NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 7, 2004

3:10 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: In the absence of clergy, may we bow our heads, please, in a moment of silence.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 6, the Senate met pursuant to adjournment. The Journal of Saturday, June 5, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

Madam President, amendments are offered to the following Third Reading Calendar bills:

By Senator Wright, at page 16, Calendar 387, Senate Print 4890D;

By Senator Marcellino, page 21, Calendar 514, Senate Print 5861;

By myself, at page 21, Calendar Number 529, Senate Print 5738B;

By Senator Fuschillo, at page 34, Calendar 832, Senate 6960;

By Senator Robach, at page 38, Calendar 912, Senate Print 6503;

By Senator Farley, at page 48, Calendar 1049, Senate Print 6834;

By Senator Balboni, at page 56,

Calendar 1169, Senate Print 7134;

By Senator Maziarz, at page 78, Calendar 1442, Senate Print 4598A;

By Senator Hannon, at page 58, Calendar 1196, Senate Print 6484.

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

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Robach, I wish to call up Senate Print Number 6399, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 875, by Senator Robach, Senate Print 6399, an act to amend the Education Law and others.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Volker, I wish to call up Senate Print Number 6716, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 905, by Senator Volker, Senate Print 6716, an act to amend the Town Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

SENATOR FUSCHILLO: I now offer

the following amendments.

THE PRESIDENT: The amendments are received.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

On behalf of myself, please place a sponsor's star on Calendar Number 677.

THE PRESIDENT: The bill will be starred at the sponsor's request.

SENATOR BONACIC: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Senator Rath.

SENATOR RATH: Are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator Rath.

The Secretary will read.

THE SECRETARY: On page 7, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 252D and substitute it for the identical Senate Bill Number 1173A, Third Reading Calendar 130.

On page 21, Senator Farley moves to

discharge, from the Committee on Rules, Assembly Bill Number 10247A and substitute it for the identical Senate Bill Number 4779A, Third Reading Calendar 513.

On page 21, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 9045A and substitute it for the identical Senate Bill Number 5446B, Third Reading Calendar 520.

On page 24, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 9519 and substitute it for the identical Senate Bill Number 1814, Third Reading Calendar 606.

On page 28, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 9596 and substitute it for the identical Senate Bill Number 4001, Third Reading Calendar 714.

On page 35, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 6506 and substitute it for the identical Senate Bill Number 4216, Third Reading Calendar 858.

On page 36, Senator Maziarz moves

to discharge, from the Committee on Rules, Assembly Bill Number 10321 and substitute it for the identical Senate Bill Number 6710, Third Reading Calendar 872.

On page 38, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 9798 and substitute it for the identical Senate Bill Number 6190, Third Reading Calendar 910.

On page 53, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 5281B and substitute it for the identical Senate Bill Number 1064B, Third Reading Calendar 1111.

On page 61, Senator Meier moves to discharge, from the Committee on Rules, Assembly Bill Number 11104 and substitute it for the identical Senate Bill Number 7101, Third Reading Calendar 1234.

On page 63, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 9670A and substitute it for the identical Senate Bill Number 7254, Third Reading Calendar 1253.

On page 67, Senator Golden moves to

discharge, from the Committee on Rules, Assembly Bill Number 10193B and substitute it for the identical Senate Bill Number 7308, Third Reading Calendar 1301.

On page 69, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 10052 and substitute it for the identical Senate Bill Number 6878, Third Reading Calendar 1321.

On page 73, Senator Dilán moves to discharge, from the Committee on Rules, Assembly Bill Number 9948A and substitute it for the identical Senate Bill Number 6423B, Third Reading Calendar 1366.

On page 77, Senator Seward moves to discharge, from the Committee on Local Government, Assembly Bill Number 8214A and substitute it for the identical Senate Bill Number 14A, Third Reading Calendar 1429.

On page 77, Senator DeFrancisco moves to discharge, from the Committee on Local Government, Assembly Bill Number 9152 and substitute it for the identical Senate Bill Number 326B, Third Reading Calendar 1431.

