investments. I think we ought to keep the cap where they are.

Mr. President, the other thing that hasn't been spoken on this is why are some of these overseas investments so lucrative. Oh, because workers work for 11 cents an hour and children work for less. And I don't know that we ought to be encouraging more overseas

investments. And I know everybody from our comptroller with the pension fund and everybody invests overseas, but I think the cap right where it is is fine.

ACTING PRESIDENT MEIER: Senator Connor will be recorded in the negative.

Senator Duane, to explain his vote.

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

I'm concerned that the flip side of this issue of the outsourcing argument is that we will lose these companies from New York State and thereby lose the jobs that go along with them. So New York State has to be competitive with other locations around the country.

So I will be voting yes, Mr. President.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1783 are Senators Brown, Connor, Dilan, Klein, LaValle, Libous, Maltese, Maziarz, Montgomery, Morahan,

Parker, Rath, Robach, Savino, Serrano, A. Smith, Spano, Stachowski, Stavisky and Wright. Also Senator Sabini.

Absent from voting on Calendar 1783: Senators Balboni and Sampson.

Ayes, 38. Nays, 21.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1791, by Senator Johnson, Senate Print 5801, an act to amend the Insurance Law and the Vehicle and Traffic Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Johnson, an explanation has been requested by Senator Schneiderman with regard to Calendar 1791.

Can we have some order in the house first, please.

Senator Johnson.

SENATOR JOHNSON: Mr. President, we have on the books for the last 25 years a bill which I adopted called the defensive driving course, point insurance -- a point

insurance reduction program. It's a driving program in which you go take a course in somebody's storefront or something and observe how to drive properly, avoid accidents and so forth.

And it's been pretty successful for the past 25 years, but technology has reared its ugly head and some places now are giving this course over the Internet.

So what we devised in the bill is Assemblyman Gantt and myself have a bill which essentially says you can take the course over the Internet. And it's a five-year experimental program. We're going to evaluate, see if it works properly. And if it does, with proper precautions on who's taking the test and how you identify that person and so on, it will be adopted hopefully permanently after five years.

So that's where it is now. This bill has already passed, in case you're questioning why it's here again -- it passed about a month ago in this house, and Gantt made some minor changes to it and it's back here now.

SENATOR SCHNEIDERMAN: Thank you.

Explanation more than satisfactory.

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

Debate is closed, then.

The Secretary will sound the bell. Members are asked to come to the chamber for a vote, which will occur shortly.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1791 are Senators C. Kruger, Maltese, Saland and Savino. Also Senator Spano.

Those Senators absent from voting: Senator Sampson.

Ayes, 55. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo, that completes Supplemental Calendar B.

SENATOR FUSCHILLO: Mr. President, there will be a meeting of the Rules Committee in the Majority Conference Room at 4:40, and the Senate will stand at ease until then.

ACTING PRESIDENT MEIER: There will be a meeting of the Rules Committee in the Majority Conference Room at 4:40.

The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 4:23 p.m.)

(Whereupon, the Senate reconvened at 5:01 p.m.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report

of the Rules Committee.

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

Senate Print 950, by Senator Oppenheimer, an act to amend the Public Officers Law;

2158, by Senator Sampson, an act authorizing the City of New York;

2519, by Senator Maltese, an act to amend the Retirement and Social Security Law;

3100, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

3159, by Senator Meier, an act to amend the Education Law;

3661, by Senator Spano, an act to amend the Education Law;

3674, by Senator Maltese, an act to amend the Vehicle and Traffic Law;

4697D, by Senator Golden, an act to amend the Vehicle and Traffic Law;

4812, by Senator Libous, an act to amend Chapter 912 of the Laws of 1920;

4817, by Senator Marchi, an act to amend the New York City charter;

4973A, by Senator Hannon, an act to amend the Public Health Law;

5072, by Senator Spano, an act to amend the Vehicle and Traffic Law;

5192A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5358, by Senator Padavan, an act to amend the Real Property Tax Law;

5407, by Senator Maltese, an act to amend the Arts and Cultural Affairs Law;

5456A, by Senator Spano, an act to amend the Labor Law;

5568, by Senator Marchi, an act to amend the Administrative Code of the City of New York;

5579A, by Senator Balboni, an act to amend the County Law;

5674, by Senator Leibell, an act to amend the Public Authorities Law;

5685, by Senator Young, an act to amend the Penal Law;

5732, by Senator Hannon, an act to amend the Public Health Law;

5736A, by Senator Saland, an act to

amend the General Business Law;

5743, by Senator Morahan, an act authorizing;

5785, by Senator Alesi, an act to amend the Public Health Law;

5787A, by Senator Johnson, an act to amend the Public Authorities Law;

5790, by Senator Saland, an act to amend the Education Law;

5792, by Senator Young, an act to amend the State Finance Law;

5798, by Senator Little, an act to amend the General Municipal Law;

5806, by Senator Farley, an act to amend the Banking Law;

5808, by Senator Trunzo, an act to amend the Public Authorities Law;

5824, by Senator Flanagan, an act to amend the Vehicle and Traffic Law;

5829, by Senator Libous, an act to amend the Public Authorities Law;

5846, by Senator Wright, an act to amend the Tax Law;

5850, by Senator Robach, an act to amend the Executive Law;

5855, by the Senate Committee on Rules, an act to amend the Public Health Law;

5856, by Senator Flanagan, an act to amend the Election Law;

5857, by Senator Saland, an act to amend the Education Law;

5866, by Senator Wright, an act to amend the Public Authorities Law;

And Senate Print 5886, by the Senate Committee on Rules, an act to amend the Labor Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

report of the Rules Committee is accepted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, are there any substitutions at the desk? If there are, please take them up.

ACTING PRESIDENT MEIER: Yes, there are.

The Secretary will read the substitutions.

THE SECRETARY: On page 27, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8800 and substitute it for the identical Senate Bill Number 4943A, Third Reading Calendar 880.

On page 30, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 4040 and substitute it for the identical Senate Bill Number 4857, Third Reading Calendar 973.

And on page 36, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 3288 and substitute it for the identical Senate Bill Number 3281, Third Reading Calendar 1142.

ACTING PRESIDENT MEIER:

Substitutions ordered.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Winner, I offer the following amendments to Calendar 1775, Senate Print 5848, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received, and the bill will retain its place on the order of third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the noncontroversial Calendar C.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of Supplemental Calendar C.

THE SECRETARY: Calendar Number 1813, by Senator Oppenheimer, Senate Print 950, an act to amend the Public Officers Law.

SENATOR OPPENHEIMER: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 1814, by Senator Sampson, Senate Print 2158, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1815, by Senator Maltese, Senate Print 2519, an act to amend the Retirement and Social Security Law.

