ALBANY, NEW YORK

April 5, 1993

1:07 a.m.

REGULAR SESSION

LT. GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: Senate will come to order.

There will be order in the chamber.

Senator Present.

SENATOR PRESENT: Mr. President. We haven't adjourned until the presiding officer up there says we are adjourned.

THE PRESIDENT: I adjourned the session from the 4th of April until 1:07. I then reconvened the new session.

SENATOR PRESENT: I'm sorry, sir. I didn't hear you reconvene.

THE PRESIDENT: Well, it's understandable because there is a bit of noise in the chamber, but there is not now.

We are reconvened.

SENATOR PRESENT: We are reconvened. Shall we have our salute to the flag?

THE PRESIDENT: I would like to ask everyone to rise and repet the Pledge of

Allegiance with me.

(Whereupon, the Senate joined in the Pledge of Allegiance to the Flag.)

THE PRESIDENT: In the absence of clergy, I would like to ask for a moment of silence.

(Whereupon, there was a moment of silence.)

Secretary will read the minutes -- or the Journal.

THE SECRETARY: In Senate, Sunday, April 4. The Senate met pursuant to adjournment. The Journal of Saturday, April 3, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Hearing no objection, the Journal stands approved as read.

Senator Present.

SENATOR PRESENT: Mr. President. I move that we recess until tomorrow at -- today at 9 a.m.

In behalf of Senator Levy, there will be a Republican Conference in 332 at 9:00

a.m.

THE PRESIDENT: I'm sorry. Senator Present, would you repeat the announcement?

SENATOR PRESENT: I move that we recess until 9:00 a.m. of this day and that there will be -

SENATOR GOLD: Mr. President.

(The President gaveled for order.)

THE PRESIDENT: I still -- the Senate is reconvening at 9:00 a.m., is that the message?

SENATOR PRESENT: Until 9:00 a.m.

THE PRESIDENT: Right.

Senator Mendez.

SENATOR MENDEZ: There will be a Democratic Conference today at 9:00 a.m.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: If I can make an inquiry of the Chair. My understanding is, now, that we are in recess. The Journal Clerk has a

tally on those here, and if we go into session at 9:00 o'clock and somebody should happen to be late, we will be voting about 57 or 60 seats. Is that correct? It just might be an incentive for people to come on time.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: I repeat that there will be a Republican -- on behalf of Senator Levy, there will be a Republican Conference at 9:00 a.m., conference this morning.

THE PRESIDENT: A Republican Conference at 9:00 a.m.

SENATOR OHRENSTEIN: Both -

THE PRESIDENT: Senator Ohrenstein.

SENATOR OHRENSTEIN: Mr. President. Both times are 9:00 a.m. sharp; is that correct?

THE PRESIDENT: 9:00 a.m. sharp for both conferences.

(Whereupon, at 1:11 a.m., Senate recessed.)

(Whereupon, at 11:42 a.m. , the Senate reconvened.)

THE PRESIDENT: Senate will come to order. Senate will reconvene the session that was convened at approximately 1:07 this morning.

Senator Present.

SENATOR PRESENT: Mr. President. In behalf of Senator Stafford, I would like to call an immediate meeting of the Finance Committee in Room 332. We will stand at ease pending the report of that committee.

THE PRESIDENT: Finance committee, immediate meeting.

The Senate will stand at ease.

(Whereupon, at 11:42 a.m., the Senate was at ease.)

(Whereupon, at 12:01 p.m., Senate reconvened.)

THE PRESIDENT: Senate will come to order.

Senator Present.

SENATOR PRESENT: Will you

recognize Senator Goodman.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Mr. President. I believe there is a privileged resolution at the desk and I ask that its title be read.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Legislative Resolution, by Senator Goodman, congratulating Mr. Alvin E. Coleman upon the occasion of his 95th birthday on April 7, 1993.

THE PRESIDENT: On the resolution. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The resolution is adopted.

SENATOR FARLEY: Mr. President.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Just for my colleagues in the chamber. Yesterday a resolution was adopted declaring National

Library Week. I open it up to the entire membership if they wish to be on it. Even though the resolution passed yesterday, the resolution is open. I know that you have been very busy, and a number of members asked me about it. So if you wish to be on that, would you please approach the desk. It's the National Library Week Resolution.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Mr. President. Is there a report of a standing committee at the desk?

THE PRESIDENT: There is.

SENATOR PRESENT: May we have that report read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bills directly for third reading:

Senate Budget Bill 653B, aid to localities budget.

Senate Bill Number 4366, by the

Committee on Rules, an act to amend the Tax Law, in relation to retaining the 1993, the state personal income tax rates and standard deduction amounts.

Assembly Budget Bill, Assembly Bill Number 1354A, an act making appropriations for the support of government. Excuse me. It's the Senate bill that's being reported directly for third reading. Senate Bill 654B, Senate budget bill.

Senate Bill Number 4365, by the Committee on Rules, an act to amend the Highway Law, the Public Authorities Law, and the State Finance Law.

Senate Bill Number 4364, Senate Budget Bill, an act to amend chapter of the laws of 1993, enacting the aid to localities budget.

Senate Bill Number 4363, by the Committee on Rules, an act to amend the Public Health Law, in relation to extending the provisions of the supplementary low income patient adjustment.

THE PRESIDENT: Without

objection, third reading.

Senator Present.

SENATOR PRESENT: Mr. President. Let's take up Calendar 408, which is Senate 6353B.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 408, Senate Budget Bill, Senate Bill Number 653B, an act making appropriations for the support of government and to amend Chapter 53 of the Laws of 1992.

SENATOR PRESENT: Mr. President. Is there a message of necessity at the desk?

THE PRESIDENT: There is a message.

SENATOR PRESENT: I move that we accept the message.

THE PRESIDENT: All those in favor of the motion, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it.

The message is agreed to -- or the motion is agreed to. The message is accepted.

THE SECRETARY: Senator Stafford moves to discharge the Committee on Finance from Assembly Bill Number 1353A and substitute it for the identical Senate Bill 653B.

THE PRESIDENT: Substitution ordered.

Last section.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Maybe it's indicative of how we do business here that a bill of this magnitude which really so directly affects every person in this state is about to pass without any comment and without -- and on a fast roll call.

Mr. President, I think that all of us here have to admit that we probably know very little of what is in this budget. We may know about one or two programs that we're

interested in. I'm not suggesting that every member has to know how every dollar is spent, but certainly we have the right to know more than we do about this budget.

This bill was printed, I believe, at 4:00 or 5:00 a.m. Most of us have had about an hour, not only members of the Minority but members of the Majority, running around frantically trying to find out what programs are in and what programs aren't in.

I want to say that on our side, and I'm sure it's true on your side, we have certainly been helped by staff. But the whole budget process is so centered in the negotiations between the Speaker, the Majority Leader, the Governor and their staff, that the members are really almost totally excluded.

I find a number of reasons to vote against this bill besides the fact that the whole budget process here is really so flawed. One reason is the terrific growth in what I would call parochial items. I'm not suggesting that there aren't times when needs of a

particular district in a locality shouldn't be addressed in the budget on the recommendation of member or members who represent that district, but we have seen an enormous growth.

I'm not just talking about member items. I'm talking about the ability, particularly, that the Majority in this house has taken of putting in projects in their district. So instead of addressing statewide needs, we more and more seem to address these particular local needs which may make good local campaign propaganda but certainly don't make good public policy.

I mean just as I look through this 500-page bill, I see so many items there for Nassau and Suffolk, 100,000 here, 200,000 there and so on. I think the Island is going to sink another foot.

But, Mr. President, I think that also reflects the fact that budgeting in this state, particularly in the last few years, is really out of control. The process is so badly flawed.

I want to say that there's also a number of very important programs that we failed to address because we didn't provide enough revenue so that we could fund those programs. It seems to me that there's many needs throughout this state that we have now cast on the localities. I did a study some couple years ago which showed how the burden on the locality has grown because the state has not provided the help that it should. In all fairness, most of that is due to cutback in federal support. But some of it is also due in the amount of monies that the state makes available. So when, as we had last year, members from suburban areas particularly from Long Island got up and had all these proposals to set up study commissions to study why the real estate tax is so high, well, the real estate tax is so high because you pass this sort of a budget, and the localities have to pick up more and more of programs, have to meet social concerns and needs more and more that really we ought to be meeting here.

So, Mr. President, I guess we

ought to be happy that we're not doing it at 5:00 a.m. or 6:00 a.m. We are doing it at a relatively reasonable hour, but I don't think any of us can take much comfort in the process that has brought the bill to us at this particular time and has given us so little time to give it real serious consideration.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Mr. President. Can we lay this bill aside temporarily?

THE PRESIDENT: The bill is laid aside.

SENATOR PRESENT: Call up 410.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Senator Stafford moves to discharge the Committee on Finance from Assembly Bill Number 1354A and substitute it for the identical Senate Bill 654B.

THE PRESIDENT: Substitution ordered.

SENATOR PRESENT: Mr. President. Is there a message at the desk for the bill?

THE PRESIDENT: There is a message.

SENATOR PRESENT: I move we accept the message.

THE PRESIDENT: On the motion. All in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

THE PRESIDENT: Senator Waldon.

SENATOR WALDON: Thank you, Mr. President. I believe there is an amendment at the desk. I waive its reading and respectfully request an opportunity to explain my amendment.

THE PRESIDENT: Senator Waldon is recognized.

SENATOR WALDON: Thank you, Mr. President. I, with the amendment, hope to have removed from this bill lines 14 through 21 on page 259, which would result in in excess of $600,000 being removed from the capital projects

fund, marine projects purpose area of the marine resources portion of the bill.