On page 77, Senator Farley moves to

discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 2845 and substitute it for the identical Senate Bill Number 978, Third Reading Calendar 1436.

On page 78, Senator Seward moves to discharge, from the Committee on Insurance, Assembly Bill Number 9189A and substitute it for the identical Senate Bill Number 5755, Third Reading Calendar 1445.

On page 78, Senator Maltese moves to discharge, from the Committee on Higher Education, Assembly Bill Number 9564 and substitute it for the identical Senate Bill Number 6188, Third Reading Calendar 1450.

On page 79, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 10876 and substitute it for the identical Senate Bill Number 6781, Third Reading Calendar 1451.

THE PRESIDENT: Substitutions ordered.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Wright, I wish

to call up his bill, Senate Print 1528, which was recalled from the Assembly, and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 454, by Senator Wright, Senate Print 1528, an act to amend the Real Property Tax Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

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

THE PRESIDENT: The amendments are received, Senator Farley.

Senator Rath.

SENATOR RATH: Madam President, there's a resolution at the desk by Senator Nozzolio. I'd request that the title only be read and move for its adoption.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 5395, honoring Paul D'Amico upon the occasion of receiving the 2003 Citizen of the Year Award from the Geneva Area Chamber of Commerce on June 8, 2004.

THE PRESIDENT: The question is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Rath.

SENATOR RATH: Madam President, can we please go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 6, by Senator LaValle, Senate Print 839, an act to amend the Town Law, in relation to permitting fire districts.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 104, by Senator Marchi, Senate Print 1970A, an act to amend the Environmental Conservation Law, in relation to prohibiting transloading.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 274, by Member of the Assembly Tocci, Assembly Print Number 5827, an act to amend the Labor Law and others, in relation to prohibiting

municipalities.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 296, by Senator Leibell, Senate Print 4885, an act to amend the Waterfront Commission Act, in relation to amending a ground for revocation.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

297, by Senator Leibell, Senate Print 4886, an act to amend the Waterfront Commission Compact, in relation to the grounds for revocation of a checker.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 317, by the Assembly Committee on Rules, Assembly Print Number 8752A, an act to amend the Civil Rights Law, in relation to increasing the fine.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 419, by Senator Larkin, Senate Print 5868A, an act to amend the Agriculture and Markets Law, in relation to promoting small businesses.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 456, by Senator Little, Senate Print 5869A, an act to authorize the County of Washington to lease certain parklands.

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

Read the last section.

THE SECRETARY: Section 6. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 513, substituted earlier today by Member of the Assembly Magee, Assembly Print Number 10247A, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 576, by Senator Morahan, Senate Print 59 --

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

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 651, by Senator Kuhl, Senate Print 6328, an act to authorize the County of Chemung to bond for expenses.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 675, by Senator Bonacic, Senate Print 6391, an act to amend the Private Housing Finance Law, in relation to low-income housing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

SENATOR RATH: Please lay that aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 702, by Senator Larkin, Senate Print 6515A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 705, by Senator Fuschillo, Senate Print 4793, an act to amend the Labor Law, in relation to disclosure.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 721, by Senator Bonacic, Senate Print 6393A, an act to amend Chapter 915 of the Laws of 1982 amending the Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 816, by Senator Volker, Senate Print 6622, an act to amend the General Business Law, in relation to real estate syndication offerings.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 836, by Senator Morahan, Senate Print 6269, an act to amend the Public Authorities Law, in relation to continuation.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 840, by Senator Flanagan, Senate Print 7166A, an act to amend the Public Authorities Law, in relation to tort claims.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Hoffmann, Senate Print 7148 --

SENATOR HOFFMANN: Lay the bill aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 927, by Senator LaValle, Senate Print 6811B, an act to amend the Education Law, in relation to mandatory continuing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays,

