NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 4, 2002

11:19 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will please come to order.

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

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

ACTING PRESIDENT McGEE: In the absence of clergy, may we bow our heads for a moment of silence.

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

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 3, the Senate met pursuant to adjournment. The Journal of Sunday, June 2, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Would you lay the report of the Judiciary Committee aside temporarily.

ACTING PRESIDENT McGEE: The report will be laid aside temporarily.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Rath, on page number 14 I offer the following amendments to Calendar Number 322, Senate Print Number 6048A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT McGEE: The amendments are received and accepted, and the

bill will retain its place on Third Reading Calendar.

SENATOR FUSCHILLO: Madam President, on behalf of Senator LaValle, on page number 28 I offer the following amendments to Calendar Number 652, Senate Print Number 3017, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Marcellino, on page number 7 I offer the following amendments to Calendar Number 136, Senate Print Number 4730A, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Are there any

substitutions to be made?

ACTING PRESIDENT McGEE: There are none, Senator Skelos.

SENATOR SKELOS: Madam President, at this time if we could adopt the Resolution Calendar, with the exception of Resolution 5912.

ACTING PRESIDENT McGEE: All in favor of adopting the Resolution Calendar, with the exception of Resolution 5912, will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could have the title read on Resolution 5912, by Senator Nozzolio, and then move for its immediate adoption.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator

Nozzolio, Legislative Resolution Number 5912, paying tribute to the late former New York State Senator George R. Metcalf, in recognition of his distinguished life and career in public service.

ACTING PRESIDENT McGEE: All in favor of adopting the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 164, by Senator Kuhl, Senate Print 2101A, an act to amend the Highway Law, in relation to the temporary discontinuance.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 256, by Senator Marcellino, Senate Print 128, an act to amend the Labor Law, in relation to criminal penalties.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 30 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 289, by Senator LaValle, Senate Print 4145, an

act to amend the Education Law, in relation to consideration of prior disciplinary history.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 321, by Senator Marcellino, Senate Print 5840A, an act to amend the Real Property Tax Law, in relation to providing.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 799, by Senator Larkin, Senate Print 6401B, an act to amend the Agriculture and Markets Law, in relation to land use.

ACTING PRESIDENT McGEE: Read the

last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of January.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 835, by Member of the Assembly Weisenberg, Assembly Print Number 2786B, an act to amend the Vehicle and Traffic Law, in relation to training.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 1, 2003.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 836, by Senator Bruno, Senate Print 2373A, an act to amend the Vehicle and Traffic Law, in relation to the drivers of small school buses.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 983, by Senator Farley, Senate Print 7144A, an act to amend the Public Health Law, in relation to establishing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1039, by Senator Bruno, Senate Print 2372, an act to amend the -

SENATOR MONTGOMERY: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1055, by Senator Kuhl, Senate Print -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1127, by Senator Trunzo, Senate Print 3302A, an act in relation to requiring state agencies.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1191, by Senator LaValle, Senate Print 7065, an act to amend the Education Law, in relation to limited permits.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1247, by Senator Saland, Senate Print 6368A, an act to amend the Real Property Law, in relation to uniform forms.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1252, by Senator DeFrancisco, Senate Print 7158, an act -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1256, by Senator Velella, Senate Print 7378, an act to amend the Labor Law, in relation to contracts for public work.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1266, by the Assembly Committee on Rules -

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1270, by Senator Velella, Senate Print 7456A, an act to amend the Education Law and others, relating to Subdivision 9 of Section 1727.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1271, by Senator Trunzo, Senate Print -

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1272, by Senator Saland, Senate Print 5769A,

an act to amend the State Finance Law, in relation to appropriation to the Alzheimer's Disease Assistance Fund.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1273, by Senator Wright, Senate Print 6089, an act in relation to legalizing, validating, ratifying and confirming.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1274, by Senator DeFrancisco, Senate Print 6818, an act to amend the Agriculture and Markets Law and the State Finance Law, in relation to enhancement.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1275, by Senator Maziarz, Senate Print 7218, an act to amend the Real Property Tax Law, in relation to procedures.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1277, by Senator Skelos, Senate Print 7400A, an act to amend the Criminal Procedure Law, in relation to designating.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1278, by Senator Stafford, Senate Print -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1279, by Senator Leibell, Senate Print 7441, an act to amend the Retirement and Social Security Law and the General Municipal Law, in relation to certain lung disabilities.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1280, by Senator Volker, Senate Print 7453, an act to amend the Civil Practice Law and Rules, in relation to the form of appellate briefs and appendices.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1281, by Senator Rath, Senate Print 7459, an act to ratify, legalize and validate certain actions and proceedings.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

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

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

ACTING PRESIDENT McGEE: Thank you. The Secretary will read.

THE SECRETARY: On page 14, Calendar Number 321, by Senator Marcellino, Senate Print 5840A, an act to amend the Real Property Tax Law, in relation to providing a tax exemption.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Marcellino, an explanation has been requested.

SENATOR MARCELLINO: Thank you, Madam President.

This bill provides a tax exemption on real property owned by members of volunteer fire companies or volunteer ambulance services in Nassau County.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR HEVESI: Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Madam President. I haven't spoken on one of these bills in quite some time, which is something, because we've passed, I think, now ten of them this year.

And I have nothing against Senator Marcellino's idea to provide the exemption for volunteer emergency workers in Nassau and Suffolk or, for that matter, against anybody else representing a county where volunteer workers provide much-needed services.

But I don't know why we don't do this for the state. I mean, it's insulting already. And I stood on the floor of this house last month and talked about a volunteer ambulance worker from a volunteer ambulance corps in my Senate district who died on September 11th in the World Trade Center tragedy, and I can't get this bill to be a statewide bill so that New York City, if fiscal conditions were appropriate, could provide this exemption.

It's just wrong. I mean, it's just flat-out wrong. It's unfair and unjust and it's bad public policy to piecemeal, have a

patchwork system where we provide for certain counties and not for other counties the ability to provide this tax exemption for their own members.

I don't get it. I really -- I just don't understand it, Madam President. This is so simple. There is no reason not to pass the statewide bill. I have the statewide bill in, Senator Morahan has the statewide bill in. Nobody in this house has given me a reason yet why this is not a good idea to pass a statewide bill.

It's insulting, embarrassing, and bad public policy. And we continue to slide down some path in this house of just horrible governance. And though this is not the most critical issue in that this is not something of dire concern, this issue, the way the legislative process has worked with this issue this session, just underscores for me how absolutely broken this process is, what a mess it is.

It's really disgraceful. It's insulting to every volunteer ambulance worker and firefighter in the City of New York and

for every other county, for that matter, in New York State that doesn't have this option. Maybe because their senator is of the wrong party, maybe because their senator didn't ask for it or what have you.

It's just wrong. How can you justify giving this break to somebody in Nassau County and not in Queens County, or in Steuben but not in Bronx County? How? I don't understand it. It's just wrong.

You know, I just -- we've got two weeks left in session, Madam President. Just in the name of fairness and equity. And New York City doesn't have to do it. In fact, I'll give you the irony here. The irony is if I got the statewide bill and we were able to pass it, I would recommend to Mayor Bloomberg that he not provide this benefit to New York City volunteer firefighters and volunteer ambulance workers now. We can't afford it right now.

But it's insulting to suggest - and this is the one argument that has been put forward -- that we don't want to put undue political pressure on a municipality that

can't afford it to go ahead and provide this benefit. That doesn't give any credit to the political will of those in power. I would pass this bill, the statewide bill, and then say to Mayor Bloomberg: We can't afford it right now. When we can afford it, we should go ahead and do it.

But to insult all of the people in every county in New York State who do not have this option right now, when they put their lives on the line every single day every time they go out on a run, is just wrong. And I don't know why nobody understands it.

Actually, I do think people understand it. In fact, I think the ten Republican sponsors of the bills that have all passed this year, they understand it very well. And I mean them no insult by these comments.

But the legislative process is broken here. It doesn't allow a good bill, a reasonable bill, a just bill -- a bill that does not do any disservice to anybody, that does not disenfranchise anybody, and that does not unfairly burden any municipality cannot

pass. If no bill passed, that would be one thing. But now to go and pass ten separate bills this session for different parts of the state is just wrong.

And we do this in other areas of public policy too. And I stopped talking about it, Madam President, about the fifth bill. And maybe that was my fault. I don't know if it would have had any impact, but maybe it was my fault.

But I can't remain silent any longer. It's just insulting to New York City volunteers who risk their lives day in and day out and, last year, some of whom paid the ultimate price for their heroism that we don't provide them this benefit that is deserving of the volunteers in Senator Marcellino's Nassau and Suffolk counties, in Senator Kuhl's Steuben County, in Senator Leibell, up in Putnam County, where all these other bills have come from.

It's wrong. Please, with two weeks left in the session, let's do the right thing on this. Don't do it for me. I'm a Democrat. I know we don't want to pass Democratic bills.

Give it to Senator Morahan. I don't need credit for it. All I want is the respect paid to volunteers in New York City and to every other county in New York State for those who sacrifice and risk their lives on a daily basis.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1039, by Senator Bruno, Senate Print -

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Excuse me.

Senator Skelos.

SENATOR SKELOS: If I could interrupt for a minute, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time return to the report of the Judiciary Committee.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination.

As a judge of the Family Court for the County of Rensselaer, Catherine Cholakis, of East Greenbush.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise at this time to move the nomination of Catherine Cholakis, of East

Greenbush, as a judge of the Family Court for the County of Rensselaer.

We received the nomination from the Governor. We examined the credentials of the candidate; they were found to be perfectly in order. She appeared before the committee this morning and was unanimously moved by the committee to the floor for consideration at this time.

And I most respectfully yield to Senator Bruno for purposes of a second.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Madam President, I'm proud to rise in the chamber and talk in support of Catherine Cholakis, known to her family and to her friends as Kiki Cholakis.

Kiki has all the qualifications that anyone could possibly have to serve as a Family Court judge. Our chair of Judiciary moved Kiki through the process, reviewed all of her credentials. She has experience at the local level, the municipal level, general practice, state level, serves as a town justice in a large town in Rensselaer, served

in the DA's office as a prosecutor with juvenile delinquency and young people needing supervision, working with families in that regard. She works at the Higher Education Department as the assistant counsel there presently.

So she has a wide diversity of public interest, public service, with really a record that would be envied by so many that would aspire to be in the court system.

Governor Pataki has submitted her, in his great wisdom. And we are very fortunate that she is willing to take on the awesome responsibilities of a Family Court judge.

Her father was Con Cholakis, Judge Con Cholakis, who in Rensselaer County and the Capital Region truly was legendary as a district attorney who served with the greatest of distinction, went on to the Supreme Court, and was the U.S. district judge in this district of the federal courts. And everyone and anyone knowing him and his family could only say the best things about his commitment and the family's commitment to public service.

So I truly am honored to place in nomination the name of Catherine Cholakis for the office of Family Court judge in Rensselaer County.

ACTING PRESIDENT McGEE: Thank you, Senator Bruno.

Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I can only echo Senator Bruno's remarks concerning Catherine, or Kiki, Cholakis. I have known the Cholakis family for over 30 years. Kiki's father sponsored me for the federal bar. And it's a wonderful legacy.

And to look at Kiki's now experience as a lawyer at such a relatively young age, working in the state level, working in the Family Court itself in all the different capacities, and working as a town judge since 1996.

I know that the rest of her family -- her brothers, who are lawyers, her cousins, her uncles, Tom and Nick, are all very, very proud of her. And I know most of

all -- in addition to her husband, Richard - her mom, who's up there, Dassie Cholakis, is very proud of her.

And it's wonderful for me to be able to speak for someone who will make Rensselaer County and the State of New York very, very proud to have her as a Family Court judge.

Thank you very much, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator.

The question is on the confirmation of Catherine Cholakis, of East Greenbush, as a judge of the Family Court for the County of Rensselaer. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Catherine Cholakis is hereby confirmed as a judge of the Family Court of the County of Rensselaer.

The judge, the honorable judge, is joining us in the chamber today. And may I take this opportunity to say congratulations to you on behalf of the New York State Senate.

And she is joined by her husband, Richard Kemner, her mother, Dassie Cholakis, and family and friends.

So may I say congratulations to you, and welcome.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Dorothy Ann Cropper, of New York.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise once again to move the nomination of Dorothy Ann Cropper, of New York, to succeed herself as a judge of the Court of Claims.

We've examined the record and the credentials of the candidate. She appeared

before the committee earlier this morning, was unanimously moved to the floor for consideration at this time.

And I yield to Senator Krueger for purposes of a second.

ACTING PRESIDENT McGEE: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. I'm very happy to rise to support the Honorable Dorothy Cropper's reaffirmation to remain a judge in the Court of Claims.

Judge Cropper has spent her entire career working in public service in our legal system. She started out with the Legal Aid Society, in various roles. She continued her role through the judicial system and has been in the Court of Claims since 1974.

I'm very appreciative of the fact that this fine judge is willing to spend her entire career supporting our judicial system and ensuring that in the state of New York the people who go before our courts get the best representation possible.

So I applaud Judge Cropper for continuing her role in the Court of Claims,

and I'm very happy to have an opportunity to congratulate her and her husband on their continued participation here today with us.

Thank you very much.

ACTING PRESIDENT McGEE: The question is on the confirmation of Dorothy Ann Cropper, of New York, as a judge of the Court of Claims. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Dorothy Ann Cropper, of New York, is hereby confirmed as a judge of the Court of Claims.

The judge is joining us in the balcony today, along with her husband, Jean Cropper.

And may I say congratulations to you, and best wishes on behalf of the New York State Senate.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Edward M. Davidowitz, of White Plains.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise once again to move the nomination of Edward M. Davidowitz, of White Plains, to succeed himself as a judge of the Court of Claims.

Judge Davidowitz has been on the court since 1986, 17 years. He has an excellent reputation as an acting Supreme Court justice in Bronx County, handling criminal matters pursuant to the drug laws.

Judge Davidowitz is also to be congratulated for going through the renomination process once again, although he is unfortunately facing mandatory retirement at the end of this year, pointing out a problem that we have in our statutory and constitutional law with respect to forced retirement of judges at age 70. Of course, this does not pertain to Supreme Court justices.

There are revisions to the Constitution that have been proposed. But because of the difficulty of amending the Constitution of this state, it has become virtually impossible to pass those. And we are in danger of losing not only Judge Davidowitz but other very competent judges who sit on the bench who reach the age of 70 and therefore are forced into retirement unnecessarily while they have many more good years to contribute to the people of the State of New York. And that is surely the case with respect to this distinguished jurist.

But in any event, I'm very happy, on behalf of the Senate, to put forth the nomination of Judge Davidowitz at this point for reconfirmation. We of course received his credentials once again from the Governor, examined his record, found him to be an excellent jurist in terms of all the years he's devoted to the people of the State of New York.

He appeared before the committee earlier this morning, was unanimously moved to the floor for consideration at this time, and,

Madam President, I'm very happy to put his name into nomination, consideration for a final vote on the floor now.

ACTING PRESIDENT McGEE: The question is on the confirmation of Edward M. Davidowitz, of White Plains, as a judge of the Court of Claims. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Edward M. Davidowitz, of White Plains, is hereby confirmed as a judge of the Court of Claims.

His Honor is in the balcony joining us today. May I say, on behalf of the New York State Senate, congratulations.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Ronald H. Tills, of Hamburg.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Ronald H. Tills, of Hamburg, to succeed himself as a judge of the Court of Claims. We've examined his credentials, his past performance in the Legislature, and as a member of the judiciary.

He appeared earlier this morning before the committee, was unanimously moved for consideration by the whole body at this time.

And I most respectfully yield for purposes of a second to Senator Rath.

ACTING PRESIDENT McGEE: Senator Rath.

SENATOR RATH: Thank you, Mr. Chairman, and Madam President.

I would say that I got lucky today because the folks on the floor who might have seconded Judge Tills are at a Finance Committee meeting.

And as many of you don't know Western New York, we break down into north towns and south towns. Well, I'm from the

north towns, but Judge Tills is from the south towns. That does not mean we do not know each other nor haven't known each other for a very long time; we have. And I was so happy to see the nomination move forward and advance today.