The reason for that, Mr. President, is that the area I serve has been very negatively impacted by three storms, the one of Halloween in '92, the one in December of '93, and the blizzard of March of this year; and yet, those areas have not been appropriately serviced by this particular agency, and I think that that money could be better spent if it were to be utilized to correct the problems resulting from those storms in my district. So I respectfully request that this body consider my amendment and act appropriately.

THE PRESIDENT: The question occurs on the amendment of Senator Waldon.

All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(Response of nay.)

In the opinion of the Chair, the nays have it.

SENATOR WALDON: On the

amendment, Mr. President. Specifically there is an area in the district in the Rockaways which has been battered and beaten by these storms. That area has as a condition now bulkheads down and in disrepair, sand erosion on the beaches and that area of the beaches that is now under water. We have a severe problem in terms of the quality of life in places in the district like Breezy Point and 95th Street along the beach and boardwalk of Rockaway and in areas not in the district; for example, Broad Channel, where there are houses actually teetering and tottering in the water, and I have inspected them personally, and I think that when an agency is empowered -- not empowered. Let me correct that. When an agency is mandated to be of service to the communities and does not respond to phone calls, does not react with dispatch on applications for bulkhead repairs and corrections regarding the beaches, then that agency is remiss.

All of us who are either in appointive office or elective office are

servants of the public, no more, no less. And I submit that Region 2 of the DEC has failed in its responsibilities to the people I serve, and I hope that someone is listening who will correct that wrong and someone is listening who will determine that people who are in acting positions as regional directors will never become permanent in those positions, and I hope that someone will recognize that the people of Rockaway, the people of Breezy Point, the people of the 10th Senatorial district, deserve better and the next time around, if there is a next time, when the cry goes out for help that someone will follow the mandate not only of government but of their particular agency and extend a helping hand.

I thank you for this opportunity to explain my amendment, Mr. President, and I thank my colleagues for their indulgence.

THE PRESIDENT: Senator Masiello.

SENATOR MASIELLO: Can somebody in the chamber answer a question on the

Corrections part of the budget, the capital?

SENATOR STAFFORD: What area?

SENATOR MASIELLO: Work release in prisons, construction, renovation, rehabilitation of, acquisition of.

SENATOR STAFFORD: Got it. Got it.

SENATOR MASIELLO: In the language, in the memo I have, Senator Stafford, it states that -- excuse me for a second. Buffalo day reporting work release site cannot be expended for design, acquisition, renovation, or construction of these facilities until the Commissioner has received approval from the Temporary President of the Senate and the Speaker of the Assembly.

Now, what role do we as Minority members have in that decision-making process if any of these facilities are within our districts?

SENATOR STAFFORD: Well, I would explain this, Senator, and I certainly understand your concern, and I think I can

appreciate where you are coming from.

You know, it would be great if 61 Senators and 150 Assemblymen could just do what they want to do. We just -- you know, we could just go our own ways, only our own bills pass, et cetera. Obviously, that's ridiculous.

With this, we elect a Majority Leader. You have the opportunity -- I believe you were a little active last fall in certain projects, so that maybe you would have had something to say about what you are concerned about.

But it's the Majority Leader and the Speaker. Now, the Speaker if you aren't - I'm sure you are -- but the Speaker is like the Majority Leader over here. You understand that.

SENATOR MASIELLO: Yes, I have been here 12 years. I understand the function of the Speaker.

SENATOR STAFFORD: Right. And, therefore, they have their constituencies which in the Assembly is the Speaker; the Majority Leader has his constituency in the Senate; and

they represent us.

SENATOR MASIELLO: Would you yield to another question, Mr. -

SENATOR STAFFORD: Go ahead.

SENATOR MASIELLO: Senator Stafford, what do you mean by I was active in certain projects last fall?

SENATOR STAFFORD: You were active, I believe, which you have every right to be in trying to possibly make sure that the Majority changed here.

SENATOR MASIELLO: Wait a minute. Are you saying that because of my role and perhaps other activities that are not legislative but political that I'm going to be punished for that or I have no say-so on what goes into my district?

SENATOR STAFFORD: Not at all. You're making a big mistake. I didn't say "punished" at all. I said that the Majority Leader represents this body in this legislation, and we are his constituency. Sixty-one of us can't get together and decide something like

this for Commissioner Coughlin. That's what I'm saying.

SENATOR MASIELLO: The reason why I asked that question, Senator, and other Senators is that there is a possibility, and it does specify here, that there could be a Buffalo day reporting work release program in my district. And, quite frankly, there has been a lot of meetings in Buffalo about a particular site for work release.

Obviously, when you do something like this, it's a very controversial issue. I want to state for the record that I helped people get in work release. I know the value of it. I know there's going to be some problems with it. But, quite frankly, with the overcrowding in our prisons, work release overall is a good project and a good program.

However, in my particular area and this particular site in Buffalo, there is a lot of controversy; that people who live in and around that facility are opposed to it.

And the reason why I ask the

question is that some place, somewhere down the line, there is going to be a decision made on that facility or some other facility within my Senatorial District, and I just want to know what role I will have in that decision-making process with the President of this Senate. That's my question.

SENATOR STAFFORD: I'm sure he will take under consideration any concerns you have. I also have a facility that's in this legislation, and I'm very anxious for it to be built.

SENATOR MASIELLO: I'm glad you are going to have some say-so in your facility in your district and rightfully so, Senator Stafford. I just want afforded to me the same kind of legislative privilege.

THE PRESIDENT: Last section.

SENATOR STAFFORD: Excuse me one second. As a matter of fact, I think your concerns have been represented, Senator, and I will be glad to talk to you in detail afterwards.

SENATOR MASIELLO: Fine. Thanks.

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.)

SENATOR HOFFMANN: I would like to explain my vote.

THE PRESIDENT: Senator Hoffmann is recognized to explain her vote.

SENATOR HOFFMANN: I'm a little concerned, Mr. President, at the lack of time afforded the members of this house to thoroughly digest this volume of information, in only this one section of the budget, in this capital projects budget. We have not had an opportunity to read, digest, much less review in committee meetings or with our constituents the material contained herein.

Much of it is very similar to what the Governor originally presented to us, I'm sure. But it's absolutely absurd that we're

being asked to vote on something without at least a few days, much less a few weeks, opportunity to review it.

I vote in the negative.

THE PRESIDENT: Senator Hoffmann votes no.

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

THE PRESIDENT: Senator Dollinger is recognized to explain his vote.

SENATOR DOLLINGER: Mr. President. I want to join in the concurring thoughts of both Senator Leichter and Senator Hoffmann. I, too, am 169 pages through this document. And, frankly, I'm astounded at what I see in it. The time for debate, I guess, has come and gone. The time for serious discussion about what this all means to the taxpayers of this state is gone.

Frankly, I was elected because people were sick and tired of doing business this way, and I think that voting for this or, frankly, any other portion of the spending and

budget process would be a betrayal of the people that I was elected on the basis of changing the way we do business.

Seems to me this is more business as usual, and I can't support it, Mr. President.

THE PRESIDENT: Senator Dollinger votes no.

Senator Masiello -

SENATOR MASIELLO: Let me explain my vote.

THE PRESIDENT: -- is recognized to explain his vote.

SENATOR MASIELLO: This particular issue in Buffalo has been around for quite some time. I have had dialogue with Senator Volker. I know that the Majority Leader is aware of that particular situation. I'm comfortable that I will have a role and input in any future discussions. Therefore, I'm going to vote yes on that capital budget because I believe there are a lot of things in that budget that are important to the state, that are important to my constituency. And as long as I

have a role in that decision-making process, I'm comfortable with that.

THE PRESIDENT: Senator Masiello votes yes.

Clerk will call the roll.

THE SECRETARY: Those recorded in the negative on Calendar Number 410 are Senators Dollinger, Hoffmann, Jones, Kuhl, Pataki and Paterson. Ayes 54. Nays 6.

THE PRESIDENT: The bill is passed.

Senator Present.

SENATOR PRESENT: Calendar 411.

THE PRESIDENT: Secretary will read.

SENATOR PRESENT: Senate 4364.

THE SECRETARY: Calendar Number 411, Senate Budget Bill, Senate Bill Number 4364, an act to amend a chapter of the Laws of 1993 enacting the aid to localities budget.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: There is a

message. The Chair will state that we need to substitute the bill. I believe the Assembly has acted.

The Secretary will read.

THE SECRETARY: Senator Stafford moves to discharge the Committee on Finance from Assembly Bill Number 7590, and substitute it for the identical Senate Bill 4364.

THE PRESIDENT: Substitution ordered.

Now, there is a message at the desk.

SENATOR PRESENT: I move we accept the message.

SENATOR PRESENT: On the motion.

All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

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 -

SENATOR MENDEZ: Mr. President.

THE PRESIDENT: Senator Mendez.

SENATOR MENDEZ: To explain my vote. Mr. President. I'm going to support this budget bill. I think it's very badly needed in our communities so that the local governments will have to spend extra money in interest if we are tardy in sending in the monies.

However, there is an item in this budget that I hope eventually will be reconsidered. I am referring to an appropriation of funds for $500,000 for sex therapy for sex offenders. Mr. President, sex crimes and abuse among children is increasing in an enormous fashion not only in this great state but also throughout the nation. Rape is the fastest growing crime, and there are reasons to believe that once in prison the sex offender is very difficult to rehab because something went

wrong in their psychosexual development.

So, therefore, I hope that eventually, before this session is over, my colleagues here would take steps to insure -- to insure that sex offenders are made to remain in prison for as long as possible. The priority in this area, Mr. President, has to be the safety of children and women in the state of New York.

Thank you. But I vote yes on the bill.

THE PRESIDENT: Senator Mendez votes yes.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President. Could either Senator Stafford or Senator Levy yield to a question on the Suburban Highway Improvement Program.