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

Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1816, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 6146 and substitute it for the identical Senate Bill Number 3100, Third Reading Calendar 1816.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1816, by Member of the Assembly McLaughlin, Assembly Print Number 6146, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

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 1817, Senator Meier moves to discharge, from the Committee on Rules, Assembly Bill Number 142 and substitute it for the identical Senate Bill Number 3159, Third Reading Calendar 1817.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1817, by Member of the Assembly Destito, Assembly Print Number 142, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

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 1818, Senator Spano moves to discharge, from the Committee on Higher Education, Assembly Bill Number 116 and substitute it for the identical Senate Bill Number 3661, Third Reading Calendar 1818.

SENATOR DIAZ: Lay it aside, please.

ACTING PRESIDENT MEIER: Senator, let's get the bill substituted first.

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1818, by Member of the Assembly Paulin --

SENATOR DIAZ: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1819, Senator Maltese moves to discharge, from the Committee on Rules,

Assembly Bill Number 6672 and substitute it for the identical Senate Bill Number 3674, Third Reading Calendar 1819.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1819, by Member of the Assembly Lafayette, Assembly Print Number 6672, an act to amend the Vehicle and Traffic Law and the State Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1820, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7697C and substitute it

for the identical Senate Bill Number 4697D, Third Reading Calendar 1820.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1820, by Member of the Assembly Morelle, Assembly Print Number 7697C, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1821, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 7496 and substitute it for the identical Senate Bill Number 4812, Third Reading Calendar 1821.

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.

The Secretary will read.

THE SECRETARY: Calendar Number 1823, by Member of the Assembly Gottfried, Assembly Print Number 4122B, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1824, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 7421 and substitute it for the identical Senate Bill Number 5072, Third Reading Calendar 1824.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1824, by Member of the Assembly Paulin, Assembly Print Number 7421, an act to amend the Vehicle and Traffic Law and the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1825, by Senator Marcellino, Senate Print 5192A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1826, by Senator Padavan, Senate Print 5358, an act to amend the Real Property Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. 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 1827, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 8433 and substitute it for the identical Senate Bill Number 5407, Third Reading Calendar 1827.

ACTING PRESIDENT MEIER:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1827, by Member of the Assembly Morelle, Assembly Print Number 8433, an act to amend the Arts and Cultural Affairs Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1829, by Senator Marchi, Senate Print 5568, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1833, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8799 and substitute it for the identical Senate Bill Number 5732, Third Reading Calendar 1833.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1833, by the Assembly Committee on Rules, Assembly Print Number 8799, an act to amend the Public Health Law and the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1836, by Senator Alesi, Senate Print 5785, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1838, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 8812 and substitute it for the identical Senate Bill Number 5790, Third Reading Calendar 1838.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1838, by the Assembly Committee on Rules, Assembly Print Number 8812, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1839, by Senator Young, Senate Print 5792, an act to amend the State Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1840, by Senator Little, Senate Print 5798, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1841, by Senator Farley, Senate Print 5806, an act to amend the Banking Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1842, by Senator Trunzo, Senate Print 5808, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1843, by Senator Flanagan, Senate Print 5824, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1848, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 6533 and substitute it for the identical Senate Bill Number 5856, Third Reading Calendar 1848.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1848, by Member of the Assembly Galef, Assembly Print Number 6533, an act to amend the Election Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno, that completes the noncontroversial reading of Supplemental

Calendar C.

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

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of Supplemental Calendar C.

The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 1818, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 116, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Senator Diaz.

SENATOR DIAZ: Will the sponsor yield for a question or two, please.

ACTING PRESIDENT MEIER: Senator Spano, do you yield for a question from Senator Diaz?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DIAZ: Thank you.

Senator Spano, would -- this bill

authorizes the distribution of the pill to everybody over -- to everyone over the counter?

SENATOR SPANO: This bill permits dispensing of over-the-counter emergency contraception, yes.

SENATOR DIAZ: Mr. President, through you, Mr. President, will the sponsor --

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DIAZ: Over the counter means to everyone, no prescription necessary; right?

SENATOR SPANO: Correct.

SENATOR DIAZ: Will a minor be able to buy this pill?

SENATOR SPANO: Yes, a minor -- our thinking with minors is that it's better to allow a minor an opportunity to prevent an unwanted pregnancy rather than have them become pregnant and have an abortion, which is

legal for a minor in New York State.

SENATOR DIAZ: Mr. President, through you, will the sponsor continue to yield.

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DIAZ: Would this minor, he or she, to buy this pill, would the minor need the parental consent?

SENATOR SPANO: No.

SENATOR DIAZ: So any minor could go and purchase this pill?

SENATOR SPANO: Yes.

SENATOR DIAZ: Mr. President, through you, would the sponsor continue to yield.

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

SENATOR DIAZ: Would the minor --

ACTING PRESIDENT MEIER: Just a second, Senator Diaz.

Do you continue to yield, Senator

Spano?

SENATOR SPANO: Yes.

SENATOR DIAZ: Senator Spano --

ACTING PRESIDENT MEIER: Senator Diaz, please.

SENATOR DIAZ: Oh, I'm sorry.

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

SENATOR DIAZ: He said yes.

ACTING PRESIDENT MEIER: I'm sorry, I didn't hear him.

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DIAZ: Can I continue, Mr. President? Thank you, sir.

Senator Spano, we already said that this pill could be bought by anyone over the counter. We already said that anyone means could buy it without prescription. We already said that -- you already said that a minor could buy this pill, and you already said that the minor doesn't need the parental consent.

Would a -- would the minor need a physician's oversight?

SENATOR SPANO: Would the minor need what?

SENATOR DIAZ: Does the minor need a physician's oversight to use the pill?

SENATOR SPANO: No.

SENATOR DIAZ: Mr. President, through you, would the sponsor continue to yield.

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: Senator Spano, I can't hear you. Are you continuing to yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DIAZ: Senator Spano, would this drug or this pill, would this pill cause an abortion?

SENATOR SPANO: Will it cause an abortion? Absolutely not.

SENATOR DIAZ: Mr. President, through you.

ACTING PRESIDENT MEIER: Senator

Spano, do you continue to yield?

SENATOR SPANO: I'll yield for one more question, sure.

SENATOR DIAZ: Oh, only one more? I have a few more.

SENATOR SPANO: Ask them both at the same time.

(Laughter.)

SENATOR DIAZ: You don't know. You're going to show me that now?

When you say absolutely not -- when you respond to when I asked you if this pill would cause an abortion, you say absolutely not. How can you prove that? Any documentation, any proof on that?

SENATOR SPANO: We have looked at a lot of scientific testimony and presentations from experts across the country who have told us that this pill will simply prevent a pregnancy, would not cause an abortion.

You didn't ask the second question.

ACTING PRESIDENT MEIER: Senator Diaz.

SENATOR DIAZ: One more?

SENATOR SPANO: Last question.