Judge Tills is not only a friend professionally, because of being of the same group of judges in the 8th Judicial District, of which my husband is a member, but we've known him personally much longer and in many ways before that.

Judge Tills is a graduate of the University of Buffalo Law School and has been in the Court of Claims since 1995. What you might not know about Judge Tills if you weren't here the first time he was confirmed was that from 1969 until '78, he was a member of the New York State Assembly. He was a member of the Codes Committee, a member of the Judiciary Committee, chairman of the Select Committee for Revision of Corporation Law.

I've heard judges say often when they're puzzling, out socially: "What do you suppose the Legislature meant when they passed this piece of legislation?" And I have heard

other judges say, "Thank goodness there are a few judges around who have served in the Legislature, because they have an understanding of what the Legislature might or might not have meant," as they're attempting to figure out what was in the minds and the legislative intent.

I know Judge Tills has served that way not only personally, with his own personal calendar, but I'm sure he's been helpful to colleagues in attempting to sort out some of the kinds of things that come from the Legislature that the judiciary needs to sort out. It's an urgent role for people to understand.

His civic service and religious organizations and fraternal organizations are as long as both arms put together. And besides that, he's a superb gardener. Anyone who gardens knows a great deal about life.

And so I'm delighted to be able to second your nomination, Judge Tills.

ACTING PRESIDENT McGEE: The question is on the confirmation of Ronald H. Tills, of Hamburg, as a judge of the Court of

Claims. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Ronald H. Tills, of Hamburg, is hereby appointed and confirmed as a judge of the Court of Claims.

Joining His Honor in the balcony is his wife, Elizabeth Tills.

And on behalf of the New York State Senate may I say congratulations and welcome, Judge Tills.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Family Court for the County of Erie, Kevin M. Carter, of Buffalo.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of

Kevin M. Carter, of Buffalo, as a judge of the Family Court for the County of Erie. We received the nomination from the Governor. We reviewed the credentials of the nominee. They were found to be perfectly in order. He appeared earlier this morning before the committee, was unanimously moved by the committee to the floor for consideration at this time.

And once again, I'm very happy to yield for purposes of a second to Senator Rath.

ACTING PRESIDENT McGEE: Senator Rath.

SENATOR RATH: Thank you, Chairman Lack and Madam President.

I rise once again to speak on behalf of one of our Western New York natives who is coming to a position in the Family Court, hopefully, as he is confirmed, to show great promise and great dedication down the line of the future.

I think it's wonderful as we see our young people having shown so much dedication as they've come through the

education system and through the community.

Kevin Carter is a graduate also of SUNY Buffalo and has done some wonderful things in his young life. He started into his law practice around 1989, 1990, immediately started in as an assistant professor in one of our community colleges, working in the criminal justice department. He went forward to concentrate his practice in domestic relations and family law in his professional side.

But his community service is what has always caught my attention and caught so many people's attention. He began an attorney internship program at both Erie Community College and Buffalo State College, a student legal forum program, worked with youth basketball, mentor programs in the high schools.

This young man, as he moves into the courts and will serve there for many years as a distinguished jurist, will bring pride not only to Western New York but all of New York State. I'm happy to second the nomination of Kevin Carter.

ACTING PRESIDENT McGEE: Senator Brown.

SENATOR BROWN: Thank you, Madam President.

I also rise to support the nomination of Kevin Carter to the Family Court. I think Mr. Carter is an excellent nomination.

I've had the pleasure of knowing Mr. Carter personally and can speak to his community service that Senator Rath previously spoke to. He has worked with young people. He has helped a large number of young people get into law school.

I can think back to my own former chief of staff, when I was a Buffalo City Council member, who was a young man that Kevin Carter had the opportunity to mentor: Craig Hanna. He is now a successful attorney for the City of Buffalo. And one of the things that he said to me when he worked for me was that he would not be an attorney today if it wasn't for the influence and mentorship of Kevin Carter.

Kevin is someone who cares deeply

about the community. And I think Mr. Carter will be a wonderful addition to the Family Court. Thank you.

ACTING PRESIDENT McGEE: Thank you, Senator Brown.

The question is on the confirmation of Kevin M. Carter, of Buffalo, as a judge of the Family Court of the County of Erie. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Kevin M. Carter, of Buffalo, is hereby confirmed as a judge of the Family Court for the County of Erie.

Joining us in the balcony today is His Honor and his wife, Regina Carter, his children, Cavina and Marcus Carter, his parents, Edward and Carol Ann Carter, and family and friends.

And may I say congratulations to Judge Carter, and welcome, and congratulations to you from the New York State Senate.

(Applause.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to the controversial calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1039, by Senator Bruno, Senate Print 2372, an act to amend the Vehicle and Traffic Law, in relation to the disqualification of a bus driver.

SENATOR HASSELL-THOMPSON: Explanation.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1055, by Senator Kuhl, Senate Print 4606B, an act to amend the Alcoholic Beverage Control Law, in relation to licensed wineries.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT McGEE: Senator

Kuhl, an explanation has been requested.

SENATOR KUHL: Thank you, Madam President.

This is a bill that is simply meant to clarify a piece of legislation that was adopted by this chamber back in 1984. The clarification goes to the extent that wineries and farm wineries which operate retail stores off the premises of the winery or farm winery retain the privilege of wineries or farm wineries that operate on-premises retail stores, including the right to operate on Sundays.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 2. Senators Hassell-Thompson and Onorato recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Andrews.

SENATOR ANDREWS: Madam President, I request unanimous consent to be recorded in the negative on Calendar 347, S2372. Calendar 836, I'm sorry, 2372.

ACTING PRESIDENT McGEE: Senator Andrews, is the Senate number 2373A and Calendar Number 836, is that correct?

SENATOR ANDREWS: No, it's wrong, I'm sorry.

ACTING PRESIDENT McGEE: What calendar number is it you're speaking of?

SENATOR ANDREWS: That's a good question. I withdraw my request. I withdraw it.

ACTING PRESIDENT McGEE: Thank you, Senator Andrews.

The Secretary will read.

THE SECRETARY: Calendar Number 1252, by Senator DeFrancisco, Senate Print 7158, an act to amend the Civil Service Law and others, in relation to updating certain provisions.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT McGEE: Senator

DeFrancisco, an explanation has been requested.

SENATOR DeFRANCISCO: As a result of the census that was taken a while back - about a year ago, I guess, is when it was finalized -- the population of Syracuse declined. What this bill does is keep the various provisions that apply to cities of 150,000 people to 175,000 people in effect at a lower population. That would be 125,000 to 175,000. And each of the areas that it affects are listed in the bill memo.

And that's the purpose of the bill and that's what it would do.

SENATOR ONORATO: Last section.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1270, by Senator Velella, Senate Print 7456A, an act to amend the Education Law and others, in relation to a new system of governance.

SENATOR DUANE: Explanation.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT McGEE: Senator Velella.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Yes, Senator Skelos.

SENATOR SKELOS: If we could lay that aside temporarily and perhaps complete the balance of the controversial calendar.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

The Secretary will read.

THE SECRETARY: Calendar Number 1277, by Senator Skelos, Senate Print 7400A, an act to amend the Criminal Procedure Law, in relation to designating public safety officers.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT McGEE: Senator

Skelos, an explanation has been requested.

SENATOR SKELOS: Madam President, this legislation, which was introduced at the request of the Town of Hempstead, would grant peace officer status to Town of Hempstead public safety officers. They would exercise their powers of peace officer while acting pursuant to his or her special duties as a public safety officer.

And it's very similar to other legislation that we've passed and had signed in this chamber.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Through you, Madam President, if the sponsor would just yield for a question.

ACTING PRESIDENT McGEE: Senator Skelos, will you yield for a question?

SENATOR SKELOS: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: I'm wondering if the sponsor could just enlighten me as to what the difference is between the -- who the peace

officers are as opposed to who the police officers are and what kind of job categories they have.

SENATOR SKELOS: The public safety officers in the Town of Hempstead protect the public buildings that are owned by the Town of Hempstead. And parks also.

SENATOR DUANE: Thank you, Madam President.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1278, by Senator Stafford, Senate Print 7408, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to

payment.

SENATOR ONORATO: Explanation.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

SENATOR DUANE: Madam President.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. If I could have unanimous consent to be recorded in the negative on Calendar Number 1055.

ACTING PRESIDENT McGEE: So recorded, Senator Duane, thank you.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return now to Calendar 1270, by Senator Velella.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1270, by Senator Velella, Senate Print 7456A, an act to amend the Education Law and others.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT McGEE: Senator Velella, an explanation has been requested.

SENATOR VELELLA: Madam President, this is a bill whose time has come. It is a next phase in the continuing efforts of this body to try and improve the educational system in the city of New York. It follows many reforms that we have led the way in the Senate for the City of New York, reforms that started back with the Marchi Commission, when John Marchi was a freshman, School Custodian Reform Act, the 1996 school governance changes that were made, elimination of principal tenure, the Teachers of Tomorrow and Teach 2 programs that the Senate led the way on.

And now this program, which for many years I -- when I was in the Assembly, and while I have been here through Mayor Beame, Mayor Koch, Mayor Dinkins, all of the mayors, whether they be Republican or Democrat -- I have supported and been the sponsor of their legislation to have the mayor of the City of New York take control of the Board of Education.

This bill is an outline of how that would be done. As a former president of a school board for three years, I experienced firsthand how the city system worked and how there were necessary to make changes. We made some of those changes as I outlined, especially in 1996 when we made major changes, taking a lot of powers away from the school boards. But this bill will make substantial changes and improve the system.

I don't think we have a constituent out there who is satisfied with the educational system in the City of New York, when you consider the amount of money that we put into that educational system and the product that we are getting out. This is not what the people of this state, what the people of New York City want from their educational system. They want a better system than they have, and this will accomplish that.

The bill will allow the mayor to select the chancellor, it will give him all appointments of trustees overseeing the New York City School Construction Authority. The central Board of Education will be eliminated,

with all administrative and operational functions and responsibilities going to the chancellor.

There will be a Panel for Educational Policy established with 13 members. Seven will be appointed by the mayor, one by each of the borough presidents, and the chancellor will be the chair of the panel. The members will not receive a salary, will not have cars, will not have perks, but will be reimbursed for actual and necessary expenses.

The Panel for Educational Policy will have the authority to change school district lines once every ten years, beginning in 2004.

The superintendents of the districts will serve at the pleasure of the chancellor. However, local community school boards still submit the names for consideration to the chancellor.

The chancellor has the power to reject principal appointments, which will be made by superintendents at the district level, and the salary and conditions of employment of

the chancellor will be determined by the mayor.

The chancellor will have the authority to present to the City Council a submission for a new five-year educational facilities capital plan.

These are the basic parameters that we are going to use to change the system, to improve it. We have every agency under the direct supervision of the mayor of the City of New York except the Board of Education. And those of us who live in the City of New York know that when Election Day comes, the mayor is always bombarded, no matter who he may be, about the failures of the system.

And we've had in the city a big circle. The mayor -- people say to the mayor: "You're not going doing the job for education." And he says, "It's not my job, it's the chancellor's. I don't have the power to change it. The chancellor changes it."

So you go to the chancellor and the chancellor says: "No, no, I don't have the power. It's the board, the members of the board that have the power. I only can

implement what they have."

And you go to the members of the board, and they say it's the mayor.

So we have a big circle. Nobody is responsible, but we pour a lot of money in, and no accountability.

This changes that. This makes the mayor responsible. And every four years, no matter who that mayor is, no matter what party he belongs to, the people of the City of New York will have the opportunity to say: You have delivered the educational services we want or you haven't. They can vote him out of office and get a new mayor in who will appoint someone to do the job differently. The same way we deal with our police commissioner, our sanitation commissioner, and all of the other essential services of the City of New York.

How much more basic, how much more essential is it that we have accountability for the education of our young people. This bill will accomplish that.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Thank you, Madam

President. Thank you, Senator Velella.

Senator Velella described extremely well why this bill is on the floor. I would urge my colleagues to support what we are doing here today. The time has come. We have waited. This year we were hopeful that there would be some agreement between the Assembly, the Senate, the Mayor, the Governor. And we are here today still hoping that that will be the case.

We feel that by moving this bill forward and by passing this bill, with the support of the Mayor, with the support of the Governor, that the Assembly will either introduce their bill, pass a bill, so we can then know what our differences are.

Apparently there are a couple of major differences presently that exist. I believe they can be resolved in very short order. One of them is whether the chancellor appoints the superintendents or not. And to me, the Mayor has said it right. If you have a CEO -- and that's what the chancellor is - that CEO has to have accountability from the people who run the business or who run the

school system. And those people that run the school system will be the superintendents. And he has to -- the chancellor has to have them accountable to him or her.

So that has to happen in order for the Mayor to truly say that he can take responsibility for the $10 billion worth of school aid that flows through that system, for the 1.1 million plus students who, presently, 50 percent of them don't meet the state standards for reading or math. Shame on the people who are running that system. Shame on us if we allow that to continue.

It can't continue. And we're not going to allow it to continue. And whatever has to be done, we have to do. Twenty percent dropout rate, compared to the state average, in the city. Think about that. One out of five don't graduate in the city. And we wonder why we have the problems that we have with delinquency, with crime, with people who can't earn a living.

So we have to do something about this. We have waited. And thanks to Senators Velella and Padavan and Senator Marchi, who

started this 11 years ago, Senator Maltese, Pedro Espada, Senator Pedro Espada. And I know the New York City members on the other side of the aisle have a vital interest in doing something about it.

The other thing this does is take the capital construction fund that spends billions of dollars and gives that mayoral control, with the chancellor appointing one member and the mayor appointing two.

So that's as it should be. The mayor is elected by the people in New York City. He wants the responsibility to fix a system that doesn't work. And we, in all good conscience, ought to take the politics out of running the school system and leave it to the elected representative of the people in New York City.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

Let me echo Senator Bruno's words: Shame on us. Shame on us. Read, my

colleagues, the decision in the CFE case where Justice DeGrasse found that this Legislature has shortchanged New York City schoolchildren billions, billions of dollars. Read that decision. And look at the school-aid runs every year where some suburban districts get a disproportionate share.

And by the way, Madam President, that Campaign for Fiscal Equity suit, it's not just the City of New York. Poor rural areas, upstate urban areas, shortchanged on resources. Madam President, you can talk management, management, management all you want. But the fact of the matter is resources matter in terms of education.

Madam President, I'm not against the mayor taking responsibility for the school system. Someone has to take responsibility. But I think we fool ourselves if we think tinkering with governance systems will produce necessarily a better product in our schools.

Madam President, we've been there before, decades ago. A dysfunctional central board system was disbanded by this Legislature, left in place only for the high

schools, and we created community school boards to give local communities and parents, supposedly, a greater role. And we've had to revisit that and change their powers because it was abused because of political influence.

This fascination that you can just -- with the idea that you can just change the structure of governance and somehow or other totally change an entire culture, an entire culture that pervades this Legislature, the culture of shortchanging New York City schoolchildren.

And it's not just this Legislature. Senator Bruno talked about $10 billion in state school aid and we want to know that it's accounted for in the schools. Well, Madam President, I want to know it's accounted for in the schools. I want to know it got to the schools. Because I'm tired of going back to my constituents year after year after year, over the years, and saying we got more school aid for New York City, and finding out that the mayor and City Council used that money to balance their books elsewhere.

I don't want our school-aid money

going to repair the streets in New York City, much as they may need it. I don't want our school-aid money going to serve municipal sanitation needs or parks or anything else.

Madam President, the school-aid money that we give New York City should go to the schools. And the city should maintain its ordinary share of school expenditures just like every other locality, just like every other locality in this state, Madam President, outside of the big cities, has its school money, its local share, and also has to use the school-aid money for the schools.

This bill doesn't guarantee that maintenance of effort by New York City. Oh, yes, the mayor can say, "Give us the $10 billion, we'll give it to the schools," and then can lower the city's contribution. We've never had the kind of home-rule school system that many of the communities throughout New York State have.

Madam President, resources matter. Resources matter in our poorest, underperforming schools; resources matter in our best schools.