1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 936, by the Assembly Committee on Rules, Assembly Print Number 10811, an act to amend the Agriculture and Markets Law, in relation to the licensing of food processing establishments.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 960, by Senator Meier, Senate Print 7073, an act to amend the Social Services Law, in relation to authorizing the Commissioner of Health.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 965, by the Assembly Committee on Rules, Assembly Print Number 8180A, an act to amend the Labor Law, in relation to making the failure to post a statement of wage rates and supplements.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect September 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1000, by Senator Marcellino, Senate Print 6482A, an act to amend the Vehicle and Traffic Law, in relation to operation of a motor vehicle.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of September.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1004, by Senator Padavan, Senate Print 7164, an act to amend the Vehicle and Traffic Law, in relation to the production of and the assessment of a surcharge for distinctive "Discover Queens" license plates.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1015, by Senator Bonacic, Senate Print 6351, an act to authorize approval of certain

transportation contracts.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1059, by Senator Maziarz, Senate Print 510B, an act to amend the Education Law --

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

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1090, by Senator DeFrancisco, Senate Print 4372B, an act to amend the Real Property Law, in relation to associate real estate brokers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1100, by Senator Skelos, Senate Print 2594A, an act to amend the Public Health Law, in relation to providing for a sixth-grade requirement.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1153, by Senator Flanagan, Senate Print 3583, an act to amend the Election Law, in relation to polling places in Suffolk County.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1158, by the Assembly Committee on Rules, Assembly Print Number 9223, an act authorizing the Commissioner of General Services to sell and convey.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

Senator Rath.

SENATOR RATH: Point of information. I'd like to inquire if Calendar

1004 has left the house. We'd like to reconsider the vote by which it was passed.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1004, Senate Print 7164 --

SENATOR SCHNEIDERMAN: Lay it aside.

SENATOR MONTGOMERY: I would like to reconsider the vote --

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside, Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

THE SECRETARY: Calendar Number 1207, by Senator Wright, Senate Print 1065, an act to amend the Education Law, in relation to the eligibility of military personnel.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1211, by Senator Mendez, Senate Print 3363B, an act to amend the State Finance Law, in relation to performance.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1223, by Senator Little, Senate Print 6464, an act to amend the Education Law, in relation to the definition of "children"; to amend the Military Law, in relation to extension of

benefits.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Little, to explain your vote.

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

This is a very important vote that we're taking today. And it's a vote that shows our support of our military, particularly our National Guard who are serving on foreign land today.

This bill increases the salary of National Guard. It builds upon Patriot Plan No. 1 and adds an increase in salary to them of $100 a day to $125 a day, a significant amount of money, a 25 percent increase to those in our National Guard who are serving in a war zone.

This cost amounts to about $3 million for the State of New York,

certainly a small amount of money for the price that these families are paying, the sacrifices that they are making. It also helps with extra compensation that they are getting where they will not be taxed from it, and does a few other things to help the families of our military National Guard who are serving abroad.

So I'm very pleased to sponsor this bill today and very pleased to have the support of all of the colleagues of this chamber.

Thank you.

THE PRESIDENT: Senator Little, you will be so recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1301, substituted earlier today by Member of the Assembly Markey, Assembly Print Number 10193B, an act to amend the General Municipal

Law and the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1339, by Senator Morahan, Senate Print 6029B, an act to amend the General Municipal Law and the Volunteer Firefighters' Benefit Law, in relation to expanding.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1449, by Senator Maziarz, Senate Print 6074A, an act to amend the Tax Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 829, by Senator Fuschillo, Senate Print 6611A, an act to amend the General Business Law and the Abandoned Property Law, in relation to the acceptance.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Yes, lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1303, by Senator Rath, Senate Print 66 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1315, by Senator Marcellino, Senate Print 5506A, an act to amend the Environmental Conservation Law and others, in relation to establishing a water pollution control.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 16. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1320, by Senator Libous, Senate Print 6831A, an act to amend Chapter 412 of the Laws of 1990 relating to authorizing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1347, by Senator Alesi, Senate Print 6591, an act to authorize the County of Monroe to convey.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1357, by Senator Nozzolio, Senate Print 6906A, an act to amend the General Municipal Law, in relation to authorizing.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

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

Senator Duane.

SENATOR DUANE: Thank you, Madam President. If I could have unanimous consent to be recorded in the negative on Calendar Number 1339.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative.