SENATOR DIAZ: Senator Spano, yesterday or the day before, I think it was yesterday, in the newspaper there came in the news about the new book written by Pope Benedict XVI. In his -- did you read that? Did you read that yesterday in the news?

SENATOR SPANO: Did I read it yesterday?

SENATOR DIAZ: Yeah.

SENATOR SPANO: Not yet.

SENATOR DIAZ: But in that -- in his new book, Pope Benedict --

SENATOR SPANO: Once we're done with you, we'll read it tonight.

SENATOR DIAZ: In his new book, Pope Benedict XVI says that there are no such things as small murders. Abortion is a murder.

And even though, Senator Spano, you're absolutely sure that this pill will not cause an abortion, because of experts, we have other experts and other indications that this pill might cause an abortion.

Thank you, Mr. President. Thank

you.

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

Debate is closed, then.

The Secretary will sound the bell.

Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR SPANO: Thank you, Mr. President.

As we spoke with the previous questions, this bill is probably the most significant bill that we will pass this legislative session, allowing or permitting the dispensing of over-the-counter emergency contraception, which is a safe and effective way to prevent pregnancy, to reduce the abortion rate in this state.

We'll join with seven other states across this nation in reducing the abortion

rate, such as we see in Washington, the state of Washington, where it's gone down 30 percent.

There have been advocates who have been staunch supporters of this, including the Family Planning Advocates and NARAL and so many others who have made sure that we have led the way in this state to reduce abortion, to reduce unwanted pregnancies. And this bill will do that.

I vote aye.

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

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I vote in the negative.

And in the bill memo it talks about that the first pill has to be given, taken within 72 hours. Now, unless sperm are just sitting there for 72 hours waiting to be affected by this pill, I think that that's kind of unlikely. I would think that there would be some joining of the sperm and an egg at some point in some human beings in

72 hours. If that happens, then the pill aborts the pregnancy. So I just don't believe that there is not an aborting of a pregnancy.

Beyond that, what is in my mind, I don't quite understand what a nonpatient-specific order is. We're going to prescribe drugs that are nonpatient-specific? What a precedent this is going to raise in our state.

Senator Diaz mentioned about minors and parental consent and you don't have to see a physician. You know, I understand the issue here, and I understand what the advocates are after. But to call something one thing when it really isn't and to change the whole structure of prescription drugs and parents' role in all of these issues I think is a very big mistake.

And for those reasons, I'm voting no.

ACTING PRESIDENT MEIER: Senator DeFrancisco will be recorded in the negative.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Day by day, we are seeing how parents have been taken out of the

picture and how parental consent have been taken, you know, away. And we see our children growing up, and we say that our children are the precious thing and that we have to care about our children. But taking -- taking -- now, a 13-year-old girl could have an abortion without parental consent. And a parent doesn't have to be notified. We give condoms, parents don't have to be notified.

And everything that happens, happens to take away the parental responsibility and the parental discipline. And this is wrong. This is the wrong message. Again, now, we're telling children that he or she could go and buy this pill that could cause an abortion and might cause physical harm, without parental consent.

I'm voting no, and I'm asking everyone to hear me and that cares about our children to vote no too.

ACTING PRESIDENT MEIER: Senator Diaz will be recorded in the negative.

Senator Saland, to explain his vote.

SENATOR SALAND: Mr. President, needless to say, all of us were in the chamber during the course of this exchange. And there's very little that I heard Senator Spano say that I could disagree with, including the conclusion that he offered that this does not amount to an act of abortion.

My problem, however, lies with the fact that the ability of young children, perhaps adolescents, young teenagers, to have access over the counter with absolutely no attempt whatsoever to intervene or counsel flies in the face of so many of the things that I did when I was chairman of the Senate Children and Families Committee and certainly flies in the face of a bill we just did earlier this week dealing with child protection.

For that reason, Mr. President, I cast my vote in the negative.

ACTING PRESIDENT MEIER: Senator Saland will be recorded in the negative.

Senator Farley, to explain his vote.

SENATOR FARLEY: Thank you, Mr.

President.

I rise -- I think this is a terrible bill. It's flawed seriously. When you think that a 12-year-old girl could go in and get the morning-after pill with the possibility that she might think she's pregnant -- it's absolutely ludicrous that there's no age limit on this bill.

Number two, I think it promotes unprotected sex. I think it's a bad way to go. I think it's a bill that is one of the worst pieces of legislation, regardless of however you feel on the issue of abortion. I think it's a very poorly conceived bill and one that should be voted down, and I vote no.

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

Senator Maltese, to explain his vote.

SENATOR MALTESE: Yes, Mr. President. One thing, just briefly, the bill itself indicates that the Food and Drug Administration has not yet approved that availability of over-the-counter access to this emergency contraception.

In addition, I share Senator Diaz's concern with minors being able to obtain this, apparently with no age restriction at all.

In addition, I take issue with my colleague's adamant reply that this is not in fact an abortion. I share DeFrancisco's concern that once the egg is fertilized and in any way it is hampered from attaching itself to a portion of the woman's anatomy, that that in fact can be considered an abortion.

In addition, Mr. President, I take issue with the fact that young children can take, apparently in unlimited amounts, depending on how many pharmacists they visit, hormones that could very well be determined in later years to have permanent adverse effects on them, their ability to bear children, and their futures as far as their health and welfare.

And therefore, Mr. President, I will vote no on this legislation.

ACTING PRESIDENT MEIER: Senator Maltese will be recorded in the negative.

Senator Seward, to explain his vote.

SENATOR SEWARD: Thank you, Mr. President.

I certainly appreciate and support the objective of the sponsor of this legislation. Certainly it's important to avoid unwanted pregnancies. It's certainly important to prevent even the need for an ultimate abortion because of an unwanted pregnancy.

But as I review this legislation before us, I have some problems with it. I'm concerned about the precedents that this sets in terms of a blanket prescription at the drugstore that anyone can come in and receive this medication.

Perhaps this type of pharmaceutical should be available over the counter. I think that's a decision for the FDA, not the New York State Senate. And so I just don't feel qualified to make that decision. Let's have the FDA continue their vetting process and give us the results of their analysis.

I also have concerns, as others have expressed, with the fact that there's no age restriction even for the notification of a

parent when this minor may go in to receive this pharmaceutical.

So for all those reasons, as much as I support the objective of the legislation, Mr. President, I find myself voting no.

ACTING PRESIDENT MEIER: Senator Seward will be recorded in the negative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: There seems to be -- thank you, Mr. President. There seems to be a lot of anxiety about this bill. And I think we should note that millions of women around the world have used emergency contraception both safely and effectively for decades now. It is available, emergency contraception, in 100 countries and in six of our states.

So, I mean, millions of women have been using this. And it is only used as a backup, normally, to their regular birth control. If they are sexually active, they normally are on some kind of birth control. So this is only in an emergency when something unforeseen has happened and they have not

taken their medication.