I'm privileged to be a public-school parent. My son goes to what is generally acknowledged to be certainly the best high school in the state and one of the best in the nation. It kind of appalls me when I look at the piddling budget they get for things like a debate team or academic extracurriculars, which every fine high school in America participates in. All the schools in the suburbs do. The Board of Ed gives the school exactly zero for that. Zero.

My colleagues, go back and ask your best schools. Does your local board of ed give them some money for those kind of academic teams? I'll bet the answer is yes. New York City gives none. Not to any of its schools. Not to the best schools, not to the middling schools, not to the worst schools. Resources do matter, Madam President.

You know, in New York City for those academic high schools where the kids want to go to college, Madam President, they absolutely limit the number of college applications any student can put in. They tell the student: Pick four. That's all

we're going to process. Why? Not enough money for guidance counselors. Not enough money for college admissions counselors. They're not there.

I know it's bureaucracy, bureaucracy. Unfortunately, you can't run a school system with over a million students without some level of administrative bureaucracy. I think it's bloated, I think it's overblown, I'd like to see better management. But, Madam President, this mayor -- any mayor that thinks they can manage their way out of the crisis in education in New York City is deluding him or herself. I don't point at just this mayor. Future mayors, past mayors.

It's not simply a management problem. Oh, we thought that when we put community school boards in and community superintendents, to make it smaller at the grade school and middle school level, a smaller system, 32 different systems. That didn't work. That didn't solve the problems.

One of the problems, Madam President, is the level of parental

involvement in education. We have to encourage that. This bill has no real parental participation on the newly created Panel for Educational Policy.

This bill also, Madam President - under state law, the chancellor must have academic credentials, a doctorate in education, or a chancellor candidate must get a waiver from the State Education Department showing comparable academic educational achievement and demonstrating the skills necessary to manage the schools.

Madam President, this requirement is suddenly waived. It will apply to every other school system in the state, as well it should. But to tell the mayor of New York City -- who, after all, in the finest sense of the word is a politician, whoever he or she may be -- that not only you can pick the chancellor but you can pick anybody you want without any review by the State Education Department to see if the academic and educational credentials are there or equivalent credentials are present, Madam President, that's wrong.

What if some future mayor decides this is a great patronage plum and gives it to someone whose credentials are solely political? This bill would allow that. I think it's the wrong way to go, Madam President.

I think letting the mayor pick the chancellor I'm comfortable with. But I think that chancellor has to be someone who meets the standards set forth in state law for who can hold such a position.

This bill also basically strips the community school boards of any role. And I think we have to be more creative in terms of how we ensure on that community level there is an opportunity for parental involvement. This doesn't do it.

But, Madam President, aside from the fact that this doesn't guarantee that a penny of school aid that we pass will get to New York City schools, I think the most nefarious part of this bill, frankly, is that it's a back-door attempt to put vouchers in place. Because this bill authorizes that politically appointed chancellor to authorize

vouchers to parents for attendance at private schools.

And, Madam President, anyone, anyone that appreciates the need for a public school system, that appreciates what the public-school free educational system has done for this state, for New York City, for this nation, has to be against vouchers. It will suck the monetary lifeblood out of the public school system.

One of the problems in New York City, and I hope we can come up with a way to counter this, is that large parts of the upper middle class and wealthier people have simply bailed out on the public school system in frustration, and you have very, very expensive, very, very fine private schools throughout the city.

And frankly, that's what upper middle class and wealthier people opt for. It's not uncommon for people to pay $16,000 or $17,000 a year tuition for first, second, third grade. Believe me, Madam President, I know, from personal experience, that's what the tuition is. You have two kids, $32,000,

$33,000 to send your kids to grade school.

Very, very few people can afford that. And to take money -- and to those who can, it's their prerogative. But to take money out of the public school system and give it to those parents who are doing that is simply wrong, Madam President. It will be the death knell of the public school system. It will leave only the poorest of the poor enrolled in the public schools.

If for no other reason, Madam President, I would oppose this bill. If it solved all the other problems I have with it -- maintenance of effort, whatever -- I would oppose this bill because of its voucher provisions. New Yorkers don't want vouchers. I'm certain of that. New Yorkers want public schools that work. This bill would allow for vouchers. And I think it's just simply a back-door way to let a mayor usher in a voucher system without any further by-your-leave from anyone.

I am opposed to it for that reason, Madam President. The magic solution of changing the management system somehow -

although a management system and accountability is needed. As I said, I would support mayoral control. But not with vouchers. Not with the mayor free to take all the education money and use it for something else. That I will never support, Madam President. I'm voting no.

ACTING PRESIDENT McGEE: Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President.

There's much of what the Minority Leader has said that I share, and there's some things which not only I don't share but I think he's totally in error on. And first let me speak to the last issue he addressed.

There's absolutely nothing in this bill that enhances any component of the educational system by virtue of an authority to implement a voucher system. Absolutely nothing. The panel that's established, the chancellor appointed by the mayor, none of it are given any new prerogatives in that particular area. Unless I have not read that section of the bill properly. I would be

happy to discuss it with Senator Connor.

Where he and I do agree is when it comes to the issue of special needs. If you had an opportunity to read the 98-page decision that Judge DeGrasse rendered in the Campaign for Fiscal Equity case -- and if you have not read it, I urge you to read it -- he points out that numerical shares are not the answer to quality education, that need is.

Need as defined by those circumstances that various children find themselves in -- socioeconomic, foreign languages. 70 percent of our children are minorities, many of them come from foreign countries. 184 different languages and dialects. These are all defined in terms of needs. And meeting those needs is very, very costly.

Particularly -- and here again, Senator Connor and I agree -- where there's no support in the home to the extent that it produces a better educational environment. What I mean by that is parents make sure they do their homework, help them with their homework, if they have a problem go to school

to resolve it. Unfortunately, in too many parts of the city of New York, that just doesn't exist.

And the only way you can address those needs is by additional resources: Smaller class size, after-school programs, summer school, and so on.

Now, as a matter of fact, approximately $5.5 billion in state aid goes to the City of New York. If you want to do the arithmetic, with a student population that just went down this past year -- it's now less than 1.1 million, about 50,000 less than that -- we're in the 37 percent category. And the funding is commensurate. But that doesn't meet the need.

However -- and here again, Senator Connor and I agree -- if you read Judge DeGrasse's decision, he points out that over a specific time frame that portion of the city's commitment to education went from 41 percent down to 37 percent. So indeed, as we have been sending more money, as we did in this budget we adopted a couple of weeks ago, to the City of New York, they have used that

money -- you can play games with the semantics here, but what it boils down to is that was not a net increase over the city's share on a proportionate increase basis, meaning that they maintained their effort as we increased ours. The answer is no, they haven't.

And so we hope, it is our certainly our goal that before we leave here, if we're successful with governance, that we also produce a maintenance of effort bill, as we did in 1994, which will affect not only the City of New York but the other four dependent school districts in the state.

And some of you have talked to me about that, in support of that initiative, because you recognize this problem that I just outlined about need and that Judge DeGrasse addressed in his case, his decision, also goes beyond the City of New York, it does go to other cities in our state.

It is unfortunate that we're dealing with a bill that is not in full agreement with the Assembly. But on the other hand, they haven't introduced a bill. We had a public hearing -- some of you were there. I

know Senator Montgomery was there, others were there -- in April, April 5th. Everyone came to that hearing who had anything to say, from the mayor, the comptroller, the city comptroller, the head of the City Council, the speaker of the City Council, private sector, public sector, school board members and so on. And it was all -- it's all contained in the report.

So we did it out in the open, let everybody have their say. And much of what was said at those hearings is embodied in this bill in terms of, let's say, the majority view of all those who came before us. Is it everything the Mayor wants? No. It is everything the Speaker wants? No. But I think it does strike a balance.

And I would echo what Senator Bruno indicated in his remarks. We are not that far apart on many key issues, such as the selection of superintendents. Our proposal has this system. Currently the school boards send five names on a list, and the chancellor has to select from those five, one of those five, or he can reject the entire list and say

"Send me a new list."

That's cumbersome. In some districts, it's not been effective and it's produced undesirable results, such as District 29 that Senator Malcolm Smith and I represent.

What we have in this bill is that school boards can recommend a superintendent. They might choose perhaps a very good principal in their district who they think would make a good superintendent. But the ultimate authority and decision would rest with the chancellor.

So if you look at the proposals from the Mayor, the comments, public comments -- which we don't have a written bill from the Assembly -- and ours, we're not that far apart. That can be resolved. The powers of the central panel can be, I think, adjusted to meet everybody's needs and desires.

Now, Senator Connor mentioned the need for more parental involvement. Well, in '96, I remind you all -- because most of you were here -- we created the leadership councils in every school. Not just by volunteerism, but mandated that they exist and

that everything that goes on in that school would be able to them for review and comment.

Well, we can't get any closer to the kids than the individual school with their parents and their teachers sitting on those committees.

Now we might want to expand that. If somebody's got some ideas how to do that, great. But they do exist. And they vary in terms of their effectiveness, as you would understand they do. A thousand schools, some of them are very good because the parents and the teachers are very active, and some of them are not quite as good.

You know, how you change all of that by legislation I haven't the slightest idea. But in any event, the framework exists, and we can build upon it if we choose to.

I think on balance this is a good bill. Ultimately, hopefully, we'll have a bill that both houses can agree on and the Governor can sign and we can get this evolution -- and I view it as such, from '96 to now. The things we did in '96 I think were all positive. This is another step. We've

reformed custodians, we did away with chancellor's tenure, we did the '96 reform, and now I think it's time for this measure also.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Velella.

SENATOR VELELLA: Madam President, could we announce an immediate meeting of the Tourism Committee in the Majority Conference Room, please.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Tourism Committee in the Majority Conference Room.

Senator Lachman.

SENATOR LACHMAN: Madam Chairman, on the bill.

First and foremost, I want to commend Mayor Bloomberg for making education the signal issue of this administration, just as Mayor Giuliani attempted to make the reduction of crime the signal issue in his administration.

I also believe with the Mayor that the mayor should have more power, much more

power. But the question I pose is: Should he possess absolute power? And this bill gives the mayor absolute power.

First of all, you just have to look at the name of what was a Board of Education. It's no longer a "board of education," it's a Panel of Educational Policy, a Panel of Educational Policy consisting of eight people, one would be the chancellor, and five others selected by the borough president.

There is almost no division here of policy-making and administration. Everything is in the hands of centralized authority. And I had always thought that a good conservative philosophy was the devolution of central authority into smaller districts where people can have a say in what they're doing.

I am also concerned with many of the issues that Senator Connor raised. There's no guarantee here of a maintenance of effort. Now, someone might have said there was no guarantee when Mayor Koch was mayor, or Mayor Giuliani, or Mayor Beame, or Mayor Lindsay. But there should be a maintenance of effort.

If we allocate $300 million earmarked for educational use in the city of New York, then if this is to be permanent legislation, that money cannot be taken to fill potholes in the city of New York. It can only be used to fill the brains and the minds of young people in the public schools of the city of New York.

I'm also concerned that the chancellor appoints all superintendents and all principals.

And I want to also commend Senator Padavan for making a change in community school boards. They were supposed to be eliminated. And I know because of his great efforts they have not been eliminated. There will be a hearing next year to decide what to do with them. Why should there be a hearing to decide what to do with them? Because as of now, they have almost no power in terms of the appointment or selection of superintendents or principals.

And may I also add if there is going to be a hearing next year on the future of the community school boards, which

represent local, parental, community authority, there should be hearings about the central Board of Education. We no longer can take a bill as we did in 1996, when I was here, or 1969, when I was not here, and say this will resolve all the educational problems in the city of New York.

There have to be hearings before the bill is constructed, and there has to be a regular review of what the bill is attempting to do and what it does not do. And I'm very concerned that there were no major public hearings for this piece of legislation, which is of great significance to the state of New York.

Now, I'm also concerned that the appeals process, the appeals process of parents of children with disabilities no longer flows through the Board of Education, but through other agencies. And the question I ask is why. Why has this change been deemed necessary?

I would add at this point that Mayor Bloomberg wisely looked upon Mayor Daley's system in Chicago in order to regain

mayoral control. Because many of the children -- too many of the children in our system are failing, and parents and educators do not want them to fail. And the poor child should have the same opportunity as the middle-class child and the wealthy child has in public education.

But what is not mentioned in the bill is that the original Chicago bill was a provisional bill for two or three years until it was reviewed, reevaluated, and a permanent bill was written into law. And that permanent bill in Chicago, under Mayor Daley, is quite different than this bill.

Why? The permanent bill appoints a board of education, and it does not call this board of education a panel of educational policy. And the board of education becomes a -- selects the chancellor and has control over educational policy, operating policy, and financial policy.

This is not the bill that we are talking about where one person, whether he be a Democratic mayor, he or she, or whether he or she be a Republican mayor, has final

control.

Now finally, ladies and gentlemen, I think that in many instances this bill that leaves out local community involvement and especially parental involvement -- whether it's District 21 in Brooklyn or District 31 in Staten Island or District 29 in Queens - fails because not only is it a working draft, but it does not look at history and examine history so the history can tell us the mistakes and flaws of the past.

In 1805, the New York City Board of Education was decentralized, and the reformers said: Let's improve education, and we'll centralize the Board of Education.

In 1842, the Board of Education was centralized, with the mayor having absolute power. And the powers that be, the reformers, said: This is not a good governance system. We have to decentralize the Board of Education and give out more power to the local areas.

In 1896, the reformers said decentralization has failed, and in order to improve education in New York one must centralize the authority of education in the

hands of the mayor, who then appointed nine people to the board of education selected from panels. They in turn appointed a chancellor.

In 1969, the reformers said centralization has failed; therefore, we need decentralization. And a new decentralization bill was passed in 1969 and lasted partially until 1996, when I was here. And I remember the debate by Senator Goodman and Senator Leichter, who were very upset and distraught that their concept for improvement, based upon decentralization and local control, was not working out.

Now, I posit to you, ladies and gentlemen, that the improvement in education in New York is -- yes, it is partially based upon governance. But it is also based upon an educational philosophy. It is also based upon involvement of educators, administrators and, most importantly, the parents of students that occupy the classrooms in the community districts of the city of New York.

The bill that we have in front of us is a good working draft. It will be a one-house bill. It can be improved. And it

should be improved and enacted into law when it is thus improved and the changes are made. Thank you.

ACTING PRESIDENT McGEE: Senator Marchi.

SENATOR MARCHI: Madam President, I think that of all of the remarks I've heard, there are so many elements that struck a responsive chord with each and every one of us. And I think you made some very valid points in your conclusion.

We are in the throes of not an embarrassment of riches, but a tragedy which is occurring on a daily basis. And a response there must be. Senator Velella, who's carrying the major responsibility, he's the major sponsor, with good cosponsors -- of which I'm not one of, since I aspire to see Richmond County proceed virtually as a quasi-independent district because of the size, because of the circumstances that are attendant on the type of community that we have, that we would serve as an ideal model by virtue of experience.

But Senator Velella is the only

member in this chamber who has had hands-on experience. And absent a major consensus - and I think there's a consensus that we simply cannot afford to go on with what we have -- I think his counsel is wise.

And based on that, Madam President, I think it's wise to carry and enact his sentiments, along with those who affix their name to it, coming as it does and flowing from the experience of carrying that kind of responsibility. And I don't think there's anybody else in this chamber that can make a similar claim, and with the numbers of people that were involved. So I think it's incumbent that we pass this bill at this point.

Will there be more legislation in the future? I am not -- I'm rather inclined to believe that we have not heard the last comment on our status. But this does represent, does offer some grounds for a hopeful course of events that will flow from its unanimity and make some positive contribution to the education of our most precious commodity, our children of the city of New York.

So I do hope this prevails with a good vote.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: Madam President, in the 45 pages of this bill, I find it very difficult to find anything constructive.

You know, sometimes you look at legislation and you say, well, it's sort of like chicken soup, it can't hurt. This bill is not like chicken soup. It can hurt. To say that things can get worse, they certainly will, I think, under this bill.

I'm not going to repeat what my colleagues have said. But one thought occurred to me as I was listening to my friends debate the merits of this bill. If it's such a great idea, why don't we make it statewide? Why don't we make it statewide?