SENATOR LEVY: Yes, sure.

SENATOR STACHOWSKI: I said that, because I know Norman did a lot of the transportation.

Can you explain this to me, what this is?

THE PRESIDENT: There will be order in the chamber. If there are conversations other than those for the Senators who have been recognized that are necessary, I would like to ask you to leave the chamber. There will be order in the chamber.

Senator Stachowski has the floor, and he yielded to Senator Levy.

SENATOR LEVY: Can we just hold for a moment?

THE PRESIDENT: Sure.

SENATOR LEVY: Senator, this is the Governor's bill, and this language is extracted out of local assistance because of the court decision. Otherwise, this language would be in the local assistance budget.

SENATOR STACHOWSKI: I just want to know what the program is. Do I ask the question here or do I wait until later when we get to -

SENATOR LEVY: This is the mass transit operating assistance program which relates to all subsidy funding for mass

transportation statewide.

SENATOR STACHOWSKI: The only question I have is what is -- I just wanted an explanation of what is the Suburban Highway Improvement Program? What does that particular program do? It's $35 million. That's all I want to know.

SENATOR LEVY: Senator, that's in the next bill.

SENATOR STACHOWSKI: Well, it's in the local assistance.

SENATOR LEVY: Yes. It's not in this bill. It's in 4365.

SENATOR STACHOWSKI: I can ask that same question later, because it's listed in this bill too.

SENATOR LEVY: It's 4365.

SENATOR STACHOWSKI: Okay. I'll ask it later.

SENATOR LEVY: I will be happy to answer it for you.

SENATOR STACHOWSKI: No, I'll ask it later, but it's listed here too.

THE PRESIDENT: The Secretary is taking the roll. Is there any other negative vote, Assembly Bill 7590? It's the chapter amendment on the aid to localities. Senate 4364.

THE SECRETARY: Those recorded in the negative on Calendar Number 411 are Senators Dollinger, Hoffmann, Jones, Nolan and Pataki. Ayes 55, nays 5.

THE PRESIDENT: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President. I would like to announce an immediate meeting of the Rules Committee in Room 332.

THE PRESIDENT: Rules Committee, immediate meeting.

SENATOR PRESENT: Mr. President, may we call up Calendar 412, Senate 4365.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 412, by the Senate Committee on Rules, Senate

Bill Number 4365, an act to amend the Highway Law, the Public Authorities Law, the State Finance Law and the Transportation Law.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: There is a message.

SENATOR PRESENT: I move we accept the message.

THE PRESIDENT: On the motion.

All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

SENATOR STACHOWSKI: Mr. President.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Would Senator Levy yield to a question.

SENATOR LEVY: I understand the

question, Senator. Senator, what collectively we tried to do with this transportation financing package and achieve, whether it was the Governor, the Assembly, or the Senate, was to have a fair and just distribution regionally of funds. Because of certain formulas on the federal side of the equation as it related to state highway and bridge funding and local highway and bridge funding, there were inequities as it relates to the Mid-Hudson region which includes all of the counties, the suburban counties served by Metro-North plus Ulster and Columbia County and Long Island. So what we did was to generate a pool, the three legs of the triangle here in Albany, a pool of 140 million. Actually, it was a pool of $290 million. $150 million went to enhance CHIPS and Marchiselli. CHIPS significantly helps upstate to counterbalance the inequities in the overall program and through the distribution of monies pursuant to the CHIPS formula, a Suburban Highway Trust Fund was created, as I said, to help Mid-Hudson and to help Long Island. That's

what this does.

We will, pursuant to a chapter, by June 15 determine -- along with a memorandum of understanding that identifies the projects on a state highway and bridge level that are to go forward as a part of this agreement, we will be doing a chapter determining how that money will be distributed in the Mid-Hudson region and on Long Island.

SENATOR STACHOWSKI: Mr. President. Could Senator Levy yield to one more question?

SENATOR LEVY: Yes, certainly.

SENATOR STACHOWSKI: Basically, what I'm trying to find out -- and I appreciate that part of the explanation -- is this part, and maybe I have the wrong understanding about this, but if a bridge in the area that's covered by the Suburban Highway piece is done for a locality as opposed to one maybe upstate that would be done with Marchiselli funding available, would this program, the Suburban Highway thing -- if the bridge is chosen and

done on the memorandum, would that mean that the whole bridge project is covered and done by this fund, as opposed to if a bridge in, say, Senator Volker's district is done with Marchiselli funds, that the locality would therefore qualify for Marchiselli funding, have to come up with their share of the funding up front and then slowly get it back; whereas, the localities that come under the Suburban Program just have that covered and they, therefore, would not have to come up with any money themselves to get their bridge work done?

SENATOR LEVY: Number one, Senator, so you understand, in this agreement we have doubled the amount of Marchiselli funding as opposed to the historic levels.

And the answer to your question is, number one, Marchiselli, is a state pickup of a local match for federal funds, and most local bridges are not going to qualify for funding under the use of federal funds.

Now, to answer your question as to what will happen, I can't answer it now. We

can only answer it when we do the chapter simultaneously with the memorandum of understanding. Because this money -- this money can be used either for state highways and state bridges or local roads and local bridges. And one of the things we're going to be doing in the chapter that we will agree upon and pass is to come up with a mechanism to determine whether the money will be used for state highways and state bridges or local roads and local bridges and who is going to have the option. And we can't answer that question now because it hasn't been decided and that's why it's pursuant to a chapter.

SENATOR STACHOWSKI: Mr. President. If I can just ask one more question, just so I can kind of explain my concern.

SENATOR LEVY: Yes.

SENATOR STACHOWSKI: Senator, I understand all how Marchiselli works and whether there is as much as last year or twice as much doesn't play in my question. My question has to do -- I know from your answer I can understand

that we can't answer this particular question until later. But just so you understand my concern is that if a community falls under this program and if, in fact, they have a bridge chosen to be repaired that wouldn't have qualified for federal funding or maybe would have but never got federal funding, they would have an opportunity if there is a different mechanism than Marchiselli funding to get the bridge repaired without the locality having to come up with the money up front. Where under Marchiselli funding because of the change made a couple years ago to save the program, the formula now becomes -- for example, Buffalo has a bridge to get done. They are eligible for Marchiselli funding. The amount that Buffalo's share comes out to under Marchiselli funding is say, for example, 4 to $5 million. That means the city of Buffalo on the start-up of that project has to come up with $4 million up front to qualify to get the Marchiselli funding. And as the bridge is being built and the money is being spent, as that $4 million starts being

spent, they get it back. But the fact is Buffalo or whatever locality has to come up with that amount of money up front because of the change in the Marchiselli mechanism. Where, under your program, I'm just trying to find out if, in fact, you do bridges, would it have any kind of mechanism like that; or would it be a much better program where, if they qualify, they get the money?

SENATOR LEVY: Okay. There's really two answers to your question. Your question may be totally academic because the solution that we come up with may -- may result in only state highways and state bridges being done, so we don't get to that question.

The second answer is if we do have a local highway and bridge program through that chapter, we expect to structure it so it's the same as -

SENATOR STACHOWSKI: That's - that's basically -- thank you very much.

SENATOR LEVY: But, again, it's something we are all going to have to agree on

and pass.

SENATOR STACHOWSKI: Thank you.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Yes. What we really need in this chamber is a truth in labeling bill. Because this euphemism here for this particular piece of legislation that relates to the state's transportation infrastructure system makes technical alterations which impact on the expenditure of appropriations and reappropriation.

What that actually means is that this is a raid on the locked box. We are now violating an agreement that we made with the taxpayers of this state to have a dedicated transportation fund; and, instead, we are coming up with a whole series of very convoluted back door borrowing maneuvers to create other means of financing some very necessary transportation projects at the same time we are transferring the money from the locked box into the general fund. So truth in labeling -- truth in labeling

is really needed for much of our legislation.

There is another aspect of this that requires some truth in labeling; that is, the whole concept of a chapter amendment. What we're doing today is buying a pig in a poke because we don't even know which highway projects or bridge projects are going to be used. We have to wait until later when we have yet another labeling issue, a memorandum of understanding, which translates here in Albany into an agreement between the political leadership of this house and the Governor.

I'll vote no.

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: Those recorded in the negative on Calendar Number 412 are Senators DeFrancisco, Dollinger, Hoffmann, Jones and Stachowski. Also Senator Kuhl. Ayes 54, nays

6.

THE PRESIDENT: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President. Can we take up Calendar 413, Senate 4363.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 413, by the Senate Committee on Rules, Senate Bill Number 4363, an act to amend the Public Health Law, in relation to extending the provisions of the supplementary low income patient adjustment.

THE PRESIDENT: Senator Tully.

SENATOR TULLY: Mr. President. Is there a message from the Governor?

THE PRESIDENT: There is not. The bill will be laid aside.

SENATOR PRESENT: Mr. President.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Calendar Number 409, which is Senate 4366.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 409, by the Senate Committee on Rules, Senate Bill Number 4366, an act to amend the Tax Law, in relation to retaining in 1993 the state personal income tax rates and standard deduction amounts.

SENATOR PRESENT: Mr. President. Is there a message at the desk?

THE PRESIDENT: There is a message.

SENATOR PRESENT: I move we accept the message.

THE PRESIDENT: On the motion. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is agreed to. The message is accepted.

SENATOR LEICHTER: Mr. President.

PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Mr. President. Is there an amendment at the desk?

THE PRESIDENT: There is an amendment at the desk.

SENATOR LEICHTER: Mr. President. I waive its reading.

THE PRESIDENT: Senator Leichter is recognized.

SENATOR LEICHTER: And ask a chance to explain it, and I will be brief.