So I don't think people should be worried about the health effects. I mean, I can understand some of your concerns. Depending, as I've said in the past, on what our backgrounds are, what our upbringing is, we may have different views on this. But certainly to view it as a safe -- it is a safe and effective and healthy way to approach this problem.

And there have been several polls taken of our voters, and we see that in the country and in our state that somewhere between 60 -- it's always between 60 and 70 percent of the voters and the pharmacists believe that this is the right way to go. And they want to participate in it, the pharmacists.

So I just wanted to get that into the record, that this is a safe thing and has been utilized by millions of women around the world.

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

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I'm very pleased to be able to rise in support of this legislation. What we have heard, I think, really is, from my point of view, a lot of myth, myth based on prejudice.

The experts and the scientists who weighed in with the FDA all agreed this should be -- this is safe, demonstrably safe, as Senator Oppenheimer has pointed out, and should be legal. It's the political fix in Washington that is forcing the State of New York to act because the federal government has abandoned the field on this issue.

Many of us who believe in abortion rights -- and we have people who have disagreements about this -- view this as a fundamental issue of human freedom. But whatever your view on the issue, we have over 240,000 unwanted pregnancies in this state every year. This is a safe method of preventing pregnancy. How can you tell me the women of the State of New York that they don't

have the right to control their own bodies and prevent a pregnancy through this safe means? And many of these pregnancies result in abortions, so people who want to make abortion rare -- and we hear a lot of rhetoric about that -- a vote for this bill is a vote to make abortion rare.

This is safe, this is fundamentally an issue of freedom and we should vote for it for that reason. But most essentially, it is a statement of our confidence in the women of this state that they have this ability to make these decisions for themselves.

I'd like to commend Senator Spano for taking a Schneiderman bill and making it much better, because he made it into a law. And good work. And I commend all of my colleagues on both sides of the aisle, and all the advocates who worked very hard to get everyone here in this room today -- NARAL, Pro-Choice New York, FPA, ACOG, the nurses association, the pharmacists. Thank you all.

And this is a great moment for the State of New York and for this Legislature. Thank you, Mr. President. I vote yes.

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

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I rise in support of this bill. But I, as I often do, think that we should use some science and some facts on this floor. So just in response to some people's concerns that this actually allows for abortion, I'd like to go on the record that emergency contraception cannot end a pregnancy. According to the Food and Drug Administration, emergency contraception pills are not effective if the woman is pregnant. They act by delaying or inhibiting ovulation and/or altering tubal transport of sperm and/or ova, thereby inhibiting fertilization or altering the endometrium, therefore inhibiting implantation.

So this is not a debate about abortion. This is the reality that seems to make many of my male colleagues uncomfortable,

but unfortunately women do get pregnant unintentionally. Young women have sex, whether we approve of it or not, and they end up with unwanted pregnancies. And the statistics show that one-third of young women become pregnant at least once before they reach the age of 20, and about 80 percent of these 820,000 teenage pregnancies a year are unintended, and a third of these end in abortion.

Passing this law means we will have fewer pregnancies that are unintended in the State of New York, we will have fewer abortions, we will have better public health, better protections for our youth and our adult women. And there's no argument that, other than politics, this would already have been the law in this state. I vote yes and hope all of my colleagues will join me.

Thank you, Mr. President.

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

Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you, Acting President.

I'm hearing so many good things about this bill, maybe we should sell it in a candy store.

It's pretty sad that people can actually believe that this pill is not an abortion. Pretty sad to believe that people believe that when you have an egg in 72 hours that it will not terminate the egg that has already been promulgated.

It is amazing that I hear Senator Schneiderman representing the Senate Majority, especially on issues like this. I think it's wrong. I think we send the wrong message.

And, yes, this is nothing more than a termination, a termination of a child, an abortion, and any which way you want to look at it. There's no difference between a morning-after pill and an abortion, as far as I'm concerned, and many people here in the State of New York. And the 120,000 abortions that this state had last year will not dramatically be reduced by this bill.

As a matter of fact, I dare to say

some of our children, some of our adults will think, Hey, I'll be safe, I'll take this pill. And everybody here believes that this pill is like 100 percent, this is the silver bullet. Well, it's not. And there will be pregnancies. And there will be abortions from this pill.

And there may be a hundred nations out there that have been doing this for 10 years. But there are other nations out there that aren't doing it. And the Philippines and one of them that outlawed it had it removed.

If anybody really thinks that we're doing the right thing here on this bill because we're protecting women's rights here, I think they're making a mistake. I think what you're doing is encouraging the incentive for unprotected sex. I think we're acting too fast, with only seven states authorizing this and many countries not.

And this bill is about as broad as you can get. As I said, pharmacists, nurses, midwives, candy stores. I don't know what's next.

It's sad to see this bill here on the floor. It's sad that we have to vote for this bill, for those that did vote for it. I will be voting no. I'll be voting no for the women of this state. I think it's the wrong thing to do.

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

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: Mr. President, as I listened to the opponents, it seems to me that if they had been willing to accept the idea that in our schools we should be educating our children, and if they had been more willing to accept birth control dissemination, then we might not be here today.

There are seven states, I understand, in the nation. I understand that the Massachusetts Senate has passed an EC bill. And I certainly hope that the number of abortions will be reduced. 120,000 -- and I support a woman's right to choose, but I don't think there's a person here today who likes

the idea of an abortion. We all view it as something to avoid. And hopefully this legislation will do that.

Thank you, Mr. President.

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

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I want to thank and commend Senators Spano, Alesi, Bonacic, Leibell, and Winner for sponsoring this legislation. And I'm sure that if things were different, you would have a number of other members on this bill as well. But I thank you.

And I'm pleased to see that the bill -- it says this act shall be known and may be cited as the Unintended Pregnancy Prevention Act. It further states that the Legislature finds that the United States Food and Drug Administration has declared emergency contraceptive pills to be safe and effective in preventing pregnancy.

So clearly the bill is being guided by the findings of the FDA, and therefore I'm

assured that it is safe.

I have information that says nearly half of America's 6.3 million annual pregnancies are accidental. So clearly there are -- 7 in 10 women of reproductive age are sexually active and, though they're sexually active, do not necessarily want to become pregnant. But there are many, many millions of instances where women do become pregnant unintentionally.

Widespread use of emergency contraception could prevent an estimated 1.7 million unintended pregnancies and 800,000 abortions each year. So clearly we're doing the right thing. This is what we would like to see as women, as health professionals, and as men who care about availability of a safe method of avoiding, avoiding an unintended pregnancy. What more could we ask for?

This is not -- this has nothing to do with abortion. And all due respect to our religious leaders and our moral people concerned about moral issues and morality, this does not have anything to do with abortion. It has to do with providing access

to women who are capable of becoming pregnant. And it has nothing to do -- doesn't take away the rights of men, and it doesn't take away the rights of anyone, and it doesn't interrupt any religious morality concerns. It clearly just is allowing for access for women who may become pregnant unintentionally to be able to avoid being pregnant.