Senator Rath.

SENATOR RATH: Yes, Madam President. Can we please go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

104, by Senator Marchi, Senate Print 1970A, an act to amend the Environmental Conservation Law, in relation to prohibiting.

THE PRESIDENT: Senator Schneiderman.

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

THE PRESIDENT: You may proceed on the bill.

SENATOR SCHNEIDERMAN: This is a piece of legislation that prohibits the transloading of solid waste or hazardous waste at any facilities in Richmond County in Staten Island, unless that waste originates in Richmond County.

And I appreciate Senator Marchi's advocacy on behalf of his constituents, but none of us want to have transfer stations that are involved in transferring hazardous waste or solid waste that originates somewhere else.

Unfortunately, we don't really have a functional solid waste disposal plan in the City of New York at this time. It is in fact well known, and the Senator is one of the world's leading experts on this, that it's

really -- since the closing of Fresh Kills, we've never come up with an alternative way to dispose of New York City's garbage.

So I am, with all due regard for the most respected member of this house, going to vote no on this, because I think that this limits unfairly the city's flexibility. I shouldn't have to tell my constituents we're putting a transfer station in West Harlem but we're transporting garbage that is generated from the Bronx or from Brooklyn while Staten Island is immune.

So I think that unless everyone participates in this effort and everyone shares equally in the burden of trying to accommodate the massive crisis we have in the city's inability to develop a solid waste disposal program, it's not going to work. So I will be voting no on this.

I think the residents of Staten Island should be treated the same as everyone else. If that's where the city wants to put a transfer station, they should be involved in the same debate, over whether it is the right location or not, as all of my constituents.

Thank you, Madam President.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: No, I understand and sympathize completely with the remarks made by my colleague.

But the fact is that for over forty years, we've been receiving over 13,000 tons of garbage every single day. And you're absolutely correct; I would support any reasonable plan that provides for a better arrangement. But I don't -- you haven't slammed the door on that either. In fact, you invite that.

So with the generous attitude and sympathetic attitude taken by my colleague, I believe this bill can pass, and without presenting an immediate threat. And if it does, ways and means will be employed to cope with it.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes, Madam President. I would also like to speak on this bill, if I may.

It is part of a complex situation, as Senator Schneiderman has said. But it also

involves the basic needs of Staten Island and Richmond County. We are now trying to find out in Staten Island why there is a greater preponderance of children in special education and adults with different forms of cancer.

Now, nothing has been proven. But they are now looking into the possibility of this waste that has accumulated over the years, as well as power plants. So on this issue, I would agree with Senator Marchi.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 2. Senators Duane and Schneiderman recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Hoffmann, Senate Print 7148,

an act authorizing the Town of Cicero to reinstate.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Yes, Madam President. This would ordinarily not seem like an earthshaking matter, but it is unfortunately symptomatic of a problem that we have in current civil service law.

It's necessary for us to pass special legislation reinstating a member of a police department because she is time-barred, due to her age, from reinstatement to a full-time position because she took some time off and worked part-time raising children.

Unfortunately, there are many women in this state in a similar situation. And as the ranks of law enforcement personnel include more and more women who choose to take some time off or work on a part-time basis to raise their families, I think we need to be sensitive to this situation and perhaps review the entire Civil Service Law to see if perhaps we are being blatantly discriminatory.

This particular officer, Julie Thompson, began her law enforcement career as

a member of the Onondaga County Sheriff's Department and then, when she began her family, went to work with East Syracuse Police Department, that was interested in having her services on a part-time basis.

Following the birth of a daughter, she continued to work on a part-time basis for the Village of East Syracuse until September of 1997, and then accepted a part-time position with the Town of Cicero Police Department in February 1998, where she's been employed ever since.

If we are not able to make these kind of corrections, what we will do is destine large numbers of women to work many extra years to try to achieve pension benefits and retirement opportunities that their male counterparts will receive without any interruption in service.