This amendment is not only one that I think has a lot of merit, but I think it's symbolic of the things we can do to bring more revenues into the state coffers and to do it in a fair way and without in any way negatively affecting the state's economic competitiveness.

What this bill does is it disallows deductions for interest on mortgages on out-of-state property. There is absolutely no reason why we in the state of New York should be subsidizing by permitting interest deduction on people who have ski condo's in Aspen or

estates in Palm Beach. Yet we make it attractive for people to finance out-of-state acquisitions, out-of-state property because we give an interest deduction.

Now, I have a number of other proposals. I'm not going to move them. But it just seemed to me that this was one that made such eminent good sense.

But the point I really want to make is that for years we have been doing our budgets really in a straitjacket, and that straitjacket is unfortunately due and created by the Governor's obstinate refusal to consider any revenue increase from broad-based fair taxes. Instead, he's reverted to fancy gimmicks and so on, but he has also starved the state treasury at a time when there were revenue enhancement measures that we could have taken. One, for instance, is to raise the income tax on people making more than $200,000. If anybody wants to protect those people and say that they are paying their fair share, you go ahead. I will show you that they are not and that that would

be a sensible way to raise more money.

There are loopholes in the law such as the loopholes in interest deduction that this amendment addresses that we should also do. Unfortunately, the position of Governor Cuomo -- and he must be one of the last persons left in this country that believes in the "read my lip" pledge. I'm sorry to be so harsh on the Governor, but I think that it has limited our ability to meet the needs of the people of the state of New York, and I think it has hurt the state's economic posture because the quality of life in this state has very definitely declined as we have been unable, through the budget, to deal with a lot of needs that we should be addressing here in New York State.

So this is a small step, just an example of one of the things that we can do to bring in revenue fairly which would then allow us to meet with some of the unmet needs in the state budget.

THE PRESIDENT: The question occurs on the amendment of Senator Leichter.

All those in favor, aye.

(Response of "Aye.")

Opposed, nay.

(Response of nay.)

In the opinion of the Chair, the nays have it. The amendment is not agreed to.

SENATOR MARKOWITZ: Mr. President.

THE PRESIDENT: Senator Markowitz.

SENATOR MARKOWITZ: Thank you very much. Just a few words, if I may. The cigarette tax.

As a former smoker many, many years ago, I think it's a laudable goal for the Legislature, for all of us in government, to do our part to convince New York residents either to give up smoking and certainly to prevent those that are growing up today -- teenagers, in particular -- not to take up a bad habit.

The question is whether or not a 17-cent increase on cigarettes is the way to go. Now, I know that this is agreed upon by the

Legislature, but if -- if you can, think about who this is going to fall on the worst.

Those smokers in the state that are more affluent, frankly, this is going to mean little to. But those that are poorer in our society and for whatever reason choose to continue to smoke, which is their right as residents of this state, this will be a very onerous tax on them.

Now, there is no question that I know we needed the revenues in the state, and certainly I want to re-emphasize my belief that this state must remain committed to helping to get our citizens, our residents off the smoking habit. It is a laudable goal, a proper goal for the state Legislature. But one of my concerns is how it impacts on lower income residents of the state.

The second aspect of it is, and I mean this in great sincerity, we do have a corporation in New York City and all of us know that corporation by the name of Philip Morris. And I know that every one of us that live in New

York City feel as I do; and that is, that we welcome their corporate location in New York City, that what we are about to do -- what we are about to do in no way -- in no way, is meant as a slap at Philip Morris. Because I think it's important that we say that, because they are a very important corporation in our state. They are one of the largest in the United States that are still headquartered in New York City, many thousands of employees in New York City, and I think it's important that all of us recognize that unlike many other major corporations they are one of the few that really do give back in so many ways to the residents of the city of New York.

Now, I'm going to vote for this bill including the tax increase on cigarettes because I know it's agreed upon, but would I hope that somehow in the future as we negotiate budgets we think about how the impact of certain increases in sin taxes will impact on people that are poor as opposed to those who are affluent and how we can appropriate more state

money to provide educational programs to convince the residents of the state to think about not starting a habit which will be onerous and detrimental to their health and to the general society as a whole.

But I also want to emphasize, Senator, that we hope. Philip Morris has been a corporate citizen of New York City for many years and I know that all of us hope and expect and anticipate that they will continue to be for the years ahead.

Thank you.

SENATOR VOLKER: Mr. President.

THE PRESIDENT: There will be order in the chamber.

Senator Volker.

SENATOR VOLKER: Mr. President. I didn't intend to speak, but I have spoken in our conference on a number of occasions about this, and I think it's important to say it. I understand the problem that we have in this budget with revenues. There is no question that -- in fact, I assume -- although I read the

press sometimes, I'm not exactly sure what the press knows about the budget process. Personally, I think we would have done two, three days ago if it hadn't been for two courts. In fact, as somebody said, maybe what we should have done here a few days ago is to pull back the judicial pay bill, and that would make sure we weren't going to get any more adverse decisions.

But I have to say because I think it's a fact -- and I listened to Senator Markowitz talk about the poor, and I suppose there is an argument that the cigarette tax would fall somewhat heavily on the poor. But I must tell you, Senator, I have a suspicion -- I talked to some of the health advocates about this -- I think they are dead wrong in the issue of cigarette tax.

I happen to be one of those old-fashioned people that believes you don't drive social policy with economic policy. This business of thinking that you are going to make people get off of oil by raising gasoline taxes,

and this business of raising cigarette taxes and that's going to keep people from smoking cigarettes, and you raise the alcohol tax and it's going to make people stop drinking. I don't think it's ever really worked and I don't think it's going to work.

But worse than that, let me tell you something in western New York, and I happen to know that it's something that happens across the state. We were caught on this. The Senate was trying to chop down this tax. I know there were people calling me saying, "Don't chop it down. Raise it. Raise it another 30 cents."

Well, let me tell you the problem. Number one, you won't get anywhere near the revenue that you are trying to get because the law of diminishing returns will dramatically bring down the amount of revenue. Number two, I believe the amount cigarettes that's going to be around is going to increase dramatically, and I will tell you why.

There are Indian reservations in every one of the districts in western New York

and way upstate New York. And I know there are Indian reservations in Central New York and various places. If you don't think that people are going to be running to those reservations in droves to get cheap cigarettes and that those cigarettes are going to be all over the state, you are wrong. Now, that's only the Indians.

Then you got the border problem. This increase in the cigarette tax is going to drive the amount of cigarettes that are brought in across the borders dramatically.

And then you got the problem up at the Akwasasne reservation and the Mohawks, where I'm told by the State Police, the biggest problem they have up there right now is that every night they confiscate either truckloads or carloads of cigarettes that are going back and forth in that reservation.

The problem I understand with the revenue, but I want to tell and I'd like to tell those health advocates, unfortunately, you have been sold a bill of goods. And the problem is that we're going to find out is that in truth,

unfortunately, we're going to end up with more cheap cigarettes in the community, and this tax is not going to generate anywhere near the amount of money that it's supposed to generate, and I think that you're going to find that as the economy goes up and gets better, we're going to get rid of this tax increase.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Mr. President. I'm going to be voting for this bill even though I haven't voted for revenue bills in the last two or three years because I have been very distressed with the number of one-shots and gimmicks and things that I found insufferable that were in the bill. That is largely reduced in this bill. The number of one-shots is considerably under what it has been in the past, and it's something that I can support.

The cigarette tax, I will support. I was going to mention what Senator Volker mentioned, that I expect a lot of people will be coming from one minute away from my

district from Connecticut purchasing their cigarettes there; and, therefore, I think that the tax estimates, the revenue estimates are not going to hold up.

I did want to make one other comment, and that is, it has seemed to me in the years that I have been here that this budget process has been getting more and more selective and exclusionary, and I feel this both for the Majority and Minority members. And only leadership seems to be having any say, and that's too bad. Because we're all up here to try and do a job, and we all work hard at it, I believe, and I think we're all pretty competent people, and I feel that our input would be valuable. Both Majority and Minority do not have input, really, in this budget.

And for all of our worth up here, we could be staying home and saving the taxpayers X number of dollars per day and just let the three leaders go ahead and put together this budget. I think that's too bad, and I would hope that leadership would look more

kindly on their membership and on the membership on the other side of the aisle, so that we can all say that we are participating in this budget which is the budget of the Legislature and the Executive, and should be representative of each of us.

Thank you. I vote in favor.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Mr. President. Very briefly.

In order to raise $145 million from a cigarette tax at 17 cents a pack, that is 853 million packs of cigarettes. The figures I have from the Department of Finance indicate that last year their efforts resulted in a confiscation of 109,000 packs of cigarettes or what is probably 1/8th of one thousandandth of a percent or whatever of what is smoked.

I would have thought that with those kind of numbers, we would have had massive letters of support for this tax from organized crime. For some reason, they decided not to

write.

But I understand that there is now an appropriation floating around of $900,000 to increase enforcement. I really hope that that is taken seriously. Because no matter what everybody else has said about this bill, whether you think it is going to help the health situation or one thing or another, there is undoubtedly now a major reason why people would bootleg. And it seems to me that that has to be taken very seriously by the New York State Department of Taxation and Finance, and I hope that the $900,000 does accomplish that purpose.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Senator Gold, I'm going to agree with you. I think this is a counterproductive tax, as most taxes are, but this is one that particularly, in my judgment, encourages organized crime. It encourages buttlegging or bootlegging of cigarettes. We have become way out of line with our adjoining states. It's unfortunate. It's very easy to say let's tax sin, but, in reality, I think that

you're going to find that this is not going to raise the revenue that is expected. It's also going to encourage a segment of our society, which I don't think we should be.