I think this is a wonderful thing. I thank you as a woman. I hate to have to stand up here and defend the rights of women every other week in this house. But this time, I'm thanking the men who have brought this issue to the floor. You're brave, you're courageous, you're doing the right thing. And, Senator Spano, thank you, because we want this.

Thank you. I'm voting yes.

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

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

You know, I went through a period

where I really thought that I knew all there was to know about protection and people who were involved in sexual activity and how they could protect themselves and the best way for them to protect themselves.

But a few years ago I actually learned a lesson from a young girl who was a peer educator on HIV and AIDS issues. And we were talking about the issue of condom availability in high schools and how, if you wanted to get a condom, you needed to go to a resource room where you would meet with a counselor who would give you a lecture on sex. And after that, if the young person still wanted a condom, they were given a condom. But they had to have the lecture.

And I said, "Well, you know, I actually think that's a good thing. I mean, I don't object to that at all. I think you should have to go someplace to get sex education if you're thinking about being sexually active."

And this young girl said, "You know what? You are absolutely and totally wrong about that." And I said, "Why? Why?"

She said, "Because I know if I'm going to the resource room to get a condom, I already know how high the stakes are if I'm deciding to be sexually active. I already know that it's a life-and-death issue. But all those other kids who aren't going to the resource room, who aren't getting their condom that way, they're the ones that are at risk. They're the ones that need the lecture. I already know all this, because I know that I need to get a condom. It's those other kids that don't know about it."

And you know what? I figured she was right. It was all those other young people who weren't getting the message that, unfortunately and sadly, today, deciding to be sexually active is a life-and-death decision.

You know, the -- you know, we wouldn't even need to be talking about this in the same way if -- you know, frankly, if men would use condoms more or if men would actually think more --

ACTING PRESIDENT MEIER: Senator, I've been trying to be indulgent with members, but there is a two-minute limit in the rule.

Could I ask you to state your vote.

SENATOR DUANE: Well, I just wanted to make clear that in a case -- on an issue like this, it's important to listen to women. And certainly an EC is better than abortions, and it's certainly better for a woman who has been the victim of incest or date rape or sexual assault --

ACTING PRESIDENT MEIER: Senator, could I ask you to state your vote, please.

SENATOR DUANE: -- to be able to have access to this.

I'll be voting yes, Mr. President.

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

Members are reminded that the rule states two minutes for the explanation of one's vote.

Senator Ada Smith, to explain her vote.

SENATOR ADA SMITH: Thank you, Mr. President.

I too would like to commend the sponsors of this bill because it has done something positive in my community. I have

received more emails than I have received on any other legislation since I've been here. I've received hundreds of emails and letters from women asking that this bill be passed and -- brought to the floor and passed. I only received three in opposition.

And when young women and mothers write and ask for something to be done in government, I think it is our responsibility to comply. And therefore, I will be voting in the affirmative.

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

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

I want to thank the sponsor for moving this legislation, Senator Spano. I think it's long overdue. Just I guess it was a week ago, in talking on the Medicaid abortion bill, I stated my position that I thought we should do a lot of other things and there were other things we could do and that we hadn't done to make abortion rare. And now

we have concrete legislation here that I think will make abortion less frequent.

Now, I know opponents say, Oh, but this is an abortion measure. I disagree. The intention, the intention of this pill and the way it acts is to impede ovulation or the motility of sperm. And that prevents pregnancy.

Now, we read the memo, oh, it could -- Catholic Conference memo -- it can possibly alter the lining and prevent implantation. Well, that's not the main intention.

And I think I know the philosophical premise upon which most opponents to abortion operate, and the operational word is always intentional abortion or the intentional termination of a pregnancy. I don't see, in the way this pill operates, any intent to end the pregnancy. The clear intent and the most operative way that these drugs act is to prevent a pregnancy. And in my mind, that's certainly a better alternative than an unwanted pregnancy or a woman being forced to have an abortion.

So, Mr. President, I'm voting aye.

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

Senator Paterson, to explain his vote.

SENATOR PATERSON: Thank you, Mr. President.

I think that Senator Connor just explained that quite well, that the legislation provides for the use of a pill that will impede ovulation and also the motility of sperm. Meaning that it is preventative, which is why it is a contraceptive and not any type of an action that does anything further.

Because of that, I think that when we review Senator Montgomery's remarks -- and she talks about people listening to women -- it's the fact that only women can be in that position. And the issue of age is really far more of a reason why we should consider this legislation, because a younger woman, theoretically not as informed, perhaps in a situation where she made a mistake, as we've all made mistakes, would get a second chance

to reverse it without there being an abortive procedure. If it's too late, then she isn't going to get a second chance. And -- but if it isn't, then she does.

And I think that's why so many advocacy organizations have come together. We want to thank them for their advocacy on this bill. We want to thank Senator Spano for introducing the bill. And we recognize that this will provide perhaps a second chance to those who didn't exercise the forethought that they would have wished and within 72 hours might be able to prevent a pregnancy which would change the course of their entire lives.

So I very much want to thank all of those advocates. And I guess I'm very happy to be one of those men who Senator Montgomery spoke of, along with the men and women of this conference, who would want to provide the votes to pass this bill.

We understand the strong feelings on both sides of this issue. We understand the feelings of those who are morally opposed to abortions. But we ask them to reconsider and look at the work of scientific experts,

who are on both sides of the issues, who have demonstrated through their research for the federal Food and Drug Administration that the legislation and the medication is safe.

Thank you, Mr. President.

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

Senator Bruno, to explain his vote.

SENATOR BRUNO: Thank you, Mr. President.

I'm going to and am supporting this legislation because I became convinced that this will help avoid unwanted pregnancies. And I am also aware that there is an abortion pill that is legal in this state that you can get by prescription, which is an abortion pill. And I'm convinced that this is not.

And it concerns me greatly that there are 200,000 plus abortions in this country. I think that is a horrendous fact that we ought to all be aware of. I'm also very conscious of the fact that a 14-year-old child can go in and have an abortion because they have an unwanted pregnancy, Senators -- 14, 13, 15.

I'm also aware that a parent or guardian can take a child by the hand and get this same medication to avoid a pregnancy, which is a very worthwhile thing.

And I respect the judgments that people make on behalf of their own constituencies. But I would not be judging others for having feelings when they become convinced that we are doing the right thing to avoid unwanted pregnancies.

So I'm proud to vote yes for this legislation.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1818 are Senators DeFrancisco, Diaz, Farley, Flanagan, Fuschillo, Golden, Hannon, Johnson, LaValle, Libous, Little, Maltese, Marcellino, Marchi, Maziarz, Meier, Morahan, Nozzolio, Padavan, Rath, Saland, Seward, Skelos, Stachowski, Trunzo, Volker and Young.