I find what Senator Connor said about vouchers to be very, very troubling. Secondly, the lack of a role for parents I also find a serious deficit in this legislation.

The fact that there is no maintenance of effort I think is disgraceful. I might have voted for this if it had a maintenance of effort provision, although I agree with very little in it. I think maintenance of effort is so essential to the solution of some of our problems. People say money can't solve all our problems. Yeah, but without funding, we can do very little.

I also want to emphasize the fact that giving the mayor the power to appoint the chancellor and the superintendents and, in a sense, the principals and teachers, will return us to the days of Boss Tweed. We have had mayors who were strong, such as Mayor Giuliani and Mayor Bloomberg. Do I trust them? Yes. But I don't know what's going to happen down the road. I don't know what kind of mayors we're going to have. I don't know that they're not going to appoint some brother-in-law who needs a job.

I don't want to go back to the old days of lack of a civil service system. At the turn of the century, we didn't have a civil service system for the appointment of

teachers or principals. It was a political system.

I happen to be a former high school teacher, and my father before me was a high school teacher. How did he get his job? He walked into a superintendent's office on the Lower East Side back at the turn of the century and he said he was looking for a job. There was such rampant discrimination at that time, the fact is that although he was Jewish, he did not have a Jewish name. He had red hair. And they didn't know he was Jewish, and they gave him a job. That's not the way to select personnel.

The problem as I see it is one of accountability, where they say "it's his fault" and nobody seems to take responsibility. Will this legislation resolve that? I don't think so.

And lastly, Madam President, it seems to me that governance is not really the issue. The real issue is are the kids going to do better in school, are they going to learn. And what's going to help them? It's been said: smaller class size, a licensed

teacher in every classroom, parental involvement. That's what's going to encourage the kids to do better.

And, Madam President, I think this is a very, very bad bill, and I will vote no.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President. On the bill.

I think we can all recognize and agree on one thing, and there's going to be some serious disagreement -- has already been in this chamber -- about the merits of the bill that's before us. But pretty much everyone can agree that the system as a whole in New York City is a mess.

There are, let me start out by saying, some terrific success stories which should be emulated. We have some of the finest students, the finest schools anywhere. But overall, the system is a mess. And everybody has good intentions, everybody wants to fix it, but there are dramatically different approaches to it.

For me, there is one fact that

leads to my conclusions about whether or not this is a good idea, and it's the fact that the system in New York City, the school system, has been a mess for so long that you have to really examine the root causes and why no one seems to be able to change it.

And I kind of have, for myself, the reason why I believe that's the case. I believe it's the case because, to my knowledge, there has never been an elected official in New York City who lost his job because of the horrible conditions in the New York City school system. Never happened.

Why? Because if you said to me: Senator Hevesi, set up a structure that is destined to fail, I would have a difficult time coming up with a worse structure than what currently exists. To have the most diffuse lines of authority -- there are actually no lines of authority. That's a misnomer to even say that.

Where you have a board of seven members appointed by six different political entities, one each by the borough presidents, two by the mayor, hiring a person to run the

school system, a chancellor, where budgetary powers come from an outside source -- the mayor and the City Council, by extension, the state, and to a smaller extent, the federal government -- where the SCA, the School Construction Authority, is essentially an authority controlled by the governor, where the school facilities' maintenance is done at the local level, within the school system. It is just an abject failure. There's no way a system like this is going to work.

And so at the end of the day you can tinker around the edges, but what happens is nobody ever gets blamed. And I know Senator Stavisky just mentioned the blame game. You need the blame game. Blame game is how things get done or don't get done. You need a system where somebody is in charge and, if somebody doesn't do their job, they get fired.

That never has happened, to my knowledge, in the modern history of the New York City school system. Just has not happened.

And so everybody targets the Board

of Education. It's one of the reasons why everybody now concludes things are so terrible. Because every politician points their finger of blame at the Board of Ed. Everybody says "It's not really my job, I can't fix it, I'm not in charge, I'm not the one." And they are actually right about that. They are not the one.

Let's make them the one. And the model that I like to use -- and my detractors on this will say, well, you can't equate education to policing. But in New York City, in addition to the other seven reasons why crime is down, the structure of the police department, the operation of the police department fundamentally changed with the Giuliani administration, where the Mayor hires a police commissioner, who hires his top deputies, the civilian leaders of the department. That individual or those individuals then go and hire the chief of patrol, chief of department. They decide who the borough commanders are going to be. The borough commanders select the precinct commanders, with the consent of the

commissioner and sometimes City Hall. And those precinct commanders then determine the makeup of their structure within the precinct, the lieutenants and the sergeants.

And what happened under the Giuliani administration, with John Timoney and Jack Maple and Bill Bratton, is they said: You are all going to be accountable now. You come in once a month, and we're going to determine whether or not you have crime-fighting strategies and whether you've implemented them, whether you've targeted crime in your area, what you're doing about it.

And I've sat in on those COMPSTAT meetings. And if you don't perform, you don't produce, you're gone. There's no democracy within the New York City Police Department.

And that structure created proactive policing. Which, if you talk to police commanders and commanders who were there, before Giuliani they said did not happen. And as a result, crime was pushed down in New York City further than in other major cities throughout the United States.

That's top-down management. We have to have that type of accountability in the New York City school system.

Now, some people say: Well, listen, we don't want to politicize education, and that's why we need a separate structure. I cannot think of a more political structure than the New York City Board of Education. You cannot come up with a more political system. It is by definition political. And it has so distracted from what should be going on, the discussion that should be going on, which we will all agree is in the classroom, that it is one of the things that has habitually led to nothing getting done to reach the kids on the level where they need to be reached in the classroom.

When we have chancellor fights, when there's a chancellor who leaves the system -- and we've had four in the last I think eight years -- when that chancellor leaves the system, there is the most outrageous discourse, a huge fight. Alliances, this one and this one together.

In fact, Rudy Crew, who started

out -- and it always seems that the school's chancellor starts out in the public's eye as being terrific and then fails miserably. And I believe that's not because of the individual but because of the structure. But Rudy Crew, when he first came in, was a compromise candidate after a really awful fight between members of the board and the mayor and the educational advocacy organizations. Huge fight. Always distracts from education. Always misses the point, misses the focus. Really, really bad.

And this whole notion that you can't politicize education by giving them mayoral control I think is just silly, because you can do no more worse than have a -- you cannot have a more political system than what you have now.

And, Madam President, the argument has also been advanced that you don't want to give the mayor complete control because you don't want him making the decisions, these - such important decisions about the education of our children by himself. Okay? It's too important somehow to make those decisions by

himself.

Yet let's take a look at the decisions that the mayor does make by himself in New York City. Just about everything else, including real life-and-death issues. I mean, life-and-death issues that on a priority scale are higher than educational issues.

The mayor can unilaterally cut the size of the police department, reducing patrol strength and diminishing or increasing response times. He can do the same thing for the New York City Fire Department and its component parts, including EMS, which would increase the amount of time it took for an ambulance to get to your aid if you needed it.

The mayor can determine and has determined in the past whether he wants to cut the administration for children's services, which can increase the caseload so we have a worse supervision of children who may be abused and neglected and may wind up dead as a result.

The number of inspectors for housing stock in the City of New York -- you name it, we allow the mayor, through the

political system, to make those determinations. We allow him to do that. To suggest that we cannot do that for education I believe is just the wrong way to go. It's just absolutely silly.

So what do we have here with this bill? Is this a bill that I would have drafted myself? No, but it's pretty close. I got to be honest with you. Senator Lachman was correct; this is a bill that gives the mayor almost complete control -- which is exactly what needs to happen.

And some people have said, well, it's not about governance, it's about what you do in the classroom. It is about what you do in the classroom. But you cannot get there until you stop having all of the structural fights built into the system that we have right now. You just cannot do it. Governance is the key. You cannot move forward unless you have a different system of governance in place. This is the way to go about it.

And here's how I view this bill. And by the way, I will point out I would go further in some areas of this bill. This bill

doesn't abolish the local community school boards. I would abolish the school boards in this legislation immediately. They are completely dysfunctional. They siphon millions of dollars out of the classroom and into an administrative system that we have, in the past -- in 1996, most notably -- we have justifiably diminished their powers. But they still present tremendous obstacles.

In my home Senate district, I have one of the worst school boards in the City of New York, School Board 24, where, because of the current structure, the infighting on the board, the interplay with the chancellor, the inability for them to decide who the superintendent should be, School Board 24 has been without a superintendent for several years now. The board just -- they fight with each other. The issues are never about education. They are always about who's aligning with this one, what we're going to do to get bad publicity for the chancellor to win our fight because we want our guy in. It's just ridiculous.

And so I would say the following.

Because a lot of people have said to me: "Well, you know, we don't know what Michael Bloomberg's plan is for the school system." And, you know, to be honest, I know what his plan is. Not because I'm an insider in that administration. I'm not. And not because I've heard long, eloquent talks about what he is proposing to do. But it is many of the same things.

There's no silver bullet. There's no panacea. This is not rocket science. It's lower class size, it's more flexible work rules, it's the ability to discipline teachers more quickly and get the bad ones out of the classroom. It is getting instruction materials into the classrooms that we need. It's having facilities that are good, that are not crumbling. It's a whole slew of things that we need to do. Okay?

But having said all of that, here's the key. If Michael Bloomberg stood up today and said "I have no plan," if he said "I have no plan" -- well, if he has said that -- I doubt he said that. But if he stood up today and said "I have no plan," I'd vote for this

plan anyway.

You know why? Because if he stood up without this bill and says "I have no plan," nothing happens to him. If we pass this and he stands up and says "I have no plan," he's history at the next election. He's gone.

Give him a chance. This is why Democrat Ed Koch supported mayoral control. This is why Democrat David Dinkins supported mayoral control. This is why Republican Rudy Giuliani supported mayoral control. And this is why Democrat-now-Republican Michael Bloomberg supports mayoral control.

Now let's talk about one or two other issues, and then I'll stop because I know my colleagues want to talk about this.

On the maintenance of effort issue, I support structural reforms to ensure that money that Albany sends to New York City goes where it's intended, for education in the classroom, for its dedicated purposes.

In terms of a true maintenance of effort for the City of New York, I understand why Michael Bloomberg doesn't want that. This

is a difficult issue, and so I want to nuance it here. I understand why he doesn't want it. He doesn't want it because he's facing a $5 billion budget deficit. And if you look at the projections, in the next few years that budget deficit is going to increase by up to about $6 billion in fiscal year '05. Okay? There are even stories in today's newspapers that he may be considering raising taxes.

If you lock in a required amount of spending, an additional amount of spending on his part, you may wind up in a system where the mayor will be forced to do some things that we wouldn't want if we were automatically putting a maintenance of effort in here.

If the mayor proposed, "Well, I have to make some cuts, I'm going to slash the police force in half because I can't reduce the millions of dollars that I'm now required under a maintenance of effort to spend on the school system," is that something that the people in the city of New York would necessarily agree with? I'm not so sure.

If there was a maintenance of effort in this bill, I'd probably support it

anyway. But it's not a poison pill for me. It's certainly not a poison pill for me.

So what you have here is an elimination of the Board of Education, a very good thing. You have an educational policy panel, which, if the mayor instructs it to do so, can give its advice on a slew of issues. That's a good thing. But the mayor now, under this bill, will be able to hire a chancellor, who can then go and hire district superintendents, who can then go and hire principals, who can then go and hire teachers.

And this Legislature -- let's be consistent here -- we have embraced the idea, most notably with the endorsement, the structural endorsement of a contract with the supervisors' union, which says essentially we gave a big raise, the public gave a big raise to these folks, and in response to losing tenure, essentially, on behalf of the principals, now the superintendents can have much greater flexibility in moving principals around.

You must have this kind of flexibility in order to meet the needs of the

school system. Put someone in charge. And if they don't do the job -- and maybe Michael Bloomberg doesn't have the answers. But if he doesn't, he'll be voted out of office. That's democracy. That's how the system should work. No more nebulous system. No more ambiguous system where you don't know who's in charge.

This may not be the perfect bill in your eyes. It's not the perfect bill in my eyes. And I do think it's a one-house bill. And I hope whatever the Assembly finally comes around with, we can hash out our differences. Because I would accept less than this. I think this is pretty good. Not perfect, but pretty good. I would accept less than this in order to get something done in this system.

The system right now is absolutely broken, broken. Fix it. Put somebody in charge. I find it admirable that you have some elected officials out there who are willing to say, when the public at large has said in many instances this is an ungovernable system, where a guy like Michael Bloomberg has said: "Put me in charge, and then hold me accountable if I don't do the job." That's

what this bill does here today.

One final point, and then I'll stop. The final point is on community involvement and parental involvement. And I know that this is an important issue for a lot of people. It is not the primary issue for me. Okay? This may be a little bit controversial to say. Parental involvement in the running of public schools in New York City is not my primary concern.

My primary concern as it pertains to parents is their involvement in the education of their own children. That is more important. I mean, you know, it's very nice if we're able to have parents getting involved and having a voice and having input. But the notion that parents should be making budgetary decisions of millions of dollars and overall, broad policy decisions pertaining to education I think is not the primary focus. The primary focus should be to get parents involved in their kids' education.

In fact, Madam President, in fact, I believe if we were able to suddenly increase per capita spending in New York City by a

thousand dollars a student, I don't believe that that would increase performance among New York City public school students as measured by test scores more than if you had some way to get every parent constantly and conscientiously involved in the education of their children. Money is not the entire object here, it is not the entire picture here.

And to be honest with you, Madam President -- and I sound like a right-winger here -- I understand why mayors past, why mayors past were reluctant to keep sending money to the New York City Board of Education. They said: I can't control the system, it just disappears down this sinkhole in New York City. I don't want to put more money into it.

That is how I believe the whole maintenance of effort issue has come around. That's why people are calling for the maintenance of effort. But I'll tell you this. If you don't have a maintenance of effort and a mayor decides not to put money into the educational system, if he has complete control, him not putting money into

the education system, he will pay a steep political price for it. You almost have a political protection in there that prevents or precludes the outright need for a maintenance of effort, which does have some potential problems with it.

So let me just finish by saying I think this is a really good idea. It may not be perfect, but I commend those who have worked on it. This is the way to go. We've got to do something here on education. We've got to have some kind of control where one person is in charge.

And I'll tell you something. The president is not an expert on defense. He hires a secretary of defense. He hires a secretary of agriculture and all these other people. The notion that a mayor who is not an educator can't hire expert people in the field of education is wrong. That's what he does for every other policy area.

Put somebody in charge. If they screw up, throw them out. Nobody has ever - no elected official, Madam President, to my knowledge in modern times has ever lost his

job in New York City because of the failures in the education system. If this bill is passed, that will change. Or, if it doesn't change, it means the system is now performing because there's accountability.

I support this bill.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Madam President, there will be an immediate meeting of the Transportation Committee in the Majority Conference Room.

THE PRESIDENT: Thank you, Senator.

There will be an immediate meeting of the Transportation Committee in the Majority Conference Room.

Senator Krueger.

SENATOR OPPENHEIMER: Madam President.

THE PRESIDENT: Senator Krueger, you have the floor.

SENATOR STAVISKY: Madam President.

THE PRESIDENT: Whoa, whoa, whoa. I called on Senator Krueger. If she would

like the floor, as she's in order -

SENATOR LIZ KRUEGER: If I could yield to Senator Stavisky for a moment.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Thank you, Madam President. This, as far as I'm concerned, is a crucial issue. And to call a committee meeting while we're debating this bill I think is unconscionable.

THE PRESIDENT: Senator Krueger, you have the floor again.

SENATOR LIZ KRUEGER: I would also like to yield to Senator Oppenheimer for one minute, Madam President.

THE PRESIDENT: Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I would like to be recorded in the negative on a bill, but I've been in committees. And I'm afraid the session will end -

THE PRESIDENT: Senator Oppenheimer, we are in the middle of a debate. I will call on you after we're finished.

SENATOR OPPENHEIMER: Yeah, but I'll be in the committee.

THE PRESIDENT: Senator Krueger, you have the floor.

SENATOR OPPENHEIMER: Point of order.

THE PRESIDENT: Senator Krueger has the floor.

SENATOR OPPENHEIMER: I have a point of order.