I know everybody would like to curtail smoking, particularly among our younger people. I don't know that it's going to do that. I just don't feel that it is a good idea, and I wish it wasn't there in this budget.

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.)

SENATOR COOK: Mr. President.

THE PRESIDENT: Senator Cook.

SENATOR COOK: If I can explain my vote, please.

THE PRESIDENT: Recognized to explain his vote.

SENATOR COOK: I think that as we talk about taxes, one of the very significant

things in this budget is that property taxes in this state will be positively affected to the degree of about $380 million a year that the state is putting into the education system that the local property taxpayers are not going to have to put into it. If you want to talk about tax reform, I think there is no place that we can impact taxes that hurt people more than in the property tax area, and I'm very pleased of what we have been able to do in that direction.

THE PRESIDENT: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes. I'm voting yes on this part of the budget. I voted no on several spending measures, but I believe that a couple of things should be said.

The first one has already been said about the cigarette tax. I guess Senator Volker said it very well. I don't think you change people's behavior by tax policy. You know, carrying this to its logical extreme, do we tax high cholesterol food so we can prevent heart attacks? Do we tax gum with sugar in it to

prevent tooth decay? Where does it go from here? And I don't think it's going to raise the revenues that everyone says it's going to raise.

Secondly, I think even though there -- you know, this is a revenue package, there are certainly things that should be emphasized; and that is, there are a lot of fees and hidden taxes that were knocked out of this budget totalling about a billion dollars, and I think that's significant; that although no one likes to spend, there are certain programs that it has to be spent for.

And it may be politically popular to always vote against a revenue bill, but, on balance, this bill did much better than, quite frankly, I thought we were going to be at when I started this process.

Senator Cook mentioned another point that I think is extremely important, having been a member of a local legislative body. Property taxes are sky-rocketing, and the reason they have been is that we haven't been adequately funding education, and it's been

falling on the backs of the property owners, the real property owners, and I feel strongly that, hopefully, this will help reverse that trend so that local governments are not being strangled as they have been in the past.

So, although no one likes voting for a revenue bill had some of the spending bills that I voted against gone down, I might have voted differently on this. The government has to be funded and, on balance, this is a good budget.

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

THE PRESIDENT: Senator Masiello is recognized to explain his vote.

SENATOR MASIELLO: Thank you, Mr. President.

Along the same lines. I've listened to Senator Volker and Senator DeFrancisco talk about the cigarette tax not generating the revenues it's supposed to generate or we hope that it will generate. Quite frankly, one aspect of the revenue bill

that I was hoping would be repealed and changed was the hotel tax that now we have in New York City and certainly affects all the hotels and tourism throughout the state of New York.

I know the Governor mentioned that he was leaning towards that. I know that others in this body and the body across the hall were certainly very interested in repealing that tax. Obviously, the monies generated from that tax, certainly, are not significant in light of the fact that the money we lost from tourism not coming to our major cities and our major tourism places of interest.

So I hope that we continue that dialogue, continue that conversation and, hopefully, some time in the future will be able to repeal that hotel occupancy tax so that we can stimulate the tourism industry in New York City and Niagara Falls and, quite frankly, throughout the state of New York because we are losing revenues more than that tax is producing revenues for us.

THE PRESIDENT: Senator Smith is

recognized to explain her vote.

SENATOR SMITH: Thank you, Mr. President.

I, like my colleague, Senator DeFrancisco, have in previous years voted against the revenue bills. But after review, I find that this year's revenue bills are much better than what I have seen in the past. There are things in there that will benefit the state of New York in my estimation.

I have a great concern about the cigarette tax, and probably I will be one of those that will give it up, and it may be good for me personally. But I'm greatly concerned about one piece of the cigarette tax and that is the tax at the wholesale level because of what we pass on to the smaller business people who cannot always afford to pay the taxes prior to getting the cigarettes. And in communities such as ours where we have small bodegas, that is a problem.

But we all have to bite the bullet. And, this year, I choose to bite the

bullet and vote for what I feel is a much, much more equitable answer of obtaining revenue.

And, therefore, Mr. President, I vote in the positive.

THE PRESIDENT: Senator Bruno is recognized to explain his vote.

SENATOR BRUNO: Thank you, Mr. President. To explain my vote.

I'm going to vote for this particular bill very reluctantly, as a lot of other people in this chamber are going to vote very reluctantly.

I think all of us have to bear in mind that we negotiated in this house with a Governor's budget that had 1,900,000,000 in taxes, fees and increased assessments in it. We have taken it down through negotiations to where I believe there is about at least 400 million out in assessment, fees, some taxes.

Is that enough? No, it isn't. I feel very strongly, and I know others do like me, that we should have been able to reduce taxes -- reduce taxes that we have been

increasing over the last several years. Why should we reduce taxes? Because the people of this state need a message that we in government understand that they are overtaxed.

It's no accident that we have lost more jobs in this state over the last several years than in any other state in the country -- 43 percent of all jobs. So I think we have to recognize we have to deliver a message out there that we have to change the attitude of government towards business to create jobs.

So, Mr. President, I'm going to support this, but I believe many of us are going to be back talking about how we can reduce the taxes that are presently suffocating businesses in this state, creating the job loss. We must reverse that trend. So I'm going to be voting yes.

THE PRESIDENT: Those recorded in the negative on Calendar Number 409 are Senators Dollinger, Hoffmann, Jones, Nolan, Pataki and Stachowski. Ayes 54, nays 6.

THE PRESIDENT: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President. Can we return to Calendar 408, Senate 5653, which was laid aside earlier.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 408, substituted earlier today, Assembly Bill Number 1353A, an act making appropriations for the support of government, aid to localities budget bill.

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 PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Mr. President. To explain my vote.

THE PRESIDENT: Senator Stavisky is recognized to explain his vote.

SENATOR STAVISKY: The Legislature under the provisions of the New York State Constitution is required to make provision for the maintenance and support of a system of common schools, public schools, and that is a constitutional obligation that is imposed upon this branch of government, since education under the provisions of the state Constitution is primarily a state responsibility which then, in turn, is delegated to the more than 700 local school districts.

The legislation that we have before us with regard to education makes minimal improvements. A minimal improvement that is done with regard to the school district, the school district of the city of New York which I represent together with many other legislators in this chamber, is aided at a slightly better percentage than in the previous year. I did the calculations.

New York City's percentage of the

total aid has improved in new money by about 38 percent. But in total aid based upon all of the assistance for the school district, New York City's share is about 35 percent in this budget. It's not easily stated but with a little calculation you're able to evaluate it.

Last year, New York City's share was about 38 percent of the share of the aid to education. But this is a school district which has 37 percent of the population, and it seems to me that it is a school district that is not especially wealthy. It is a school district that is beset by problems. It is a school district that has the largest percentage of children for whom English is not the primary language, imposing upon the entire educational system additional burdens to instruct these children.

Secondly, it is a school district that has serious problems with regard to helping youngsters gain proficiency in basic skills, reading, writing, math. It is a school district that is beset with social problems, children

from broken homes, children of poverty level for whom there may be no two-parent family and there may be no opportunity for these families to afford the cultural enrichment that exists in other parts of the state.

I did I do not wish to draw invidious comparisons, but I must say that strictly on the basis of mathematical fairness, you do not underfund a district that has so many special problems, so many impoverished families, so much to do in order to bring children up to minimal competency in the basic skills. We do not need other people in other parts of the country criticizing New York State and/or New York City as a place where they don't want to live, they don't want to visit and they lump us all together. The members of the Legislature from other parts of New York State outside of the big cities, when attending conferences in other parts of the country, often find that you are lumped together with New York City in the perception of the public mind outside of this area.

Therefore, there is a mutuality of interest in doing the right thing with respect to educational funding. And while this budget in a minuscule way improves the share that New York City school districts should receive, it is still substantially below the amount of money that should be provided.

Secondly, there are provisions here that are not based on any logic. New York State's aid to education formula should be based upon a rational computation as to the number of pupils, the wealth of the district, and the special problems that exist. There is no rational formula in the state aid to education budget.

Most of the districts in order to survive have to cling to save harmless provisions, which I am sure is not the way that legislators here throughout the state would want to go. We should be giving aid, equitable aid, to children in all districts based upon the children who are there not based upon children who receive aid for save harmless, but they are

no longer in the school system because save harmless means you get the same as last year, and then we continue it the same as the year before. So we have save harmless, the son of save harmless, the grandson of save harmless; and after a while, there are school districts here getting aid to education based on calculations of the number of pupils and the wealth of the districts ten years ago.

For a while we began to reduce the number of save harmless districts; but, instead, the calculations are getting worse and worse, and more and more of the districts are on a save harmless rather than on a formula.

I intend to vote for this state aid budget, including aid to localities, because the school districts need to know how much money they will receive in the coming year. Many of them outside of the cities have budget referenda where the voters must decide coming up in the next month or so, and they can not be kept in the dark, but this is not the way for us to go. This is not a formula-driven school aid

package. This is a mindless grab bag, and it is my hope that the leadership and the membership of this house will in the very foreseeable future begin to realize that we've got to have an equitable and meaningful formula on state aid to education.

With those caveats and with those reservations, I will vote in the affirmative.

THE PRESIDENT: Senator Padavan is recognized to explain his vote.

SENATOR PADAVAN: Mr. President, very briefly.

While many of the things that my colleague has said are not ones that I wish to be argumentative about, I think it is important for us to recognize that when we deal with the education portion of this budget the arguments that have been advanced to the leadership and through the leadership by both sides of the aisle -- and I will speak for this side -- on behalf of the city of New York recognizing the special needs and the difficulty of a student population that in recent years has been driven

by significant increases in immigration numbers -- 22,000 last year, 50,000 over the last several years -- expensive difficult student populations in terms of cost and the costs of providing an education.