Ayes, 34. Nays, 27.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1840, by Senator Little, Senate Print 5798, an act to amend the General Municipal Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Little, an explanation has been requested by Senator Paterson.

Can we have some order. Can we have some order in the chamber, please, and in the gallery as well.

Senator Little, an explanation has been requested.

SENATOR LITTLE: Thank you, Mr. President.

Sometimes you get what you wish for. Yesterday we talked about an IDA reform when I had a bill that extended the IDA ability to fund civic facilities. So today we have an IDA reform bill.

This is a bill that we have been working on for a number of weeks to address some of the issues that we all have agreed need to happen with Industrial Development Agencies.

Some of the things that this bill does is it extends the cap of $20 million to $100 million for civic facilities, not-for-profit agencies that could have funding through an IDA that previously had a $20 million cap.

ACTING PRESIDENT MEIER: Just a second, Senator Little.

There's entirely too much conversation going on in the chamber. We're trying to deal with bills. And members are asked, please, to preserve some order in the chamber.

Senator Little has the floor.

SENATOR LITTLE: This, by the way, is also a bill that we came up with after several meetings with the Assembly in trying to get an agreed-upon bill. And yet it is not agreed upon at this point.

So it now has a $100 million cap on the civic facilities that not-for-profit groups would be able to fund through an IDA. Their current cap is $20 million.

It also eliminates the ability to segment projects. That was one of the

criticisms that people want to do away with.

It also allows that a municipality can lease one-third of a project. For instance, if this were a building that a municipality, in order to fill up the building, would be able to lease one-third of one third of that building. Previously to this, they may do that, but that part of the building could not get funding for the construction costs.

It also makes any IDA project subject to the local building codes. It also makes any IDA project comply with the Americans with Disabilities Act.

We also wanted to see that IDA funding could fund some agricultural projects. However, the Assembly did not agree to that. Therefore, this bill calls for the Department of Economic Development to issue a report on the value of funding agricultural projects.

This bill also requires that a written summary of all hearings held on an IDA project must be given to each member of the IDA board before the project is voted upon.

It also says that by 2006, the

Empire State Development and the Department of Economic Development must have uniform tax-exempt policies for IDA projects.

It also allows for late PILOT projects to have a 5 to 10 percent penalty if they are late.

And it also extends the IDA ability to fund civic facilities until 2008.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

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

SENATOR LITTLE: Yes, I yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

I thought we might be back to IDAs after the previous discussion.

Thank you for the explanation. And this is a different bill than the three-year straight extender we passed.

And you talked about, in your

explanation, that it increases the $20 million cap on IDA financing for dormitories for educational institutions, not-for-profit healthcare facilities, to $100 million. Can't these institutions go to the Dormitory Authority already for bonds of much greater than $20 million? Why do we need to include these categories in IDAs?

SENATOR LITTLE: Well, we believe that going through funding with an IDA project, the money stays locally. In many ways it's more control, more public recognition of the project than going through the Dormitory Authority.

SENATOR LIZ KRUEGER: Mr. President, if the sponsor would continue to yield.

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

SENATOR LITTLE: Yes, I yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: The bond money doesn't come locally. They still go to the bond market, whether you're talking about

it going through the IDA or the Dormitory Authority; is that correct?

SENATOR LITTLE: Yes, that's correct.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR LITTLE: Yes, I continue to yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

There's also a reference in your bill in Section 1 that providing financial assistance for any project where the applicant has any agreement to subsequently contract with a municipality for the lease or for purchase of all or a portion constituting more than one-third of the total project cost of such project for its own use or occupancy.

What does that actually mean? Why do we have that section in the bill? How would that change either the deal or what the

IDA was doing in that situation?

SENATOR LITTLE: Well, there have been occasions when a project may be built -- for instance, the Renaissance Plaza in Brooklyn, which involved a complex set of leasing arrangements. The primary beneficiary of IDA incentives was Empire Insurance. However, the city tenant, the municipal tenant, is the Brooklyn District Attorney's Office. But that portion of the billing could not receive -- come under the IDA funding. Therefore, that had to be separate.

So what this says is sometimes a particular project may need municipal support while it gets underway. Certainly, as we look at the downtown Lower Manhattan development, there may need to be municipal offices in some of these buildings in order to get the entire building leased. This would allow that one-third of that project could be a municipal lease. Currently, that is not allowed, and that portion of the project would have to be exempt or be outside of the IDA funding for the project.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR LITTLE: I continue to yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you very much.

I'll preface by saying I'm very glad to see that there's an evaluation built into this bill of questions about -- that have been raised about IDAs and there are timelines for specific sections and there are restrictions. But again, going back to this provision on the one-third total project cost, am I correct to believe that if this section was implemented in any given project, that that would then allow for the Wicks Law on multicontracting requirements to be ignored or that these projects would be exempt from the Wicks Law?

SENATOR LITTLE: I truthfully don't know.

SENATOR LIZ KRUEGER: I'm sorry, I couldn't hear the answer.

SENATOR LITTLE: I said I don't know.

SENATOR LIZ KRUEGER: You don't know, okay. Thank you.

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

ACTING PRESIDENT MEIER: Senator Little, do you yield?

SENATOR LITTLE: Yes, I yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Also in this bill there's a section that talks about having an independent entity charged with evaluating IDA activities, which I think is a very good suggestion -- or, excuse me, a good section of your law.

But who will decide who this independent entity is? What's the process? Is there a competitive bidding? Why did you decide not to ask the Comptroller's office to do this kind of evaluation, since they've been doing this kind of work on other authorities?

SENATOR LITTLE: Well, I suppose if you're trying to get a project through and you go to hearings and have approvals, that you certainly will have someone who is independent. And currently they do this now.

This continues to say that the value of tax exemptions provided by IDAs and the value of PILOTs received by municipalities and school districts have to be evaluated and assessed as to the public benefit.

SENATOR LIZ KRUEGER: Mr. President, if, through you, the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Little, do you yield?

SENATOR LITTLE: Yes, I yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

I'm sorry, I thought, as I read your bill, that the section I was referencing, Section 4, is not on any specific IDA project but rather an independent entity contracted with through the Department of Economic Development to do a thorough evaluation of the

model used by IDAs overall, not on any individual project. Perhaps I misread your bill.

SENATOR LITTLE: We changed the date from the last time it was done, in 1996, to 2006. And the Commissioner of the Department of Economic Development shall submit to the director of the Division of Budget, the temporary president of the Senate, the Speaker of the Assembly, the chairman of the Ways and Means Committee, the chairman of the Senate Local Government Committee, et cetera -- it goes on with a number of committees -- an evaluation of the activities of industrial development agencies and authorities in the state prepared by an entity independent of the department.

So it couldn't be one of them.