SENATOR LIZ KRUEGER: Senator Oppenheimer has a point of order.

THE PRESIDENT: Senator Oppenheimer, you have a point of order?

SENATOR OPPENHEIMER: My point of order is should the session end while I'm in a committee meeting, how do I then register a negative vote?

SENATOR VELELLA: Madam President, point of order.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: I believe the rules provide for Senators to cast their vote if they've been out of chamber on other legislative business. And we'll certainly afford Senator Oppenheimer that courtesy if it becomes necessary.

SENATOR OPPENHEIMER: Thank you so much.

I would like unanimous consent to -

THE PRESIDENT: Senator Oppenheimer, as I stated before, we are in the middle of a debate. I respected your right to make a point of order, but I'd like to proceed with the debate pursuant to the rules of the Senate.

Senator Krueger, you have the floor. Please proceed with this.

SENATOR LIZ KRUEGER: Thank you. In fact, I think that some of the -- to speak on the bill, Madam President, excuse me.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR LIZ KRUEGER: Thank you.

This is such an important issue and such a controversial issue. This is a bill that's 45 pages of detail. And in fact, we've had one day to talk about this. And I think that my colleagues' here point that they're being asked to leave the floor to go into committee and lose their opportunity to listen

to debate and participate in debate is reflective of the fact that the devil is in the details.

This is a very, very complicated issue that matters enormously to me and my constituents in the City of New York and I know matters to every representative who represents the City of New York and I believe the State of New York.

I will start by saying that I believe that you can support mayoral control of the education system in New York City, you can support ending the Board of Education for the City of New York, you can support mayoral control of the School Construction Authority -- because in fact I do support all of those -- and yet find the devil is in the details and not be able to support this bill.

Again, it's 45 pages of detail, and yet so many things are missing. As many of my colleagues have pointed out today, there's no discussion of maintenance of effort. And it is a fundamental issue in school governance and improving the schools in New York City. Because the issue is not mayoral control. As

in fact my colleague, Dan Hevesi, spoke on, the issue is are we going to get better schools for our children. That's the assignment, regardless of the title of the bill.

And we won't get better schools for our children unless we address what we all know are the fundamentals for improving public education, and that is having the resources to have smaller class size in the city of New York and good, qualified teachers and adequate facilities to operate our schools in.

And what is, I suppose, most disturbing to me in these 45 pages I've gone through or tried to go through in detail while listening to the debate, there's no discussion of any of that.

Again, as I said, I can support mayoral control, and I do. And I'm on record of doing so. And yet I can't support a bill that does endorse vouchers.

And Senator Padavan earlier responded to Senator Connor, "There's nothing in this bill about vouchers." But in fact, I will refer him to 2590-G, paragraph 7,

subsection B, which specifically says that it would give the mayor authority to go into arrangements for vouchers as well as privatizing schools and charter schools.

And so I cannot support a bill that allows for vouchers and privatization in the City of New York school system.

And I don't understand how this bill can go into pages of detail about the requirements for superintendents to report in detail, on a monthly basis, all kinds of facts about their schools, which I believe are important, but talks not once about the additional resources we need to give superintendents and principals in order to run the kinds of schools that we need.

Those are the issues that you'd be talking about in school districts throughout the state of New York outside of New York City.

I don't understand why we have a bill that proposes to allow the transfer of superintendents and principals without participation by communities. I know, speaking from my school district, that if we

were to tell the parents in my school district that the mayor would have the authority to take away a superintendent or principals who frankly are doing an amazing job at delivering great educational services in School District 2, that we would have a war on our hands. And even more important, they would quit. Those superintendents and those principals would pick up and move to other districts outside of New York City in about ten minutes flat. They've told me that.

So while we like to give the example that if we give the authority to the chancellor or the mayor to move everyone around of their choice, that we'll have the opportunity to get rid of bad principals and bad superintendents -- and there's no doubt that we have bad principals and bad superintendents. One of the reasons that we have bad people in our school system, or vacancies, as Senator Hevesi was talking about, is we can't get good people to come into the New York City school system.

So giving the mayor and the chancellor the right to automatically and

without discussion with anyone move those principals and superintendents I tell you guarantees us that we will see a continuing drain on the qualified people in the New York City school system.

So I can't endorse a bill that would simply lay that out as control of the mayor, because in fact these are critical issues for which whether school districts work and individual schools work.

And in fact I don't understand a bill that gives the mayor total control and yet takes away any outside financial review or fiduciary responsibility for other elected officials.

There's no other agency in the City of New York where there's not City Council oversight on the budget or comptroller's oversight over the fiscal situation. And yet in this bill we're taking the council and the comptroller -- sometimes explicitly, and sometimes simply by not making any statements about it -- out of the process completely.

One of the problems with the Board of Education all these years -- and in fact as

I have said and will say again, I do not support the existing Board of Education or the continuation of it. The answer is not to have no fiscal review or financial oversight. The answer is to ensure you've got a model that includes participation and review of how the dollars are spent in the City of New York.

And simply stating that the mayor and the chancellor will have full authority is not the model we should have in government. We should ensure that the city comptroller has review and oversight of how the dollars are spent and that our City Council has participatory oversight in the budget process for the schools, to ensure to all the citizens of New York City that we have real accountability.

And in fact, it's a question of checks and balances, as we have here in our own legislative structure with two houses and a governor and a state comptroller. And there's so much money that does go through the New York City education system that we have to ensure that we have the same checks and balances there.

In fact, this bill explicitly, and I do not understand why, removes the comptroller of the City of New York from having a role in the New York City Teachers Retirement Board decisions. In fact, it is the model of the City of New York for the city comptroller to have financial oversight and review of other pension and retirement plans. So I don't know why someone would go into so much detail to pull out that responsibility for the city comptroller.

Again, the details go on and on and on. And it frustrates me because in fact I want this issue resolved. We've been discussing it since Ed Koch. I think there is general agreement that we need to do something to fix the broken New York City school system. And I'm frustrated that it is so late in this legislative year and there's been so much debate and that today we end up with a 45-page bill for the first time with so many details and so many important issues we should be discussing.

I would like to be able to vote for this bill, but I don't see how I can, absent

the fact that it does not deal with a maintenance of effort.

I have only been in this house now for 14 weeks. Upon getting to Albany, I almost immediately started to talk to individual Republican and Democratic legislators about what was, to me, one of the most obvious questions: Why can't we get fair funding for education for New York City?

And I was constantly told individually by legislators: "Well, let's face it, if we give New York City another dollar of state money for education, they're just going to pull a city dollar out, so you're not going to win anything for your children." I hear it all the time in this chamber from individuals.

So I say how can we responsibly move forward with a bill to change the structure of school governance in New York City and not address our own problem? I don't want to have to come back here next year, fight for more education funding in our budget and be told "What's the point? If we give you another state dollar in New York City, you'll

simply take a city dollar out."

I agree with Senator Hevesi. We have a serious fiscal crisis at the budget level. And much of that responsibility lays right back here on our shoulders for failing, year after year after year, to invest a fair share of state funds in the City of New York, given the proportion of the people who live there and the amount of tax revenue that year after year comes up to Albany from the City of New York. So we're in fact partially responsible for the fact that Mayor Bloomberg now has to fix a $5 billion deficit in a matter of days.

And yet we still have the responsibility, I believe, to the children of the City of New York and to their parents and to ourselves to ensure that we move immediately towards a fair educational formula statewide and that we do hold the City of New York accountable for ensuring that they put in their fair share for public education.

And if that means that Albany and the Legislature and the Governor have to in fact then do their job and also give the City

of New York its fair share of education funding out of the total state budget, we would be in a win-win position, not a lose-lose position, if we pushed for a maintenance of effort requirement. And I believe we cannot pass a bill without a maintenance of effort requirement.

I have so many details, Madam President, I could speak, I think, for hours just on the questions I could ask about what is and what isn't in this bill. But I suppose I will close with one more concern I have.

Again, as I have said, I support ending the Board of Education. And I think the concept of this Panel of Educational Policy is an interesting one. But again, the devil is in the details.

And in fact, when you look at the bill, the language specifically says that the role of the panel will be to consider matters referred to them by the chancellor and the mayor of the City of New York. Well, the problem with that statement is you end up in a situation where you're only asking the questions you want to hear the answers to.

I would argue that for this to be a true policy panel, the role has to be for them to come up with the issues that they feel need to be brought to the mayor and the chancellor, not simply to be a responsive body to the issues brought to them by the mayor and the chancellor.

It would be as if I had 22 major problems as the chancellor of the education system -- and I would guess on any given day any chancellor of the City of New York education system would argue they have 125 major problems and issues. It would be as if I would only bring to you, my policy panel, five issues that I didn't care about because I didn't want your input on the 125 issues that are really needing your attention.

So I think that, again, this is a start. It's a start that I cannot support. I am frustrated that we are having this start so late in the game. Again, following the reference of my colleagues, it is a one-house bill. And I hope that the bill we finally can pass very, very soon will address the concerns I have about what's in here and what's not in

here and finally ensure that the City of New York has the opportunity to make the major structural improvements in our public school system that we so desperately need.

So again, in closing, this bill has to have maintenance of effort, it has to address fair funding formulas, it has to ensure that we address, in the governance restructuring of the New York City school system, the issue of smaller class size, better qualified teachers, participation by communities.

I don't know that I know what the perfect answer is -- community school boards with certain roles, borough boards. But I can tell you that the absence of explanation of how we would really address those concerns in this bill will end up resulting in a model that none of us would look back on and say we did our jobs correctly if we passed the bill as is.

So I will vote no on the bill. I urge my colleagues to vote no on the bill. And I hope that we very soon have a different bill to deal with and to come to agreement

with the Assembly and the Governor on.

Thank you, Madam President.

THE PRESIDENT: Senator Gentile.

Excuse me, Senator Paterson has risen.

SENATOR PATERSON: Madam President -

THE PRESIDENT: Yes, Senator.

SENATOR PATERSON: -- I just wanted to bring to your attention that this is a highly controversial bill, and it's very difficult going forward with the interruptions from committee meetings.

Because some of the members are notifying me, as the floor leader for the Minority, that they do want to vote on the bill, some of them want to speak on the bill, and they don't want to interfere with the flow of the debate -- in other words, restating issues that were stated before.

So I just wanted to suggest that in the future when the -- I think at all times, but at the least in these situations where everyone has an opinion and everyone wants their opinion on the record, I think we have

to be a little more sensitive to the feelings of the members at times like this.

THE PRESIDENT: And we're going to proceed with the debate, which is exactly what you're saying, Senator Paterson. I couldn't agree more.

Senator Gentile.

SENATOR GENTILE: Thank you, Madam President. On the bill.

If we look at the overall situation, and I believe we have here today, it is clear that changes in the Board of Education are in order. Certainly, given the history and the record of the Board of Education, that is clear.

I'm not sure, though, that what is or should be clear is the fact that we have taken a broad brush here and have painted the whole system in one way. And that, I believe, is unfair and certainly unjust in several ways.

One way is in the fact of the community school boards. Certainly community school boards vary from neighborhood to neighborhood. But I think it needs to be said

and it should be said that in the areas that I represent and the areas I will represent, the community school boards are functioning, active, involved and workable units. Each of them has done a tremendous job in each of the schools. And I visit schools very, very often.

Particularly the one I'm most familiar with, the District 20 school board in Bay Ridge, Bensonhurst, and Dyker Heights in Brooklyn, is a board that should be a model, should be a model for the rest of the city of New York, for the type of school board that they have, for the superintendent, which they chose, who is a leader not only in District 20 but has been chosen as a senior superintendent to oversee four other school districts, three in Brooklyn and one in Staten Island. And certainly he is an educational visionary, someone who a leader and someone who ultimately one day might actually be a tremendous chancellor of the City of New York.

That type of functioning unit, that school board, along with School Board 21 and School Board 22 in Brooklyn, are functioning,

active, and involved school boards who have the support of the parents and the faculty members in those areas.

And it's shown in the educational achievement of the students in those three districts. Those three districts - District 20, District 21, and District 22 in Brooklyn -- have among the highest math and reading scores not only in the county of Kings but in the entire city of New York.

That being said, and that being the case in my area, it is my concern and it is my role, as the representative here in the Senate on behalf of those school boards, to be certain that any kind of change in governance would not affect the functioning of those school boards. It would make no sense for us or for me to support a plan by which the control and the functioning of school boards is removed from those districts and placed either with the chancellor at 110 Livingston Street, or ultimately placed in Manhattan with the mayor.

Now, mayoral control is something that I am certainly not against. It's

something that I am open to. But to take control from the community school boards at this level in those districts and lump them in with those districts that are not working well I think is a mistake.

Obviously, if I represented areas in this city where the school boards are not working well, areas where the school boards are always infighting, where educational policy is not the primary issue that they talk about, then, sure, I would stand up here and say it's time to do something with the school boards.

But I don't represent those areas. I represent areas where the school boards are active and they are models for the rest of the City of New York, particularly District 20 in Bay Ridge.

So for those boards to face the possibility of the control of the local schools now being taken from those school boards and being handed here either to the chancellor, at 110 Livingston Street, or ultimately to the mayor, in Manhattan, would not be a good thing for the schools or the

children or the people of my district.

And I understand, I understand my colleagues who talk about the dysfunctional system that may be present in their areas. So maybe I think we have too broad of a brush here, and legislation may be crafted whereby the chancellor may or the mayor may take control of certain schools in certain school districts that underperform on a certain level, but allow those school districts and those community school boards that are functioning and are doing the job and are serving the students, are serving the school community, to continue to act in their interest, in their own best interest, and not take that power away from them.

That is my concern. And my concern in this bill is I'm afraid that this bill is a precursor to the elimination of community school boards across the city. It requires the Legislature to conduct public hearings on proposals to replace community school boards. That is something that concerns me because of the areas that I represent. It concerns me that this is a precursor to that elimination

of the school boards.

And certainly I'm pleased that I'm here to talk about the good community school boards -

THE PRESIDENT: Excuse me, Senator. Senator Gentile, Senator Padavan has been standing, and I must ask him, why do you rise?

SENATOR PADAVAN: Senator Gentile, would you yield to a question?

SENATOR GENTILE: Sure. Yes, I will yield.

THE PRESIDENT: You may proceed, Senator Padavan.

SENATOR PADAVAN: I preface my question by telling you that I have two school boards that are also, by virtue of reading and math scores, the best in the city if not, on the best relative comparison, any school district in the state.

As I understand your comment, you're saying don't throw out the baby with the bathwater; right?

SENATOR GENTILE: Exactly.

SENATOR PADAVAN: However, I

would ask you the simple question -- in reading the bill, you see that we have maintained community school boards. What we changed was the method by which they could recommend rather than mandate a selection process for superintendents.

Currently they submit five names, the chancellor accepts one or rejects the list. He can keep doing that. Under this proposal, they can recommend, as they probably do in your area, a good principal to be superintendent. But the ultimate decision is the chancellor's.

Do you have a problem with that process?

SENATOR GENTILE: Senator, I have a problem with the possibility that having - taking the process by which our current superintendent in the one district that I spoke of in particular, District 20, should he have been subject to this new process, that the chancellor may not have chosen him because he came from within the district. And certainly -

SENATOR PADAVAN: Madam

President, will the Senator yield?

SENATOR GENTILE: Let me finish my answer, Senator.

SENATOR PADAVAN: Will the Senator yield?

I'm sorry, I thought you had.

SENATOR GENTILE: Let me finish my answer.

So therefore, Senator, my concern is that this person, who is a great visionary and a great educational leader, might be buried because the chancellor's level would not see the possibilities that the local school board and the parents saw in this person to make him the superintendent.

SENATOR PADAVAN: Again, Senator, we have a parallel situation. District 26, that superintendent came about just as you described. Different part of the city, obviously. But the school board recommended that person to be a superintendent, as they did there and they did in 26 and many other districts. And the chancellor, whoever he was at that time -- I think it was Chancellor Crew -- appointed them.

Under the current proposal in this bill, could not that same result have been achieved vis-a-vis a recommendation and an acceptance by the chancellor?

SENATOR GENTILE: There is a possibility of that, yes. Yes, Senator, there is a possibility.