However, this budget recognizes that fact, and I wish you not to accept my word on it. I read a quote in today's New York Times from the president of the board of education. It says this budget helps us meet the staggering needs for education in New York City, an unequivocal statement from him, recognizing that this budget provides $145 million in additional funds to the city of New York as a result of the formula and as a result of the advocacy.

I think that's important for us to recognize. I think it's important for us to acknowledge it bipartisan, both houses, both sides of the aisle initiative.

And on behalf of my colleagues from the city of New York in the Majority Conference, I want to tell you this was our priority, as well.

I vote aye.

THE PRESIDENT: Senator Dollinger is recognized to explain his vote.

SENATOR DOLLINGER: Mr. President. I rise to explain my vote. I'm going to vote no against this.

As I said earlier, I think that my position on this whole process and, frankly, on the result that is achieved is one that discourages me.

But I did find in going through this budget, on 253, frankly, the mother of all the pork barrels, Mr. President. I guess I'm astounded. There's listed here -- apparently, we're going to underwrite the softball and football fortunes of a bunch of youngsters throughout -- I assume this is Long Island - Farmingdale, Plainedge.

I just had a solution for Senator Volker, who talked about our long-term revenue problems. I've got a solution. Since we're subsidizing them at the Little League level, why don't we just give them a surcharge when they

make millions and billions. In the era of free agency as baseball and football players, we'll just put a special surcharge on them twenty years from now, and we can tax them at a higher rate when they profit from our having subsidized them when they were in Little League.

I also just would point out that I think one of the great -- greatest of all, at least in my judgment, pork barrel items is when you give $25,000 to the North Amityville Taxpayers Association. We're going to tax the people of the state of New York to give money to a taxpayer association whose position is that we shouldn't be taxing people. Unbelievable that we would be giving money to the people who are going to tell us don't tax us. Well, our message to them is we are going to tax you $25,000 to fund an organization that's going to tell us we're taxing too much.

I'd simply point out in response to my colleague, Senator Bruno, who said we have got to reduce taxes, and some of us in this chamber are going to talk about reducing taxes.

The point, I think, gentlemen, is one that shouldn't be missed. We talk, we talk, but we don't do anything about it.

I think that we at least owe it to the people of this state to be honest. If we're going to tax them, let's tell them what we're taxing them for. Let's justify that tax, and let's stand up and say we really need these kinds of services.

Turn to page 253 in this budget, and you will see the example that everyone in this state will look to when they say you don't need it. You can't justify it. It's the mother of all pork barrels. And my view is that this is the kind of thing we shouldn't be doing. It, frankly, casts doubt about the credibility of this entire process, about the entire taxing system in this state.

If we can't be honest, if we can't stand up and defend ourselves, as I think this is indefensible, we shouldn't be doing this. Let's change the process. Let's scrap the whole thing, go back, do it right. We'll

get better decisions, and we'll get a tax system that we can justify to the people of this state. This one we cannot.

THE PRESIDENT: Senator Jones.

SENATOR JONES: Yes, I would like to rise at this point and explain my no vote and probably my explanation will apply to almost all of the no votes that I have made today.

I keep hearing -- the theme seems to be, we didn't do anything terribly negative, so it must be okay.

But my question is, what did we do positive? I don't see where we really did help the businesses, as they've been asking. I agree with Senator Bruno that they are begging for some tax relief. I don't see it here.

I don't see major cuts in this budget. I, thank goodness, didn't make the promise so I guess I don't have to say I'd be breaking a promise by raiding the locked box, but we did. Some of you did. Whoever was here promised the taxpayers that that money would be a dedicated fund. We're now going to use that.

But we found a solution. We're going to borrow now to take care of what we're using. And yet we sat here last night discussing debt reform, and I still see in here at least five different places where we have upped debt.

I'm, frankly -- I guess confused would be the simplest word to explain my feelings on this. Discouraged, yes. But it's not going to stop me from speaking and discussing what I think are terribly wrong, and we can't continue to do it.

Just a couple little things. Someone said to me there must be some good things in here for Rochester. How can you vote no? Perhaps there are, but I would be hard pressed to find them in ten minutes. And, frankly, that is not my job, to come here and only look, regardless of what position I were in, if I could effect the changes, to find some neat thing I could stick in here for my own community. I thought our purpose here was jobs and the economy for the state of New York and

the good of the whole state.

Certainly I'm happy that my school districts got more than I thought they were going to get a few weeks ago. Certainly I can find things I'm happy about. I'm glad TAP was restored. I'm glad of lots of these things.

But then I look at things that I'm not happy about. We cut probation. But, then, under the same area here, which is going to be hit, by the way, to most counties because the salaries for those people -- and I believe probation is an alternative to incarceration.

In the same area, we have added five line items for crime in Nassau County. I'm not familiar with the county. And it's also for alternatives. Perhaps they have more crime than the rest of the state. I'm not sure. But it kind of strikes me as a little strange that those things were added; and yet, statewide we've made a cut.

And then, just a couple other little things. You know, I'm sure I could find thousands if I had the time to do this.

Alzheimer's is certainly a cause that I would subscribe to and be happy about, but I see three line items to the same Alzheimer's in Long Island, but one of them we called an association. The other one we called a foundation, and the other one we put two counties together in the same area and called it another association. All three are items for the same fund.

And then the one that thrills me the most that we kind of laughed about in our conference, but it really isn't funny. I honestly do not know what the military and naval are going to do with the Long Island Coalition for Fair Broadcasting. Someone said maybe it's like -- what's the one, America Broadcasting? Right, Radio Free America. I really would love to have somebody tell me what that is.

But my whole point is that, you know, I cannot vote yes even though, certainly like you, I can find things to be happy about. I have to vote no because I didn't come here for the status quo. I came here because I wanted

change. And I'm going to continue to do this until I see what I'm looking for and what I think the people in the state of New York are looking for.

THE PRESIDENT: Senator Pataki.

SENATOR PATAKI: I'm going to vote for this budget. The majority in this house used every ounce of its energy to try to get that change, Senator, but because that effort and that fight has been stymied every step of the way by your colleagues who make up the majority in the Assembly. This side was fighting -- not just talking, but fighting as recently as last night to still try to get the Assembly Democrats to agree to changes that would allow a part of a tax cut program to go forward.

Just in the past few days, we have tried to get them to agree to expand the fingerprinting program that could have saved $300 million that would have been used by this side to cut taxes.

We tried to get New York City to

simply comply with the present law that says that we have got to have workfare programs in place for appropriate welfare recipients, and the Assembly majority said no, and that would have saved another $200 million that we would have used for tax cuts.

And we offered a tax amnesty program that would have not cost anybody in this state anything, and that the Governor and this side recognized could have saved hundreds of millions of dollars by providing additional revenue that could have been used for tax cuts.

If that side is confused, if that side wants change, let me make a suggestion. Go down the hall. Talk to your colleagues in the Assembly in the Democratic Party who make up the majority. Because this side has offered more than a billion dollars in cuts that could have been used to get rid of the hotel tax, that could have been used to lower the corporate taxes that -- the temporary corporate taxes, that could have been used to lower the personal income tax. But every one of those efforts were

blocked by your colleagues down the hall.

I vote no not because this side hasn't fought as hard as it could, but because those efforts at change have been blocked by your colleagues in the Assembly.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: To explain my vote.

THE PRESIDENT: Recognized to explain his vote.

SENATOR GOODMAN: Mr. President, I have listened carefully to some of the statements made by members on both sides with respect to why they have voted in the negative on this budget. And I would like respectfully to point out to my friends, some of whom are relatively new to this house, that our major obligation as Senators is to make the railroad run on time. When all is said and done if the train can't pull out of the station, if the budget cannot be adopted with a reasonable semblance of punctuality, the state will suffer unspeakable difficulties.

Every one of us like to go home and say I voted no against the budget, and in my voting no, I've shown how strong I am to stand up against the tide and to say that I will not tolerate any more increases in taxes and to say that demand further increase in cuts.

That sounds great, my friends, when you are absolutely certain in making such a declaration that it will not affect the outcome of the adoption of the budget. But stop and ponder for a moment the implications of your negative votes if you were so persuasive that you actually got people to go along with your positions and prevented the budget from being adopted. Then where would the people of New York be?

We profess great concern for these people, for our school children who benefit from this budget, for our transportation system which benefits for this budget, for each and every part of the complex mechanism which makes the state work. By voting no for this budget, if you stop to think what it would mean

if your views were extended throughout the house, the state would be in a stalemate.

Now, let's be clear. From certain quarters in this state comes a thundering and tiring repetition of a proposition, "Bring the state to its knees, prevent the state from adopting budgets which you find objectionable." By bringing the state to its knees, it is asserted, and by reducing it to ashes, to mix the metaphor, we can then start anew and build a prouder and a better state, a more responsible state, where in this great ideal La-La Land there are nothing but tax cuts and expenditure cuts and everything is hunky dory; right? Wrong. Wrong. Because the state can't work that way.

I've never voted for a budget that didn't have things in it to which I objected and I've never voted for a budget which did not have expenditures that I would rather have seen cut or taxes which I'd have rather seen cut.

But just to put this in proper

perspective over time, it was this house and at these desks on this side where we originated the tax cut which took the personal income tax from 15 percent to 7.875 percent, its present level. We would have loved to lower taxes further. It would sound great, be wonderful to take it back home, but the fact is that circumstances do not permit that to be done.

So I, again, respectfully ask you to consider the implications of your actions, and please don't lecture to us about the irresponsibility of this budget. The fact is this budget is being adopted nearly on time. The fact of the matter is it contains elements of a debt reform which will give us an opportunity to increase the rating of the state and bring it out of the basement in which we find ourselves. And in all these respects, those who vote in affirmative are doing something responsible and for the true benefit of the people of the state of New York.