SENATOR LIZ KRUEGER: It couldn't be one of them.

I'm sorry, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Little, do you yield?

SENATOR LITTLE: Yes, I yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you. And thank you for reminding me of the history there.

So in the previous law there was a requirement for reports in a different way. Did we ever get those reports, or any reports?

SENATOR LITTLE: They did, but I don't have a copy of that --

ACTING PRESIDENT MEIER: Senator Little -- just a second, Senator.

There are members and staff, I might add, that are having conversations in a tone of voice that's just as loud as the members debating the bill. We need to have order in the chamber.

Senator Little.

SENATOR LITTLE: I said I believe that they had a report, but I do not have any copy of it. But that was provided for in the law in 1996.

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

ACTING PRESIDENT MEIER: Senator

Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the sponsor's detailed answers, and I share her opinion this is complicated.

This is a better bill than the bill we passed the other day, which would have been a three-year extender with nothing new. There are some things in here that I can be more comfortable with. I hope that in an independent evaluation, I hope with the input of the Comptroller's office, since they've done so much excellent work already identifying problems with the existing model of IDAs -- that again, as the sponsor pointed out, this is not an agreed-upon bill, and so we'll no doubt see another version somewhere along the line -- that we should be taking a very hard look at evaluating not just where we go with new IDA language but also to truly evaluate, from the reports from the previous law, if they exist, and what their findings were, from the reports of the Comptroller's office, from the documented reports and responses from different counties and IDAs,

that we will be looking very seriously at how we make improvements and how we actually penalize IDAs and the people they've been doing business with for failing to meet their obligations.

This bill lays out some of the measures that I agree with Senator Little we should be evaluating IDAs on. I have serious concerns about expanding the role of IDAs to finance not-for-profit institutions. Frankly, I think that New York State has a stellar model for this with the Dormitory Authority. And so far I'm not convinced that there's any reason we should have separate public authorities, that technically are set up for industrial purposes, going into the bonding business for a broader universe of institutions.

I am concerned that a $100 million cap is too large a cap -- many of these IDAs represent small towns and municipalities that likely don't have the expertise or the cost to themselves for creating that expertise to successfully move these kinds of programs -- is duplicate of what we've already set up very

well through the Dormitory Authority, and may result in even greater problems. We already have a history of problems with smaller bonds. Moving that to a much higher level seems to me to increase the chances that we'll have more problems in the future.

So I want to congratulate the sponsor. I think we're moving in the right direction. It's still, unfortunately, not a bill I can be comfortable with. But I thank you very much for the explanations, and I thank you for the work you're doing on behalf of this issue.

Thank you. I'll be voting no, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Very briefly on the bill, Mr. President.

For the reasons set forth in the discussion between Senator Krueger and the sponsor, I'm also going to be voting no on this.

And I do think, as I said before when we extended the IDAs, this is, as

acknowledged, a one-house bill. It is a bill that again doesn't address the fundamental problems with IDAs. It doesn't do us any going to have a requirement to hold hearings if there's no requirement the IDA board members attend, no requirements relating to notice.

And I emphasize again that Section 1 actually is a back-door way to avoid the application of the Wicks Law.

So I think that in addition to the fact that this bill is not actually going to reform IDAs, because it's not passing the Assembly, and that much of what it does is really sort of minimal, it actually does harm in Section 1.

And I appreciate the sponsor's efforts. I know there have been many long meetings and many hours spent trying to come up with some way to reform IDAs. I'm sorry that we're adjourning without doing it. But under these circumstances, and with the flaws in this bill, I also will be voting no.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Any

other member wish to be heard?

Debate is closed, then.

The Secretary will ring the bell. Members are asked to come to the chamber for a vote.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1840 are Senators Andrews, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith and Stavisky.

Absent from voting: Senator Gonzalez.

Ayes, 46. Nays, 14.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time recognize Senator Schneiderman.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

There will be an immediate conference of the Minority in the Minority Conference Room.

And we should turn things now back over to the master of ceremonies, Senator Bruno.

SENATOR BRUNO: Thank you, Senator.

ACTING PRESIDENT MEIER: There will be an immediate conference of the Minority.

Senator Bruno.

SENATOR BRUNO: And, Mr. President, I would suggest that we have a conference in the Majority Conference Room with the Majority. And that we could reconvene -- stand at ease in the interim -- at 7:00, if that works for everybody, at

7:00 p.m. tonight.

ACTING PRESIDENT MEIER: Immediate conference of the Majority in the Majority Conference Room.

The Senate will stand at ease until 7:00.

(Whereupon, the Senate stood at ease at 6:46 p.m.)

(Whereupon, the Senate reconvened at 7:18 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the supplemental active list.

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

THE SECRETARY: Calendar Number 149, by Senator Skelos, Senate Print 484C, an act to amend the Public Health Law.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The question is whether to accept the message of necessity. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 478, substituted earlier today by Member of the Assembly Kolb, Assembly Print Number

6871B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 717, by Senator Volker, Senate Print 1628B, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: The bill is high. It will be laid aside.

THE SECRETARY: Calendar Number

867, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 7255B, an act to amend the New York City Civil Court Act and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1283, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print Number 7555, an act to amend the Local Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1299, substituted earlier today by Member of the Assembly Christensen, Assembly Print Number 8137A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1597, by Senator Alesi, Senate Print 5531, an act to authorize the Town of Riga.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1673, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 7608A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1701, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8777, an act to provide an accelerated schedule.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1704, substituted earlier today by Member of the Assembly Butler, Assembly Print Number 8532, an act to amend the Highway Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1741, by Senator Golden, Senate Print 5788, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes the noncontroversial reading of the supplemental active list.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1810.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1810.

THE SECRETARY: Calendar Number 1810, by Senator Winner, Senate Print 5873, an act to amend the Legislative Law.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is

a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 16. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

It is a pleasure to be able to vote on two very important bills in one evening, the emergency contraception earlier and this

bill, which is also long overdue, but a fundamental step forward in the regulation of lobbying and trying to ensure that our constituents get the quality of government and the integrity of government they deserve.

This is a great step forward. I'm very pleased that a deal was worked out and that this bill is on the floor for us to vote on this evening. I strongly urge everyone to vote yes.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman will be recorded in the affirmative.

Senator Winner, to explain his vote.

SENATOR WINNER: Thank you, Mr. President.

Obviously this is a very historic moment for this body. This is a major step forward in putting forth transparency and openness with regard to the lobbying that goes on in this state. I'm very proud to have sponsored this bill, and I thank Senator Bruno for his assistance and support in making this

bill a reality.

This bill contains a number of very important factors dealing with opening up the process of lobbying and making sure that the procurement process in this state is -- goes forward from now on with a great deal of not only transparency but a great deal of confidence from the public that in fact things are aboveboard and things are done in the open and things are done properly.