But there's also a possibility of the chancellor appointing his or her own person in the position of community superintendent without the input of the community school -

SENATOR PADAVAN: Keep in mind with regard to the school districts today, he can keep rejecting that list. We have one school district Senator Smith and I share where that's been going on for years and they don't have a permanent superintendent.

So at least this eliminates that possibility.

SENATOR GENTILE: Well, it eliminates the possibility to the detriment - it could be to the detriment of the community school board.

SENATOR PADAVAN: Okay. I

appreciate your answer. But do you yield to another question?

SENATOR GENTILE: Yes.

SENATOR PADAVAN: Are you aware of the fact that the Speaker of the Assembly is demanding, although they haven't put a bill together, that we eliminate school boards in law, to expire on June 3rd of next year when their term is up? Are you aware of that?

SENATOR GENTILE: I can't speak for the Speaker of the Assembly.

SENATOR PADAVAN: No, I said are you aware of it. I didn't want you to speak on -

SENATOR GENTILE: And what his plans are, I will see when a bill comes forth in the Assembly. I have to see what -

SENATOR PADAVAN: But you read what -

SENATOR GENTILE: Excuse me. Let me finish my answer.

SENATOR PADAVAN: -- I read. Did you hear him say that?

SENATOR GENTILE: But, Senator, let me finish my answer.

My point is that I want to stand up and speak for my school boards that I represent that work well. That needs to be said, that needs to be put on the record, and I think that needs to be part of the discussion. And that's why I'm saying it here.

What the Assembly ultimately does in their bill, what the Speaker ultimately says doesn't necessarily mean that I will agree with. I think we have to say something about the school boards that work.

SENATOR PADAVAN: Madam President, would the Senator yield?

SENATOR GENTILE: Yes. Yes.

SENATOR PADAVAN: We agree, Senator. But I just thought you should be aware, if you were not already, that we're fighting against their stated position with this bill. We're opposing that notion. And you should support it if for no other reason.

SENATOR GENTILE: Senator -

SENATOR PADAVAN: Now, one more question. Now, how would you, citywide - citywide -- keeping in mind, as you said, and

I agree, there are a number of very good school districts. But there also are a number which are dysfunctional.

SENATOR GENTILE: Granted.

SENATOR PADAVAN: How -- we can't have two governances. We can't have two cities. Unless you do what Senator Marchi recommended, and we passed in the Senate back in '96: have borough boards. We're not going to do that. The Assembly would never agree to it. They said so then; they would say so now.

But without doing something like that, how would you come up with a system of governance in the City of New York that allowed the chancellor to deal with districts that are not working well and not make the changes we have made? Which frankly do not hurt those districts that are doing well, because they'll continue to do well.

SENATOR GENTILE: Senator, I believe transferring control from the local school board to either the chancellor or the mayor will hurt control of the local schools, because it has worked well because we understand the needs of those local schools.

I am in favor and I have worked with Senator Marchi over the last several years in advancing the idea of the borough boards. And I think it's a good idea for Staten Island, I think it's a good idea for Brooklyn, and I would recommend it to you, Senator, for the county of Queens also. But certainly that is one way we can try to address, on a smaller scale, the issue of governance.

Now, the other way would be to formulate some system whereby the chancellor o the mayor, through the mayor, would have some control over those districts and over those schools that are dysfunctional.

I'm saying -- and you need to hear this, too -- that I'm not against change. I'm not against some type of more direct control. My concern is that let's not affect those school districts and those community school boards that have shown a record of achievement. And that's what we need to hear today as part of this debate.

THE PRESIDENT: Senator Gentile.

SENATOR GENTILE: So I will -

getting back, in closing, Madam President, let me just finish off by saying that Senator Padavan is right. I am concerned that in the rush to change our governance system in the City of New York schools that we are throwing the baby out with the bathwater.

And I think what we need to do is slow down a little bit and take a look, a more comprehensive look, and not hurt those districts by which this system, the current system of community school boards and community control has worked.

I believe that this bill, because it's silent in many ways, may be the precursor. All it indicates is that there should be hearings concerning the abolition of the local community school boards. I think that would be a detriment to my districts, District 21, District 20, and District 22.

So I'm not against change, but I have to be against this bill because of the concern I have for the good community school boards in my district.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. On the bill. Just let me just make this one comment as a precursor, Madam President.

It is as important for each of us to be in this chamber to speak on the bill as it is for us to hear the discussion that is exchanged with colleagues. And so it is very concerting to have had to leave for two committee meetings in the middle of what I think, next to our budget bill, is the most important bill we pass this year.

And it disallowed me from hearing the exchange of ideas on this bill. So I will probably be redundant, but that has never stopped me.

My concern about this bill, and I need to just address it in four quick points, is the issue of vouchers, it allows for privatization of schools, there is no maintenance of effort, and it diminishes and almost at some point will probably extinguish the role of parental and community participation.

Having said those four points -

and I'm sure that everyone else has already spoken very eloquently on all of them -- I would still like to reiterate. And I'd like to piggyback on a comment that I heard my colleague Senator Hevesi make as I was leaving the chambers.

And that is to the effect that when monies are allocated for education, there is the assumption that those allocations are made predicated on what has been described as need. And so with a maintenance of effort, the assumption is that -

THE PRESIDENT: If the members will please take their conversations out of the chambers.

Excuse me, Senator. You may proceed now.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

We have all very eloquently talked about and we certainly have been lobbied over the last several months by teachers and organizations representing teachers and administrators. And everyone has said that we need more money, we need more money to pay for

education, through our teachers, through our state aid, that there's a problem with the formula, that our schools are in serious disrepair, that our classrooms are overcrowded, and a variety of things. So all of these are issues that have driven us to put more money into the school system.

But I have a major concern when any of us stand and talk about the fact that money is to be earmarked based upon a need that has been identified, but it is allowable for that money to actually be, in a sense, commingled with other funds in the city for such things as street repairs, as much as they need them -- certainly in the Bronx, with the potholes, we could cook in the depth of the holes that we have there, and disrepair of our streets.

But that's not where I as a taxpayer, who believes that my tax dollars are going to support and advance the education of our children, to see that money diverted. And if in the event that we have a -- I don't want to leave with the assumption that anyone, no matter how good a manager, is going to make

sure that that money does not go anywhere other than where it should go.

But I would like to see this legislative initiative direct city dollars, state aid, only to go for the education of our children. Because everyone has articulated what the severe need is. And based upon that need, this money should never go anywhere but except where it's been prescribed to go.

Secondly, the issue of privatization of schools and certainly of vouchers. Vouchers disallow -- again, when we talk about where money should go, every time we allow for vouchers, that is a depletion of an overall formula of where those dollars should go. And a percentage of each of those dollars goes to pay for teachers and administrative costs.

So when a block of money is taken from the school system, overall we diminish the ability of our classrooms to be totally manned and to -- manned or personned -- and it disallows us from having in the classroom the formula of teacher to student that is going to advance the education that we all say we want

our children to have.

We have heard many of our colleagues talk about the success and in others the failure of school boards to work in their district. In the districts that I represent, I have a combination of both. But I certainly have some school districts where there is excellent participation and involvement on the parts of parents and the community as well. And that involvement includes extra programs -- Building Bridges is one that parents have developed, along with the teachers in the district, to provide for training and education of parents that allows them to be able to be helpful to their own children within the school district. Very successful programs.

But I would not advocate that we would maintain school districts if the findings are, and they seem to be, that there is a greater detriment to allowing our school boards to make the determination about how monies are going to be spent in individual communities.

But what I would not like to see is

us completely abolish the participation. There's nothing in this 13-member board that speaks to community people. And I know that people will jump and up and say, well, you know, the people that would be appointed will come from the community. Not necessarily so. Because it doesn't say where the people have to come from in certain ones of the appointments. The only ones that I get the sense that would be regulated would be those that come out from the borough presidencies.

So my concern is that somewhere in here parents and communities need to continue to have a level of involvement in what happens. Not necessarily in how the dollars are spent from a dollar and cents perspective, but at least have input into the planning and the concept of where and how monies are spent and curriculum designs that are going to be used to teach their children.

And I think I've covered the four issues very, very clearly as I understand them. But I certainly know that the whole issue of privatization of schools, allowing schools to be privatized -- we have a formula

now that many people still don't agree with. And to give the chancellor the ability to privatize other schools within our public school system when we have not really talked about what the long-range success of privatization or charter schools is on the education of all children, I am not prepared to do that.

So I will be voting no on this bill. Thank you.

THE PRESIDENT: Senator Duane, I believe, is next, and then Senator Schneiderman.

SENATOR DUANE: Thank you, Madam President.

A lot of important points have been raised here and reraised. And I'm just going to again repeat the most crucial issues, I believe. That is the issue of maintenance of effort. Funding is perhaps the biggest issue that we debate here in the Legislature at budget time. And so for this legislation not to address that is just on the face of it absurd, and makes this legislation dead on arrival to passage in the Legislature.

The idea that the Majority and I guess Mayor Bloomberg want to sneak vouchers in in this way is totally unacceptable. The same having to do with the treatment of charter schools. One need only look at what happened with the Edison Schools fiasco when parents were asked how they felt about that in Upper Manhattan. Also, Edison Schools has been shown to be a very, very problematic private corporation of which there is no evidence that students do better as a result of the Edison way of educating as compared to what could be very good in public education.

The most important issue having to do with what happens in the schools is instruction. Instruction is it. I am fortunate enough to represent a large part of a district in Manhattan, District 2, where when the emphasis has been placed on instruction, grades and achievement improved dramatically. Reading scores, math scores. Entrance into good high schools, entrance into good colleges.

I know that not every part of New York City has that. But what it proves is

that if there is political will, every school can succeed. But it takes political will. Every mayor has said "I need control of the schools," but none of them have actually ever tried to exert the kind of political will to make the schools reform.

Political will is what is going to make our schools perform. Emphasis on instruction and emphasis on professional development of those involved in instruction, teamwork, parental involvement -- those are the things that are going to improve our schools.

None of the mayors have ever made it their absolute primary focus to improve education. And now for the idea -- well, the idea that a mayor could now choose someone who could do that job who doesn't have experience in education, who doesn't have experience in instruction, in what works, is just wrong-headed.

I think that we have it all wrong. What we need is the head of the schools should be someone who knows about instruction, and then there should be a chief operating

officer. If the mayors say they want control, doesn't that make them the chief operating officer?

I don't understand why there's no emphasis on instruction, resources, professional development, and parental involvement. None of that is in this bill.

Also, for the last mayor, you'd have to be not paying any attention at all to think that he actually didn't have control of what happened on the Board of Education. He was running the show. He had the will to run the show. I disagree with how it is that he did that. But he actually had the will to try to get in there and run the show -- I don't think to good ends, but he was in charge of what happened there. He had the votes. And I don't think he did a very good job. And I don't think he had the focus, and I don't think he had the will to make New York City's public educational system work.

Now, if we're going to hand over control that kind of control to the mayor and if we're going to tell the mayor that he should put in some kind of a businessperson

instead of someone who is knowledgeable about instruction, then maybe we should make the criteria for who the mayor is someone who has experience in education. If they're going to be running the show that way and they're going to be choosing the chief operating officer to head up the schools, then maybe they should be the person who knows about instruction.

But somewhere up there, and in a very independent way, you have to have someone who focuses on instruction, who focuses on getting the resources exclusively, who focuses on professional development, who focuses on parental involvement.

And that is the reason that people who I think know far more than, with all due respect to the mayor, the mayor and some of my colleagues in the Majority, that's why there has always been in public education a desire to keep it above the politics of one person who doesn't know anything about instruction.

So this bill, you've heard in so many different ways on the merits and the details, is flawed. But just on the basic philosophy of how it is that public education

needs to be accomplished in the city of New York, this bill is a bad bill.

Thank you, Madam President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I have a few comments to add to all that has gone before. Most fundamentally, there's been a lot of discussion of the lack of accountability for New York's public schools, the confusion over who's in charge.

Well, in fact, I don't think there is any confusion on that issue. The Constitution of the State of New York says the Legislature shall provide for a system of common schools. It does not even say the state government. It says "the Legislature."

And we complain about all of these problems with the Board of Education and the school boards. Those weren't given to us by the federal government. Those were not created by God. They were created by the New York State Legislature.

And we have to finally face up to

the fact, I think, in light of Justice DeGrasse's opinion in the Campaign for Fiscal Equity case, that we, the New York State Legislature, are responsible. This is -- it's up to us. The Constitution is not vague on this issue.

So I think we have to take responsibility for the fact that the problems in New York City's school system are due to our refusal to take legislative action over the last twenty years to fix those problems. We are empowered to do so. We are mandated by the Constitution to do so. And it is time that we stop passing one-house bills and enact laws.

Now, I realize that sometimes you can get away with telling your constituents: Oh, we passed a bill, but the Assembly wouldn't pass our bill. This year, we have to enact some laws to make people's lives better in our districts. I respectfully submit that the voters will not be satisfied with a one-house bill, which this clearly is. It doesn't include the maintenance of effort provision that's central to the Assembly, and

it does include this privatization provision that the Assembly will clearly reject. This is a one-house bill.

And it's time -- it's June 4th - time to finish with one-house bills and pass some laws. We have to deal with the Women's Health and Wellness Act. It's not good enough to go home and tell our constituents we tried. We have to raise the minimum wage, with indexing, or we will pay the price at the polls. We have to reform the Rockefeller Drug Laws.

And, finally, it is absolutely clear that we have to do something about school governance. And it would be inexcusable and everyone who runs against an incumbent senator in this body should make a big issue of the fact that we do not address school governance if we close this session without a law.

One-house bills on any of these issues are no longer acceptable. It's time for us to step up and take responsibility given to us by the Constitution. We can fix the school governance system in the City of

New York. We have to do it through a two-house bill signed by the Governor. This does not advance the process.

I am voting no in the hopes that we will have a bill that actually can become a law before this session finishes.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

The next speaker is Senator Onorato -- Senator Montgomery. Senator Montgomery, I'm sorry, Senator.

SENATOR MONTGOMERY: I'll yield to Senator Onorato.

ACTING PRESIDENT MARCELLINO: You're the next one on the list, Senator.

SENATOR ONORATO: She wanted to close. She wants to close.

ACTING PRESIDENT MARCELLINO: Okay. Senator Onorato.

SENATOR ONORATO: Mr. President, just briefly on the bill.

Most of the comments have been made by my colleagues. I want to emphasize a little bit -- I want to say a little bit but

mean a whole lot. And it deals with the maintenance of effort.

We've been hearing that constantly throughout our debate here, but nobody has actually spelled out just exactly what the maintenance of effort is. There's no formula around. We've had a lawsuit in the State of New York, which was won by private citizens stating that the state was shortchanging the City of New York. But I think they missed the boat, because they didn't include the City of New York in that lawsuit. Because no matter what we gave the City of New York, it wasn't enough. And the City of New York relinquished its own power of adding their own funds to what we added to them.

I think we have got to come up with the formula. We have the means and the wherewithal to pass the legislation and spell out exactly what it is. I've been in this legislative body almost 20 years, and for that time we've increased aid to education every single year. It was never, ever matched in the City of New York by our maintenance of effort.

The rest of the state has their own means of funding the education. The people of the City of New York do not have a direct say in raising the funds for education. We pay our income taxes and the City Council and the mayor decide where that money is going.

I think it's high time we stepped in. We relinquished our power over 25 years ago on regulating the Board of Education. Now it's time to take it back and let them know exactly what it is that we want done with the money that we are providing for them.

And I ask you to vote no on this bill until that particular problem is addressed.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, to close for the Minority.

SENATOR MONTGOMERY: Yes, thank you, Mr. President.

I hope that I will not repeat absolutely everything that has ever been said about this legislation. But I would like to ask one question of Senator Velella, if he would yield, Mr. President.

SENATOR VELELLA: I yield.

ACTING PRESIDENT MARCELLINO: Senator Velella yields.

SENATOR MONTGOMERY: All right, thank you. Senator Velella, I'm just trying to figure out how we got the bill on our desk today. Did this come through committee, or was this a special one of those special provisions for -

SENATOR VELELLA: Was it Rules? Rules. It came through the Rules Committee. There was a Rules Committee a little bit earlier. I believe you're on Rules, aren't you?