THE PRESIDENT: Senator Marchi is recognized to explain his vote.

SENATOR MARCHI: Mr. President. We should not make a fetish in honoring special gods. We have a constitutional requirement to produce a budget on April 1st.

The only other jurisdiction on this planet who has a similar requirement is Japan. And for a host of reasons, we are in that bind, and people have suggested that we change the framework for a more rational system. But whenever you do that, you also find out that a host of considerations are raised that you have to meet.

I don't like the idea of saying that we have 37 percent of the students and we only have 34 or 35 percent of the money that comes into the city of New York as an argument that I could really endorse, because ever since Al Smith introduced the notion of equalization, equalizing opportunity for every child in this state. And when I originally came to the Senate, it was a question of sparsity corrections because these states had maybe two and three and four thousand dollars in

assessable property standing behind each child attending school. The principle of equalization is still valid, and we practice it in some way even nationally.

We shouldn't get as much as Alabama in terms of percentages or Mississippi or states that have yet to take significant steps economically. They are still in a position of disadvantage. So that under our principle of progressivity -- and I suppose I'm one of few that regrets that fact -- because we have lost that sense of progressivity on both sides of the aisle, locally and nationally, but we cannot -- we cannot take comfort in the fact that if we try to distance ourselves from that principle of equalization.

Now, the one unit that -- the fact that a child constituted a unit, we departed from that in the early '60s. And I remember Commissioner Keppel, who was President Kennedy's Education Secretary, complimented New York State because it was the first state in the union that recognized the principle of weighting

for various aspects of disadvantage.

Could more work be done? I suspect there might be more work done. There was a statement made by some -- well, I think it was in general discourse, and it came up during the question whether we should have been operating our schools during a snow crisis when we had those snowstorms, and everybody was required to go to school, which made no sense at all in my community of Staten Island. But the other consideration was raised that in many districts these children would not have had a breakfast and lunch, and these are very significant considerations.

I believe that we ought to take pride -- we ought to take pride in what we do, not because it's perfect, not because it can't be improved. These are human institutions, but in almost every aspect, if we have problems, it's because it is rooted in the fact that we recognize need and we recognize circumstances and adversity, when it strikes, require in a moral society a moral response.

Where we could -- where we could -- and I'm not saying this because we have a Democratic administration in Washington, because it's been true from time immemorial, that we don't control -- for instance, the state of New York has a lift in registered pupils in the city of New York equivalent to the school system in Rochester each and every year. It seems like an exaggeration, but they assure me that this is correct. But we don't control these aspects. And unless we have understanding from Washington, unless the federal government assumes the responsibility for those factors which make up dramatic increases in population and in the case of New York City a very, very heavy component of immigrants who eventually will add to the strength of our city but produces and impacts very seriously the finances of the city of New York.

We would have had a drop in registration had it not been for this heavy influx, but we don't get any support from Washington. None. And I believe that if we

make serious attempts to improve, improve and inform our colleagues down in Washington of prospects that we face -- Senator Moynihan is chairman of the Appropriations Committee, I believe, and I don't think he distances himself from the concerns that we express here -- we might make more progress.

But as long as we cling to the principle of equalization, New York City has $86,000 standing behind each child in the city of New York. There are a host of other problems but, educationally, this is enormous advantage when compared to many districts around the state.

So we ought to be more analytical and more perceptive of all of the aspects that go into a formula of this nature. But I think represented in it is a process by which these extrinsic factors such as weighting have certainly improved and are addressed to the problem of serving the educational needs of the city of New York, which seems to be the focus of the discussion here today.

So I would ask my colleagues, whether you voted for or against, not to take - yes, it's healthy to have that critique, and it calls our attention, but we are two branches of government and an executive, and I believe that when all the considerations are made, comparing what has happened in terms of constant dollars over the past and the fact that recessionary factors have affected this area of the country far more significantly than other areas -- and this was not an inevitable result. Other areas of this country ten years ago were suffering it out in the far west and the northwest. So these cyclical impacts are bound to occur.

But let's not cringe and wring our hands and say that we have failed. We have not failed. In terms of constant dollars, we have redeployed that money in a way that I feel will be -- will have a greater impact on the well-being of the people of this state and, as also indicated to us, avenues where we can - that we can pursue with profit if we take a more optimistic view of our present circumstances,

and what appears to me that we are making slow but steady progress in rectifying the very, very difficult position we have been in for the last several years.

SENATOR MEGA: Mr. President.

THE PRESIDENT: Senator Mega.

SENATOR MEGA: A point of information. Are we on a roll call?

THE PRESIDENT: We are on a roll call, and there are at least three Senators who have requested time to explain their vote who have not yet been recognized.

SENATOR MEGA: Mr. President. May -- I don't wish to offend anyone explaining their vote and we do give sufficient time to explain the vote, but I would remind the Chair, if we are on a roll call, the explanation of a vote I believe is two minutes.

THE PRESIDENT: The Chair is acutely aware of that fact; however, the Chair is not going to interrupt any Senator unless another Senator rises and makes a point of order.

Senator Nolan is recognized.

SENATOR MEGA: A point of order.

THE PRESIDENT: Senator Mega.

SENATOR MEGA: My point of order is this. I didn't mean that we should cut anyone off. You as the administrator of how we proceed, that's your judgment call. I was just making a statement for the record.

THE PRESIDENT: I don't think it's my judgment. I think it's the rule of the Senate, but I understand Senator Mega's point.

Senator Nolan, recognized to explain his vote.

SENATOR NOLAN: Briefly. I'm not going to get into the obvious reasons why I feel that this bill is bad, but I have -- I really have to take exception to some things that particularly my good friend Senator Goodman said.

Now, for the benefit of Senator Jones and Dollinger and some of our newer members. Senator Goodman talks about the - that the Republicans in the Senate voted to

reduce the personal income tax from 15 percent to 7 percent. But what he doesn't say is that those same Republicans voted during the Rockefeller years, including Senator Goodman, to raise the personal income tax to 15 percent and, in fact, 17 and a half percent, because one year they put a surtax on top of the personal income tax. And it was that side of the aisle, was in the majority, raised those taxes up.

So I find it kind of difficult to sit here and listen to, say, somebody take credit for reducing the tax from 15 to 7, when they originally raised the tax to 17 and a half. That's a little different.

Senator Marchi, my good friend, also, I have to take issue, talking about the responsibility of Washington to help the state of New York. I think the state should get some help from Washington. But the last 12 years, it's been his party down there in Washington, Presidents Reagan and Bush, who have reduced substantially federal aid to the state of New York. So let's take that into consideration.

Thank you, Mr. President.

THE PRESIDENT: Senator Masiello is recognized to explain his vote.

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

A week ago or so, we debated Senator Padavan's maintenance of effort bill. And at that particular time, I thought there was a need for that maintenance of effort bill as it affects the five big cities, especially Buffalo, because of the lack of support from the Buffalo tax base to the board of education in Buffalo.

However, the new education monies are proof positive that we need a maintenance of effort or some kind of change in the attitude in funding the Buffalo public schools. I was shocked to hear today that this new formula that takes into account the poverty index -- the poverty index -- did not generate the kinds of money I thought it would to my city, the board of education in Buffalo. A city that has the highest teen-age pregnancy rate of any city in the state of New York per capita, that has

36,000 children a day get free food because of the poverty level.

In inquiring why, the response to me was that the city's share of the new formula takes into account the local support of education. Now, that just leads me to believe that we need that maintenance effort in Buffalo. Because if we had an greater share of the local tax levy going to education in Buffalo, the state's share to that education would have been higher.

And let me just give you a couple statistics to supplement or substantiate what I'm saying. In 1988 -- excuse me. 1985-86, the state increased education 15 percent from the prior year. That same year, the city of Buffalo decreased aid to education 7 percent. In 1986-87, we increased education to Buffalo by another 15 percent, and the city decreased their share to education by 2 percent from the previous year. In 1991, the state increased education to Buffalo by 25 percent, substantial and generous. At the same time, the city of

Buffalo decreased their aid to education by 3 percent.

Over eight years, the state has increased education aid to Buffalo by 7-1/2 percent, and in that same eight-year period, the city decreased their aid -- decreased their aid to education by one percent.

Clearly, the formula had to be changed at the last minute. They had to improve upon that formula. They had to add to that formula at the last minute, and I'm happy that the education people in this house and the other house saw to it to make those corrections, make those changes so that Buffalo would get a better increase than that formula would generate, and it only leads me to believe that we need a change in attitude towards funding education in our city.

THE PRESIDENT: Senator Galiber, did you want to explain your vote?

SENATOR GALIBER: Yes, very briefly. I won't take up too much time.

I'm going to vote for this, and

I'm going to vote for it because something drastic is happening in these chambers. We find ourselves talking about our particular localities and not doing things in a collective manner. It's a bad, bad habit we're getting in, very frankly.

So for the city of New York, they've changed the formula a little bit. They've started with not only attendance but population. They've restored the drug money to the city of New York and a number of areas that we're basically concerned with where masses of people are impacted on it.

We educate in our district -- in the city of New York, rather, one-third of the total population in this state. And I don't like everything that is in this piece of legislation, but if we're going to talk about segments and geographics and talk about particular areas -- and we're doing too much of it now; and as a result of it, we're going to be hurt more so in the city of New York.

We've got the largest prison

population. The only thing we really impacted on was the question of probation, which we would like to see a little better. We've got a mass transit package that's there. And Senator Goodman is absolutely right. Our ratings are going to go up. There's been some sense of reform.

And there's a lot of good things happening. I want to congratulate each and every one, even those persons who will be voting no on this piece of legislation, because for the first time in a long time we've done an excellent job for so little, and we have something to take back home to be proud of.