And there are a number of other provisions in this legislation that provide for lobbying on the local level. However, there are also protections built in so that certain economic development activities and other things can go forward without the necessity of having -- have them be unfettered and cause dislocation with regard to our ability to try to attract people that do business in this state.

We want to bring this practice out in the open. This bill does that. And I thank you all for the support that this measure is receiving. And I think we can proud that we have accomplished a good deal of

reform in the area of procurement lobbying tonight.

ACTING PRESIDENT MEIER: Senator Winner will be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I'd like to compliment the sponsor, Senator Winner.

We talk -- a lot of people talk about reform and talk about reform, but this is a true reform bill dealing with procurement lobbying. And it's a bill that we all should be proud of, as part of this legislative body, because this is the type of bill that will restore confidence in the Legislature.

And, Senator Winner, it's a wonderful job that you did and I'm glad to be able to vote aye.

ACTING PRESIDENT MEIER: Senator DeFrancisco will be recorded in the affirmative.

Senator Flanagan, to explain his vote.

SENATOR FLANAGAN: Thank you, Mr.

President. Just briefly to explain my vote.

I also compliment Senator Winner. I had the distinction or dubious honor of being the immediate preceding chair of the Ethics Committee. Having worked on some of these issues, I firmly and genuinely believe that when we look back on this year's session, this will be considered one of the top achievements.

And, you know, we always hear about reform, and there are people who criticize us. This is really true, fundamental reform in terms of how we do some business practices in the State of New York. We have a couple of bills tomorrow that are going to even add more to what we're doing here this evening.

This is a great thing for this body, for this state, and for the citizens of the State of New York.

ACTING PRESIDENT MEIER: Senator Flanagan will be recorded in the affirmative.

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I also stand to applaud our moving forward on this legislation. As Senator Flanagan pointed out, he and I debated different lobbying reform bills in 2002. I carried one then, as I carry one today. We weren't in agreement then. But I'm very glad that much of what I was talking about in 2002 through 2005 is included in this bill.

And I appreciate that, because everyone who has spoken is right, this is reform we should be doing. And it's reform we need to be doing, of course, because our reputation has been harmed over the years by ethical problems, by some criminal activities. And it is, I think, the minimum the public can expect from us that we would have good laws around lobbying, that we would have transparency. I don't think it's a perfect bill, but we never get perfect bills here.

So in fact, this bill is a bill I would be proud to put my name on as a sponsor. And I'm sorry that we actually still have a policy where we don't have open cosponsorship of bills, because so frequently we find that we do reach across the aisle, as we have now

earlier today on the emergency contraception bill. And as part of reform for lobbying, I also hope that at some point in time people who want to sign on and cosponsor bills in this house would be able to.

Again, this isn't the bill that I think we, if we wrote it in a bipartisan group manner, might have ended up with. I think we might have added some specifics around banning gifts from lobbyists to lawmakers and staff, establishing at least a one-year cooling-off period for legislative staffers and top party officials before they're allowed to lobby the Legislature.

I also think there's a couple of questions that are reasonable to continue to ask about the role of lawmakers in lobbying commissioners and other top administration officials on behalf of lobbyists and their clients. I think that may be a loophole we can go back and we can fix it.

Again, it is a good day. This is a good bill, if not the best bill --

ACTING PRESIDENT MEIER: Senator, the two minutes for you to explain your vote

has expired. How do you vote?

SENATOR LIZ KRUEGER: Thank you. I'll be voting yes. And I was thanking you.

ACTING PRESIDENT MEIER: Senator Krueger will be recorded in the affirmative.

Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: I too rise to congratulate the sponsor. Glad to see a lobbying reform bill. As somebody, unfortunately, that has served a life sentence on the Ethics Commission --

(Laughter.)

SENATOR STACHOWSKI: Senator Flanagan's lucky. He was on, he's gone. You know? But I've been there since the start of it.

And I'd like to congratulate Senator Winner and especially on behalf of the people that have worked on the Ethics Commission. Because somehow or other, even if it doesn't fall under our area, everybody thinks it should. So the fact is that we got a bill done and everybody was watching for a bill of this nature, and I'm glad I get an

opportunity to vote for it.

I vote yes.

ACTING PRESIDENT MEIER: Senator Stachowski will be recorded in the affirmative.

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

I'm delighted to support this. The idea of including procurement lobbying under the Lobbying Law was something that I supported many years ago when it was first proposed by Senator Joe Bruno in, I guess, 1998. It caused quite an uproar at the time. It was an idea that seemed to be ahead of its time. At least some parts of this Capitol thought so. But here we are today.

And thanks to the current sponsor, thanks to support on both sides of the aisle, we I think have done something to ensure that New York State government is more transparent and that the public can be assured that its government is one in which it can have confidence in its integrity.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Connor will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe Calendar Number 1673 was inadvertently laid aside. If we could take it up at this time.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 1673.

THE SECRETARY: Calendar Number 1673, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 7608A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes the supplemental list.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: We have some motions, Senator.

SENATOR SKELOS: Thank you.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. I wish to call up, on behalf of Senator Padavan, Calendar Number 844, Assembly Print Number 5622A.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 844, by Member of the Assembly Canestrari, Assembly Print Number 5622A, an act to amend the Education Law and the Insurance Law.

SENATOR NOZZOLIO: I now move to

reconsider the vote by which this Assembly bill was substituted for Senate Print Number 3169A on June 22nd.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR NOZZOLIO: I now move that Assembly Print Number 5622A be recommitted to the Committee on Rules, and the Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT MEIER: So ordered.

SENATOR NOZZOLIO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

The Secretary will read the substitutions.

THE SECRETARY: On page 5, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 8894 and substitute it for the identical Senate Bill Number 479A, Third Reading Calendar 94.

On page 36, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 3163 and substitute it for the identical Senate Bill Number 4818, Third Reading Calendar 1143.

On page 46, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 8769 and substitute it for the identical Senate Bill Number 5666, Third Reading Calendar 1608.

On page 49, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 8583A and substitute it for the identical Senate Bill Number 5540A, Third Reading Calendar 1722.

On page 50, Senator Winner moves to discharge, from the Committee on Rules, Assembly Bill Number 8851 and substitute it for the identical Senate Bill Number 5742, Third Reading Calendar 1734.

And Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 8936 and substitute it for the identical Senate Bill Number 5857, Third Reading Calendar 1849.

ACTING PRESIDENT MEIER:

Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, tomorrow could be a long day. So I'm just going to suggest that the members be here in a timely fashion.

And on the controversial calendar, we are going to try to keep the gap between members coming from whatever business they're performing into the chamber to vote to approximately 2 minutes.

ACTING PRESIDENT MEIER:

Two-minute rule tomorrow.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Thursday, June 23rd, at 10:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Thursday, June 23rd, at 10:00 a.m.

(Whereupon, at 7:36 p.m., the Senate adjourned.)