SENATOR MONTGOMERY: No, I'm not.

SENATOR VELELLA: Oh, I'm sorry. It was reported from Rules yesterday.

I might also point out, Senator, that some comment was made a little bit earlier in the debate about the fact that we only had one day to look at this bill and examine it. But it's been in print since May 21st.

SENATOR MONTGOMERY: All right, thank you.

Mr. President, can I ask another

question of Senator Velella, if he will continue to yield?

ACTING PRESIDENT MARCELLINO: Senator, will you continue to yield?

SENATOR VELELLA: Certainly, Senator.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR MONTGOMERY: Senator, did we have prior to this, the legislation coming out -- or at least since it's been out, have you had an opportunity to hold any hearings with any groups at all regarding the provisions of this legislation?

SENATOR VELELLA: Senator - Senator, this is the result -- as I started out when I outlined the bill, this is the result of a long pattern of trying to address the educational needs of the City of New York.

Senator Padavan put together a group under his direction who held hearings, who had the Mayor come, who has held numerous hearings investigating all of the possibilities.

And you know what? We don't have

all the answers in this bill. So what we did was postpone some of the things that we couldn't solve, like do we keep the school boards or don't we. There's a mixture of opinion on that. So we've put that off for about a year, and we're going to hold further hearings to decide what should be done about school boards. So that you will have an opportunity, I will have an opportunity to decide whether we should do away with them, keep them, or change their powers.

SENATOR MONTGOMERY: All right. Thank you, Senator Velella, for that.

SENATOR VELELLA: You're welcome.

SENATOR MONTGOMERY: Let me say, Mr. President, that the -

ACTING PRESIDENT MARCELLINO: Senator Montgomery, are you on the bill?

SENATOR MONTGOMERY: On the bill.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Thank you.

The things that the bill does are troubling. That's one aspect of the problem with this legislation. But the other, even

more unsettling aspect of our debate today is that none of it, as I can see, based on this legislation or anything that we've said, relates at all in any way to improving the quality of education in the City of New York. So that is the saddest comment, I think, of all.

Now, let me just point out a couple of things. One, we are eliminating the Board of Ed as an independent voice that speaks solely on behalf of the children and education. So we now have the mayor, who essentially controls every single decision that will be made as it relates to education and the system that we will be left with.

The reason that I say that is because in rearranging -- reestablishing this -- whatever we're calling the panel, the mayor has seven members that he appoints, plus he appoints the chancellor, and the rest are appointed by the borough presidents. It seems to me that every decision, therefore, since it requires a majority vote -- the mayor clearly has the majority, the mayor controls who is appointed to any position in the board -

essentially, the mayor will always, in every instance, control every decision.

So it really doesn't matter if we can call the borough president's member or we can try and reach out to any person in that system. It will depend on whether or not the mayor allows any communication to flow from top to bottom. So that's a problem, obviously.

Obviously, we -- some -- one of our members talked about, oh, the mayor controls the fire department and the police department and all of these other departments. And yes, he does. And yes, he does say to each commissioner "You must reduce your budget by X number of dollars." And that commissioner works for the mayor, is required to respond based on the mayor's wishes.

We're now setting up a situation where the exact same process is in place for educational funding. And so we have education funding going into the city, being controlled by the mayor, with no accountability to those places -- i.e., state, the state's funding, the federal funding, even the city's own

funding.

There is no transparency, there is no accountability to those funds based on the fact that they are intended solely for education. They do not have to be spent that way, and they will not be spent that way.

And the Mayor has -- in his actions, certainly -- essentially said: I do not intend to spend education dollars solely for the benefit of those schools. And I think it's very clear.

So that's what we're doing. We're giving up any small amount of accountability that we may have. And I say it's very small.

The second thing I just want to make sure that everybody understands very clearly, in Section 13, on page 13, under Section 13 on page 13, the following wording is in this bill underlined. It is definitely to be established. "The following may be entered into by the chancellor only with approval of the panel" -

ACTING PRESIDENT MARCELLINO: Senator Velella.

SENATOR VELELLA: Senator -- just

tell me the lines she's reading from on page 13.

ACTING PRESIDENT MARCELLINO: Senator?

SENATOR MONTGOMERY: I'm reading on Page 13, line 3.

SENATOR VELELLA: Thank you.

SENATOR MONTGOMERY: "The following may be entered into by the chancellor with the approval of the panel, decided by majority vote" -- which we have already established that the mayor controls - "and after the panel shall conduct hearings: Any contract designed to lead to private operation of an entire public school, any contract for assistance in converting a public school to a charter school that will be operated by a private school, private contractor, or any contract or other arrangement offering to reimburse parents by vouchers." Or anything else that you call vouchers.

So that this bill essentially establishes a privatization process for public education in New York City. And obviously

that is totally and completely unacceptable.

I also would like to point out that in this bill on page 24, line 3, it says this sentence, this portion, this section is eliminated: "No person who is related within the third degree of consanguinity or affinity to the chancellor or to any member of the city board or to any community superintendent or to any member of a community board shall commence employment with the city or community district of which such relative is a member."

It reopens, reopens, reinstates nepotism, that which we all know was the most destructive aspect of the school systems from the community school board on up. So I cannot imagine why that would be happening at this point in time.

To make this legislation the centerpiece of our legislative initiatives, in light of the fact that we know that we are going to be losing hundreds of teachers, hundreds of superintendents -- we have schools with no science labs, schools that are dilapidated. We have teachers who are teaching without certification or out of

certification. We have so many children who speak languages that no one in that system speaks. There are so many issues that should be central to our discussion on this.

And yet we come with a piece of legislation, with a bill that is, first of all, presented without due time to deliberate on the merits and demerits of different parts of the bill. Though we may agree with some, we certainly can't agree with many of them. And we should have an opportunity to discuss this. It is a major policy issue for millions of children in the next few years, and possibly decades.

So I, Mr. President, would hope that we could be statesmen and -women enough and have enough integrity as legislators and have enough commitment to the people that we serve, especially the children, to be more deliberative and to be more accountable for what we do here as it relates to the education of our children.

And lastly, Mr. President, what we really need, what would improve the accountability, I believe, to us, to the

children, to the citizens of New York City - and, by the way, the Mayor hasn't listened to the citizens of New York City, because the citizens do not want this. This is not their major issue. That has been proven in poll after poll. And people have written to me and written to all of us and they marched on City Hall and they have said, in a unified voice, this is not what is the most important thing. School governance and the mayoral takeover is not going to improve education.

The New York State School Boards Association, that's the first thing that they said. The Association of the Big Five. All of the groups that really care and understand what it is we need to do for children, none of them talk about school governance as being a major issue. So this is shameful.

But the other thing that I think we need to do, and hopefully we will talk about and come to an agreement on, is how do we create transparency so that New York City, the Mayor and the City Council don't steal the money that we send. We cannot hope to improve the system because the money is never really

used for its purpose. Before it gets to the classroom, it is taken by the New York City municipal interest. And obviously that's what any mayor is going to do.

We should be talking about creating a system, a lockbox system, a system of some sort where all of the funds that go into the city, as they do in every other district besides the Big Five -- all of the other school districts are independent of any mayor and any of the local municipal politics that we all know is part of New York City's government.

Let's create a system of funding that is -- that provides accountability, that is clear and transparent, that we know every single dollar that comes from the state, from the city, and from the federal government for education in fact goes for that purpose.

That would, I think, improve this system as it relates to the funding. And maybe we could get more money into the system and begin to address some of the real needs that we have, that we know are the case, that we know will improve education in our city.

So, Mr. President, I'm certainly voting no on this. This is bad policy. It is not put together with all deliberation, with the input of the broadest possible citizenry. Most people -- how many people have seen this 47-page document? And certainly many of us have not had an opportunity to deliberate and to have input. So I'm certainly voting no.

And I hope that we can come together with Senator Velella -- I know he is totally committed. He has been a school board member, so you know the issues from firsthand. I've been a school board member. I know. I'm a parent now; I know some of the other side of it.

So let's all come together and put all of our expertise and experience together, put aside our politics, and try to do something that makes sense and that is right and correct for the children of New York City.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Montgomery.

Senator Velella, to close for the Majority.

SENATOR VELELLA: Mr. President, I'm going to be very brief in closing. We have already, as a courtesy to Senator Montgomery, exceeded the two-hour time limit in debate by 15 minutes. So I'm not going to stand here and try to rediscuss every issue that's been brought up.

I would only wish that we could get a videocassette of this debate and produce it to everyone who asks the question "Why don't you get things done in Albany?" We have had a recitation of everything that's not in this bill and very little debate about what is in it.

I would rather light one candle to help start to brighten up the system and give some guidance and some leadership than to stand here and point to everything that's not in this particular bill.

There are problems. There are a lot of things that were omitted. There are a lot of things that are taken care of. I was going to quote, in closing, a great Democratic president who talked about the buck stopping somewhere. But I would rather quote a good

Democratic senator, Senator Hevesi, who said it's time for somebody to be held accountable for the dollars that are being sent to the City of New York, to the educational system that is not producing what we pay for.

We need to have accountability. Can every mayor across the board, Republicans, Democrats and in-betweens, can they all be wrong? Can they all be, the mayors that are saying the system isn't working because nobody's accountable?

One of your colleagues on that side said the problem is everybody's pointing past each other. Absolutely true.

This stops the buck. It lights a candle. It gets the job done. And let's stop nitpicking. Let's get to work on solving the problem. I move the bill.

ACTING PRESIDENT MARCELLINO: Any other Senators wishing to be heard?

Seeing none, debate is closed.

Read the last section.

THE SECRETARY: Section 43. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the negative.

SENATOR VELELLA: Party vote in the affirmative.

ACTING PRESIDENT MARCELLINO: Senator Stavisky, you wish to explain your vote?

SENATOR STAVISKY: To explain my vote.

Mr. President, I generally see the glass as being half full. I'm an optimist. I don't think this bill accomplishes anything close to what Senator Velella and most of us would hope it would do. I think it was Robert Moses who said that he can get any system to work. And I happen to agree with him. And he was a Republican, not a Democrat. But Robert Moses said he can get any system to work.

I don't believe school governance is really the problem. I think the problem can be resolved with smaller class sizes, licensed teachers, parental involvement, and so on. That I think is the key.

And I vote no.

ACTING PRESIDENT MARCELLINO: Announce the results, please.

THE SECRETARY: Ayes, 37. Nays, 24. Party vote with exception.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT MARCELLINO: We will return to the reports of standing committees.

The Secretary will read the report of the Finance Committee.

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

As a member of the State Board of Real Property Services, Ifigenia T. Brown, Esquire, of Ballston Spa.

ACTING PRESIDENT MARCELLINO: Senator Farley.

Senator, excuse me one second, please.

Can we please take conversations out of the room. We've got a lot of work to do. Give a little attention, please.

Senator.

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

Let me just say the candidates that are up in the gallery, they deserve a special prize for patience, sitting up there.

And it is with regret that Senator Bruno cannot be here to nominate Ifigenia Brown, of Ballston Spa. But as the senator that shares Saratoga County with him -- and I share a little piece of the village where she -- as a matter of fact, the village is split. She's in the town of Milton, which is Senator Bruno's district.

And Senator Bruno has said it's with honor that he -- to nominate Ifigenia Brown, a distinguished attorney.

Incidentally, she's been happily married for 45 years -- she must have been married as a child -- to her husband, Paul,

who's an electrical engineer and a good friend.

She's earned her bachelor's degree from Syracuse University, attended Syracuse Law School. And she's a member of the Saratoga County Bar and the New York State Bar, and she's served as treasurer.

She has been involved in the practice of law. She was an acting police justice in the village. She's on the board of the Charlton -- or was on the board of the Charlton School, which is in my district. And she served so many years also as president of the Zonta Club, and is a very distinguished Saratoga County resident.

And it is with enthusiasm and honor that I congratulate the Governor on this appointment of Ifigenia Brown as a member of the State Board of Real Property Services.

ACTING PRESIDENT MARCELLINO: The motion is on the confirmation of Ifigenia T. Brown as a member of the State Board of Real Property Services. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. Ms. Brown is confirmed.

Congratulations.

(Applause.)

ACTING PRESIDENT MARCELLINO: Ms. Brown is joined today with her husband, Paul. Congratulations again to both of you.

The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Marietta S. Gailor, of Gansevoort.

ACTING PRESIDENT MARCELLINO: Senator Farley.

SENATOR FARLEY: Thank you. It's with enthusiasm that I nominate Marietta Gailor, of Gansevoort, or Wilton, either one. She is a reappointment, having served on the Board of Parole since 1996, and appointed by Governor Pataki.

Let me just say that Marietta is somebody that has had a great deal of experience with probation and parole since

1970. She's a person that has been eminently qualified, in training and in education, for this job.

She has served her state well. And that's the reason that the Governor has seen fit to reappoint her. She's a graduate of Russell Sage College right here in Troy, New York. She is married and an outstanding resident of Saratoga County, and somebody that has truly been eminently qualified in this because she has worked for a number of years in this field and has served with distinction.

It is with enthusiasm that I urge the nomination of Marietta Gailor to serve on the Board of Parole for the State of New York.

ACTING PRESIDENT MARCELLINO: The motioning is on the nomination of Marietta S. Gailor to serve on the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The confirmation is affirmed.

Congratulations, Ms. Gailor, and much success.

(Applause.)

ACTING PRESIDENT MARCELLINO: The Secretary will read.

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT MARCELLINO: Senators, if you would, we've got people up there who have been waiting for quite a while to get confirmed. If we could just go through these.

SENATOR OPPENHEIMER: I just wanted to register my -

ACTING PRESIDENT MARCELLINO: I know. Well, they've been sitting up there for hours, and their confirmation we have to go through. Just let us go through that and we'll do the other business as well. Thank you.

The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, G. Kevin Ludlow, Esquire, of Clayville.

ACTING PRESIDENT MARCELLINO: Senator Meier.

SENATOR MEIER: Thank you, Mr. President. It's with great pleasure that I move the confirmation of G. Kevin Ludlow, a resident of Clayville, in my Senate district, as a member of the State Board of Parole.

The Parole Board is an organization that really does require a great deal of balance in the way one looks at complicated issues. Parole Board members are charged with both protecting society and with carefully examining the records of persons who are in the state correctional system to determine their progress and indeed if it is warranted to release them back into society.

It requires someone with experience in many features of life. It requires someone with almost, indeed -- or with a judicial temperament. And Kevin Ludlow, I'm confident, because I've known him for so long -- almost 25 years -- has these qualifications.

Kevin, like myself, has spent a great deal of time as a small-town lawyer engaging in general practice. That is one of the professions in this life where one gets to see many aspects of life. You're with people

during the proud and happy moments of their life, when they're closing their homes, when they're adopting their children, when good things are happening to them, and you're with them through the bad times in their life.

And that's the kind of law that Kevin Ludlow has practiced and where he's gained the respect of people in his profession and of people in his community.

And I might add that among his broad experience as a practicing attorney has been service to my two distinguished predecessors in this body, to Senator William R. Sears and to Senator James H. Donovan, where he certainly learned the legislative process here as well as the criminal justice system.

As I say, he has a deep experience in a lot of aspects of life. And it's always encouraging to know, when we deal with appointees, that they have activities outside of legal or political life. And in addition to his legal service and his service to his political party, Kevin Ludlow readily gives of his time and talents to community

organizations, to his church, and to others around him.

He is well-respected. I am proud to say that he is my friend. I am confident to say that he has the kind of judgment and discernment that will serve him well as a member of the Board of Parole.

And, Kevin, good luck to you, and I am very proud to move your nomination.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, I rise to compliment Senator Meier for his assistance in making this nomination happen. Senator Meier, as a member of the Crime Victims, Crime and Corrections Committee, was a key advisor to Governor Pataki in making this selection. And that I compliment both Senator Meier and the Governor.

Many years ago -- it seems not so long ago, but it was over twenty years that I first met Kevin Ludlow, worked with him in the Assembly and in the Legislature. That he

certainly deserves this. And I want to compliment Senator Meier again for moving this nomination.