Not a perfect budget. And we can argue about the so-called member items that are not called member items. As a result of the majority, you put them in. And if we were in the majority, we would do the same thing. Make no mistake about it. But it's bothersome and troublesome to me, very frankly those of us on both sides of the aisle, particularly on my side of the aisle, who find it easier to vote no or

easier to separate themselves from our caucus or our conference on issues that become extremely important to the city of New York.

The major population of this state, the city of New York. We used to say help us a bit. I got the feeling somewhere along the line we're not going to get much help. We're not going to get much help from upstate New York. We're not going to get it because I see a trend. I see it happening now.

I wish we could promise each other that we would put a screeching halt to this. Because the children in the city of New York are hurting, the population is hurting. We've changed the formula. We've got -- the Governor of the state of New York is interested in changing the formula throughout the entire state of New York.

We've got attendance and population for the first time. Yes, we're up a point or two, not where we should be, but we're up a point or two. We've got a poverty index this time which adds another layer, too, to the

educational budget.

And, as I said before, that mass transit is extremely helpful to us. The health package that's there is helpful to us in the local assistance budget.

So I say on balance, if you will -- and I'll end on this note. On balance, this isn't what we'd like to see. It's an awful lot better than what I expected, very frankly, and I want to tell each and every one of my colleagues that it's been a collective effort, however you vote. The fact of the matter, I can go back home and say no, I voted against it, and be a hero. But the fact of the matter, we have a basic responsibility to deal with it. We have a responsibility to bring a budget in and, collectively, we did it.

I vote aye.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Mr. President. I will just take a moment. I think everyone has made their point. They made it well.

I will say this. This is rather trite. But often something trite makes a great deal of sense. Maybe that's why you hear it often. If it's a good compromise, nobody is happy, and that's really what we're ending up with, obviously.

And I would say, as Senator Galiber just did and so many before him, I would point out there's so many things that I'm concerned about. We are concerned about those who are in need all over the state, but I would point out we have to look at -- and we've got a lot of work to do. The social services budget for the whole state including upstate went up 2 billion, and education was only 500,000.

Now, my point is, Mr. President, we've got to continue to work toward administration, toward making sure that our dollars are spent well. And I conclude with this. I for one have learned the work that goes into this by all, by the staff, by the legislators, all in the Governor's office. And when you get a complicated state like this, get

a budget relatively on time, I think we can realize it is possible to work together.

Thank you.

ACTING PRESIDENT FARLEY: Secretary will report the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 408 are Senators Dollinger, Hoffmann, Jones, Leichter, Nolan and Pataki. Ayes 54. Nays 6.

ACTING PRESIDENT FARLEY: The bill is passed.

(Whereupon, Senator Farley was in the chair.)

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Are there reports of standing committees at the desk?

ACTING PRESIDENT FARLEY: Yes, they are.

SENATOR PRESENT: May we have them read, please.

ACTING PRESIDENT FARLEY: Secretary will read the reports of the standing

committees.

THE SECRETARY: Senator Marino from the Committee on Rules reports the following bills directly for third reading:

Senate Bill Number 4246, by Senator Stafford, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law.

Also, Senate Bill Number 4367, an act to amend the Real Property Tax Law and Chapter 345 of the Laws of 1968, relating to forming the United Nations Development Corporations.

Senator Johnson from the Committee on Environmental Conservation reports the following Assembly bill directly for third reading:

Assembly Bill Number 6997, by member of the Assembly Brodsky, an act in relation to nullifying certain rules and regulations applicable to California automobile emissions standards.

All three bills reported directly to third reading.

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

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar 414, 4246.

ACTING PRESIDENT FARLEY: Secretary will read.

THE SECRETARY: Calendar Number 414. Senator Stafford moves to discharge the Committee on Rules from Assembly Bill Number 6613 and substitute it for the identical Senate Bill 4246.

ACTING PRESIDENT FARLEY: Substitution is ordered.

Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT FARLEY: That bill is passed.

SENATOR PRESENT: Mr. President. Can we take up Calendar 415, Senate 4367.

ACTING PRESIDENT FARLEY: Secretary will read it.

THE SECRETARY: Calendar Number 415. Senator Goodman moves to discharge the Committee on Rules from Assembly Bill Number 6360 and substitute it for the identical Senate Bill 4367.

ACTING PRESIDENT FARLEY: Substitution is ordered.

You can read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Excuse me. Ayes 59, nays one. Senator Maltese recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR PRESENT: Mr. President. Can we take up Calendar 416, which is Assembly Bill 6907 -- 97. 97.

ACTING PRESIDENT FARLEY: Secretary will read it.

THE SECRETARY: Calendar Number 416, by member of the Assembly Brodsky, Assembly Bill Number 6997, an act in relation to nullifying certain rules and regulations applicable to California automobile emission standards.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes. Just

very briefly on the bill. I just wish to point out this is a variation of a bill that we passed earlier, Senator Johnson's bill, that deals with the rules as they pertain to automobiles in order to meet the clean air requirements of the federal law. This bill is essentially similar to Senator Johnson's bill except maybe a little more sophisticated -- well, Senator Johnson gets right to the point. This bill requires a little few certifications. But, essentially it bars the state from proceeding under rules that the DEC has promulgated that would phase in the California clean air cars for the purpose of having New York State try to meet the federal standards to improve air quality.

I just want to point out that Senator Johnson's bill was opposed by -- if I have the list -- by a number of members, and just wanted to bring it to their attention. Voting negative on Johnson's bill were Connor, Gold, Leichter, Markowitz, Mendez, Montgomery, Ohrenstein, Oppenheimer, Goodman, Levy.

Thank you.

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT FARLEY: Senator Goodman.

SENATOR GOODMAN: The hour grows late, and I will be very brief on this.

There is one aspect of this which I do not think may have come to the house in earlier discussion, and that is the peculiar situation in which New York State automobile dealers find themselves as a result of the imposition of the California regulations which I favor. If you are an automobile dealer in New York, however, you are barred by a set of circumstances from selling your cars with the California emission system to the neighboring states of Connecticut and Pennsylvania and probably several others.

Since a substantial number of our automobile dealers make a good deal their basic living in selling cross border when they are located contiguous to state borders, this creates a special hardship which I don't think any of us intended.

The specific purpose of this bill is to create a consistency so this cross border barring of sales will be eliminated. And to that extent, however much as we may wish to effectuate proper emission control standards, we certainly don't wish to gut the businesses of a number of reputable and good citizens who make a living selling cars to people who may be coming in from neighboring states to buy their wares.

So that I bring this to your attention with the thought that it may not have been evident to you what is going on in this particular bill which has that purpose.

To do this thing right, we ought to get emission control standards consistently in the neighboring states so that cross state sales from New York to others is not messed up. Turns out accidentally it's a very vicious anti-business development, which I don't think any of us understood at the outset.

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT FARLEY: Read the last section.

Hold on. Senator Johnson on the bill.

SENATOR JOHNSON: My strong right arm on the committee, Senator Leichter, explained that the added sophistication contributed by the Democratic members of the Assembly has made this a better bill, and I guess it's true, Mr. President. Because in our house, we only got 85 percent of the vote, and they got 90 percent of the vote for this bill over there. So I would say if anybody had any particular inhibitions about voting for Senator Johnson's bill should embrace the Brodsky-Bragman bill very, very strongly.

It's a good bill. Overdue. And certainly everyone should support it.

Thank you.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: Mr. President. I, too, would like to make comments on Senator Leichter's words about the sophistication of this legislation.

And it's so sophisticated that obviously the Assembly doesn't realize that the proper title is Regional Administrator of the United States Environmental Protection Agency not the regional director.

ACTING PRESIDENT FARLEY: The last section has been called for. You can read it.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar 416 are Senators Connor, Espada, Leichter, Markowitz, Montgomery, and Oppenheimer. Ayes 54, nays 6.

ACTING PRESIDENT FARLEY: That bill is passed.

Senator Connor, do you have a motion?

SENATOR CONNOR: Mr. President, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 4072.

ACTING PRESIDENT FARLEY: Without

objection.

Senator Present.

Wait a second. We have a motion from Senator Holland, Senator Present, if that's all right with you.

Senator Holland.

SENATOR HOLLAND: Could you star two bills for me? Calendar 377, Print Number 2817; and Calendar 381, Print Number 48.

ACTING PRESIDENT FARLEY: Both bills are starred at the request of the sponsor.

Thank you, Senator Holland.

Any other motions on the floor?

Senator Present.

(There was a pause in the proceedings.)

Senator Present, do you have some good news for us?

SENATOR PRESENT: Many people have been waiting for this. And before I say it, I want to thank all the staff who have been working diligently night and day, many hours, to prepare the budget that has gone along and made

it possible for us to at this time allow me to make this statement.

ACTING PRESIDENT FARLEY: Let's hear it for the staff.

(Applause.)

SENATOR OHRENSTEIN: Let me make a statement. May I just add?

ACTING PRESIDENT FARLEY: Sure.

SENATOR OHRENSTEIN: I, too, want to extend thanks, particularly to the staff, and Michael Rynasko is here representing the finance staff on the Minority side. I want to particularly thank our finance staff for working under very, very difficult conditions at late hours, as did the Majority staff. I think there's been a lot of good work done, particularly these last ten days.

And I join you in your commendation of everyone. And to all, a very good holiday.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Here it is.

Mr. President, there being no further business, I move that we adjourn until Monday, April 19, at 2:30 p.m., intervening days being legislative days.

ACTING PRESIDENT FARLEY: Fantastic. The Senate stands adjourned until April 19, intervening legislative days.

(Whereupon, at 2:07 a.m., Senate adjourned.)