ACTING PRESIDENT MARCELLINO: The motion is on the nomination of G. Kevin Ludlow to serve on the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it, and Mr. Ludlow is confirmed.

Congratulations, and we wish you well.

(Applause.)

ACTING PRESIDENT MARCELLINO: The Secretary will read.

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

ACTING PRESIDENT MARCELLINO: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, it is with special pride and honor that I rise to place in nomination -- for renomination to the Parole Board Vanessa McCarthy.

That Commissioner McCarthy has been exemplary of a great American success story. As a young girl emigrating with her family from Jamaica -- that's Jamaica the country, not Jamaica, Queens -- coming from Jamaica with her family to build a better life in America. A graduate of our own State University of New York, the first college graduate coming from her family. Worked hard through college and into law school. Worked with us in the Legislature, both in the Senate and in the Assembly.

She is up for renomination, was nominated and confirmed by this house in July of 1996. That she has served with great distinction as a member of the Board of Parole.

Also, utilizing her expertise and knowledge of criminal law, Governor Pataki appointed Commissioner McCarthy to be a member of the Megan's Law Task Force. That she has

served with distinction on the Parole Commission and certainly deserves reappointment.

Accompanying all this professional work, she is a working mother of two young children. She also has the cross of being a golf widow; but nonetheless, she is bearing that extremely well.

That, Mr. President, I move the nomination, a nomination that we all should be very proud of voting for. Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

The motion is on the confirmation of Vanessa A. McCarthy to serve on the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: All opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. The nomination is confirmed.

Congratulations, Ms. McCarthy.

(Applause.)

ACTING PRESIDENT MARCELLINO: Ms. McCarthy is here with her husband, Justin; daughter, Meredith; and son, Justin the 3rd.

The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Gino Michael Nitti, Esquire, of Rochester.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, before us is a new nomination to the Parole Board, Gino Nitti, from Rochester, in Monroe County. From my own region, as I represent, with Senator Alesi and Senator Maziarz and Senator Dollinger, the Monroe County area.

That Governor Pataki reached out to find someone who is on the front lines of criminal justice in seeking Mr. Nitti to serve in this capacity.

Mr. Nitti, Gino, has served as the district attorney, assistant district attorney, with great distinction for Monroe County for many years, over a decade. That he is currently the chief prosecutor of the arson

division, responsible for screening and prosecuting all arson crimes in Monroe County.

He also has served for many years as a major felony prosecutor, one who's entrusted with the most significant crimes to prosecute, and has done that with distinction.

He too is a graduate of the SUNY University system, which we can be very proud of, a graduate of the Albany Law School, and one who has certainly deep roots in New York State. He's served with great distinction on very important prosecutorial tasks and will be an excellent component to the Parole Board.

With that, Mr. President, it is with honor that I move his nomination.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

The motion is on the nomination of Gino Michael Nitti to serve on the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. The confirmation is approved.

Mr. Nitti is here with his wife, Joelle, and his children, Giana and Louis; his parents, Louis and Adele; and his in-laws, Jean and John DiMartino.

Congratulations, Mr. Nitti.

(Applause.)

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Edward R. Mevec, Esquire, of Peekskill.

ACTING PRESIDENT MARCELLINO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

Senator Leibell is out of the chamber at another meeting, legislative meeting, and he asked me if I would move the nomination of Edward Mevec, who is eminently qualified for this job.

He's a new appointment and has a significant legal background. And I compliment the Governor on this appointment.

And Senator Leibell wishes him the best of luck and wishes.

And with that, I'd like to move his nomination.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

The motion is on the nomination of Edward R. Mevec, to serve on the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. The nomination is confirmed.

Mr. Mevec is joined by his wife, Barbara Vines; his two sons, Benjamin and Daniel; his mother, Margaret Mevec; and his mother-in-law, Carolyn Vines.

Congratulations, Mr. Mevec.

(Applause.)

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: As a member of

the State Board of Parole, Brion D. Travis, of Garrison.

ACTING PRESIDENT MARCELLINO: Senator Farley.

SENATOR FARLEY: Again, Senator Leibell is still out of the room, and he's asked me to move the nomination of Brion Travis, who is the big cheese in parole here. He is the chairman of the New York State Parole Board.

This is a reappointment. He's served with distinction and has done an outstanding job.

And again, it is with enthusiasm that Senator Leibell and myself move the nomination of Brion Travis.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. Mr. President, I again rise to speak on the confirmation, the nomination of one of the members of the Parole Board.

As we have confirmed today individual members, they are certainly with

great notoriety and distinction each and every one of them, but come together and serve as a board to do extremely important work on the front lines of the criminal justice system.

Earlier today I had a meeting with Governor Pataki about some issues related to crime and corrections. And that the Governor certainly has taken great strides over these last eight years -- with the Legislature's support, in most cases -- in fighting the war on crime. And in many cases we have seen tremendous successes, particularly the area of the reductions of violent crime.

Key to the success of the legislation that we produce here is having good people on the front lines in the police work, in the prosecution work and, yes, in the work relevant to parole. Brion Travis, as chairman of the Parole Board, has served in a double capacity. Certainly as a commissioner himself, he's served with extreme distinction.

But he should be very proud of the fact that he has put together, in conjunction with Governor Pataki, a wonderful team working at Parole, a team that is a dedicated team,

one that works extremely hard, and one that the chairman of the board, Brion Travis, should take a special pride in.

I did not want his confirmation to go by without making a special mention of his efforts, that he has worked extremely closely with key members of this house to fashion legislation that will help and does help reduce crime, establishes a zero tolerance for violence in this state.

And that, Brion -- I can call you Brion because I'm very proud to know you and call you as a friend -- that you have done great work as chairman of the Parole Board. And it's a confirmation that each and every member of this body should be very pleased in confirming.

Thank you very, very much, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Nozzolio.

The motion is on the nomination of Brion D. Travis -

Senator Stafford, I'm sorry.

SENATOR STAFFORD: Mr. President,

I'm going to stand here and I'm going to talk a half hour about all seven nominees that appeared this morning. But on second thought, I guess I better not do that.

ACTING PRESIDENT MARCELLINO: Bless you, sir.

SENATOR STAFFORD: Thank you. Thank you.

But I do want to say, once again, all seven appearances, all seven appearances, fine individuals -- some who were reappointments, others initial appointments - that I am sure will do a tremendous job in their responsibility.

And I do have to say, as I've stood here so many times, fortunately, that the seven appearances that we had today in front of the Senate Finance Committee certainly augurs well for New York State. And I commend them all and certainly join in moving their confirmation.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Stafford.

The motion is on the confirmation of Brion D. Travis as the chairperson of the

New York State Parole Board. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: All opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. Mr. Travis is confirmed.

And we congratulate you, sir.

(Applause.)

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: As a member of the New York State Financial Control Board, Elizabeth Weir Factor, Esquire, of New York City.

ACTING PRESIDENT MARCELLINO: Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President. I rise in support of this nomination and advance the confirmation for Elizabeth Weir Factor.

Elizabeth is a noted attorney who started at Phillips Academy in Andover, Maine, where she graduated in June of 1986. She went

to Columbia University for her master's and received her juris doctor's degree from Yale Law School in 1994.

She currently serves as a tax counsel and investment banker and advisor to Fortune 500 and Fortune 100 companies on tax and accounting base structures.

I believe that Ms. Factor will be a true asset and a valuable asset to the Financial Control Board of the state, and I would thank the Governor for sending us such a highly qualified nominee.

And therefore I vote yes.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Morahan.

The motion is on the nomination of Elizabeth Weir Factor, Esquire, to serve on the New York State Financial Control Board. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. The nomination is confirmed.

And we wish her congratulations.

The Secretary will read.

THE SECRETARY: As a member of the Buffalo and Fort Erie Public Bridge Authority-Peace Bridge, Paul J. Koessler, of Buffalo.

As a member of the Niagara Frontier Transportation Authority, Theodore Katra, of Lackawanna.

As a banking member of the State Banking Board, Clifford M. Miller, of Hurley.

As a public member of the State Banking Board, Jeffrey Hwang, of New York City.

As a member of the Small Business Advisory Board, Kevin M. O'Bryan, of Troy, and Ross M. Weale, of South Salem.

As a member of the Allegany State Park, Recreation and Historic Preservation Commission, Dalton J. Burgett, Esquire, of Bemus Point.

As a member of the Veterans Affairs Commission, Karl W. Kristoff, of Williamsville.

As a member of the Board of

Directors of the New York Convention Center Operating Corporation, Joseph E. Spinnato, of Muttontown.

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

As members of the Advisory Council on Alcoholism and Substance Abuse Services, James G. Cloonan, of Oswego, and Brian Dale Ingraham, of Binghamton.

As a member of the Advisory Council on the Commission on Quality of Care for the Mentally Disabled, Elizabeth Wickerham, of Saratoga Springs.

As a member of the Minority Health Council, Jose A. Goris, M.D., of New York City.

As a member of the Public Health Council, Jose A. Goris, M.D., of New York City.

As a member of the State Camp Safety Advisory Council, Douglas W. Pierce, of Roslyn.

As members of the State Hospital

Review and Planning Council, Michael H. Barnett, Esquire, of New York City, and J. Patrick Sheehan, of Larchmont.

As a member of the State Fire Prevention and Building Code Council, Robert Hankin, of Poughkeepsie.

As a member of the Board of Visitors of the Capital District Psychiatric Center, Myrna Sanders, of Albany.

As a member of the Board of Visitors of the New York State Home for Veterans and their Dependents at St. Albans, Elizabeth R. Carr, of Glen Oaks.

As a member of the Board of Visitors of the Staten Island Developmental Disabilities Services Office, Robert McCarren, of Staten Island.

As a member of the Board of Visitors of the Taconic Developmental Disabilities Services Office, Joan E. Klink, of Fishkill.

And as a member of the Board of Visitors of the Western New York Children's Psychiatric Center, Nancy Rogers, of Darien Center.

ACTING PRESIDENT MARCELLINO: The motion is to approve the nominees as read by the clerk. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: All opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. The nominees are confirmed.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: Yes, there is, Senator. We have some votes that want to be changed, and Senator McGee has a motion.

SENATOR McGEE: Mr. President, on page number 50 I offer the following amendments to Calendar Number 1026, Senate Print Number 7146, on behalf of Senator LaValle, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: The amendments are received and adopted, and the

bill will retain its place on the Third Reading Calendar.

SENATOR McGEE: Mr. President, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: On behalf of Senator Volker, Senate Bill Number 2581A.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR McGEE: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Stavisky.

SENATOR STAVISKY: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 1055, Senate Bill 4606B.

ACTING PRESIDENT MARCELLINO: Without objection, so ordered.

SENATOR STAVISKY: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer.

SENATOR OPPENHEIMER: I request unanimous consent to be recorded in the negative for the same bill, 1055.

ACTING PRESIDENT MARCELLINO: Without objection, so ordered.

Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I would like to announce a conference of the Senate Minority members immediately in the Minority Conference Room.

ACTING PRESIDENT MARCELLINO: There will be an immediate conference of the Minority in the Minority Conference Room.

SENATOR MONTGOMERY: For all of those who are listening -

ACTING PRESIDENT MARCELLINO: For all of those who are listening or not listening, they should -

SENATOR MONTGOMERY: -- would they please -- all of the members, will they please -

ACTING PRESIDENT MARCELLINO: All four of us that heard you, we'll be there.

Senator Skelos.

SENATOR SKELOS: It's my understanding that the conference is going to be a half hour. So the Senate will stand at ease until 3:15.

ACTING PRESIDENT MARCELLINO: The Senate will stand at ease, on motion, till 3:15.

(Whereupon, the Senate stood at ease at 2:45 p.m.)

(Whereupon, the Senate reconvened at 4:13 p.m.)

ACTING PRESIDENT VOLKER: Senator Morahan.

SENATOR MORAHAN: Yes, thank you, Mr. President. I just want to announce there's going to be an immediate meeting of the Rules Committee in the Majority Conference Room.

And the Senate will continue to stand at ease.

ACTING PRESIDENT VOLKER: The Senate will continue to stand at ease.

A Rules Committee meeting in the Majority Conference Room. Thank you, Senator Morahan.

(Whereupon, the Senate stood at ease at 4:14 p.m.)

(Whereupon, the Senate reconvened at 4:29 p.m.)

ACTING PRESIDENT VOLKER: The Senate will be in order.

Senator McGee.

SENATOR McGEE: Mr. President, on behalf of Senator Stafford, I wish to call up Print Number 7001, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT VOLKER: The Secretary will read.

THE SECRETARY: Calendar Number 1231, by Senator Stafford, Senate Print 7001, an act making certain findings.

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

ACTING PRESIDENT VOLKER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR McGEE: Mr. President, I now offer the following amendments.

ACTING PRESIDENT VOLKER: The amendments are received and adopted.

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT VOLKER: You're welcome, Senator McGee.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1055.

ACTING PRESIDENT VOLKER: Unanimous consent to be recorded in the negative, Senator Dollinger, on 1055?

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT VOLKER: Without objection.

Senator Smith.

SENATOR ADA SMITH: Thank you, Mr. President. I too wish to have unanimous consent to be recorded in the negative on Calendar Number 1055.

ACTING PRESIDENT VOLKER: Without objection, Senator Smith in the negative on Senate 1055.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I also would like unanimous

consent to be recorded in the negative on Senate 1055.

ACTING PRESIDENT VOLKER: Senator Krueger, without objection, negative on Calendar Number 1055.

Senator Morahan.

SENATOR MORAHAN: Mr. President, could we return to reports of standing committees. I believe there's a report from the Rules Committee at the desk.

ACTING PRESIDENT VOLKER: Yes, there is.

Read the report.

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

Senate Print 870, by Senator McGee, an act to amend the Vehicle and Traffic Law;

1167, by Senator McGee, an act to amend the Vehicle and Traffic Law;

1328A, by Senator Wright, an act to amend the Tax Law;

3175A, by Senator Maziarz, an act to amend the Executive Law;

4068, by Senator McGee, an act to

amend the Vehicle and Traffic Law;

5603A, by Senator Leibell, an act to amend the Retirement and Social Security Law;

5780, by Senator Brown, an act to amend the Highway Law;

6024A, by Senator Maziarz, an act to amend the General Municipal Law;

6339, by Senator McGee, an act to amend Chapter 558 of the Laws of 1999;

6503, by Senator Bonacic, an act to change the jurisdiction;

6707A, by Senator Farley, an act to amend the Public Officers Law;

6793, by Senator Spano, an act to amend Executive Law;

7139A, by Senator Wright, an act to amend the Vehicle and Traffic Law;

7351, by Senator McGee, an act to amend the Highway Law;

7415A, by Senator Trunzo, an act to amend the Uniform District Court Act;

7419, by Senator Saland, an act to amend the Criminal Procedure Law;

7442, by Senator Saland, an act to

amend the Penal Law;

7448A, by the Senate Committee on Rules, an act to amend the Education Law;

And Senate Print 7476, by Senator Nozzolio, an act to amend the Correction Law.

All bills ordered direct to third reading.

ACTING PRESIDENT VOLKER: Senator Morahan.

SENATOR MORAHAN: Yes, Madam - Mr. President.

ACTING PRESIDENT VOLKER: It's okay. Mr. President. It's okay.

SENATOR MORAHAN: Yes, Mr. President. I now move the adoption of the Rules report, please.

ACTING PRESIDENT VOLKER: All in favor of accepting the Rules report say aye.

(Response of "Aye.")

ACTING PRESIDENT VOLKER: Opposed, nay.

(No response.)

ACTING PRESIDENT VOLKER: The Rules report is adopted.

Senator Morahan.

SENATOR MORAHAN: Any other further housekeeping at the desk, Mr. President?

ACTING PRESIDENT VOLKER: No, there is none here.

SENATOR MORAHAN: Okay. Having no other business today, I would move that we adjourn until 11 o'clock on Wednesday, June 5th.

There will be a Majority conference in the Majority Conference Room at 10:30 a.m.

ACTING PRESIDENT VOLKER: On motion, the Senate stands adjourned until Wednesday, June 5th, at 11:00 a.m.

Senate Majority Conference at 10:30 tomorrow in the Senate Conference Room.

(Whereupon, at 4:33 p.m., the Senate adjourned.)