I find it very interesting, in a letter from Ms. Thompson, she states: "Not only am I prohibited from returning to full-time work within my chosen profession, I am unable to accrue the retirement benefits I would have been eligible to receive following

reinstatement.

"At a time when my husband and I realize additional expenses as our children get older, I am unable to work more than the 1,040 hours per year as a part-time police officer. Not only are my hours limited, but at present the 13 years of service I accrued under Onondaga County Sheriff's Department Plan 552 are currently useless to me as my present retirement plan, Police and Fire, will not credit them to my account.

"Note that I have approximately four years of service credited to Police and Fire. At present, with the lack of reciprocity within my two retirement accounts, as well as my inability via statute to return to full-time competitive status, I must work for another 32 years at a part-time status at diminished pay in order to qualify for retirement benefits that will be far below a full-time retirement package."

Madam President, I believe we are doing a tremendous disservice to working women in this state who have chosen law enforcement in their careers if it requires unique state

legislation and a home rule message from various municipalities in order to correct the system. And I certainly hope that we can turn our attentions to this situation and address the disparity sometime in the not-too-distant future.

Thank you for your indulgence.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 960, by Senator Meier, Senate Print 7073, an act to amend the Social Services Law, in relation to authorizing the Commissioner of Health.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you,

Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR SCHNEIDERMAN: I actually rise to thank Senator Meier for introducing this bill.

This directs the Department of Health to apply for a federal waiver to Medicaid rules, which will enable New York State to provide, in people's homes, services for elderly individuals who would otherwise require nursing-facility care.

This will save substantial amounts of money, and it also is a more humane way for many of our senior citizens to live out their last years.

I would also like to mention that this is one element of a series of proposals that Senator Paterson announced in March in his report "Changing the Paradigm: Protecting Disadvantaged New Yorkers' Access to Health Care with Efficiency, Accountability and Flexibility."

We have a lot of other issues to address with regard to New York's Medicaid

program. Long-term care is certainly one of the two most expensive components. And Senator Meier takes a good step with this bill towards dealing with one aspect of that issue.

But I hope that before we adjourn this session we will deal with the crisis in Medicaid funding in this state and the crisis for local governments around the state. There was a resolution calling on the federal government to take action last week. But there is more we can do at the state level.

So for those of you who have not read the best-selling report by Senator Paterson, "Changing the Paradigm: Protecting Disadvantaged New Yorkers' Access to Health Care with Efficiency, Accountability and Flexibility," copies are available.

We have more work to do, but this is a good first step. So I will be voting yes and urge everyone, including Senator Maziarz, to do likewise.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

Due to Senator Schneiderman's

eloquence, I now think that my bill is even a better idea than when I introduced it. So thank you, Senator Schneiderman.

This is a bill that did come directly out of the work of the Medicaid Reform Task Force. We were approached during the course of the forum that we held in Binghamton by members of the Center for Disability Rights who wanted to talk about the very issue that this bill addresses. And we have been working with that group since last fall to put this bill together.

This bill addresses a fundamental flaw in Medicaid which does two things, that drives the cost of Medicaid up and deprives people with disabilities who would like to live independently of the ability to do that.

We believe that the public dollars that are placed into Medicaid should not be used as a force to put people in nursing homes. Those dollars should be used to liberate people and to permit them to live independently.

This is really a bill that incorporates some principles that I think, as

we continue this discussion about Medicaid, need to be looked at. We should be funding the medical care of people as opposed to funding institutions. We should be providing greater consumer choice. And that permits good old-fashioned market forces to get into play, to produce both decreased costs and increased quality, just as it happens throughout the rest of the economy.

One final note that I would like to make as we talk about going forward on this Medicaid debate. The Senate led the way with a task force report in which both sides of the aisle participated. The Minority made some additional suggestions in this house. The Governor has a working group that's made a report and some suggestions. The Assembly Minority issued a report and made some suggestions. And all of us have legislation.

Someone's missing here. Someone's missing here. And I really think they ought to get engaged with this debate.

Medicaid is on a path that cannot be sustained financially in this state unless we rein it in. The people who rely on

Medicaid for their medical care deserve to have a Medicaid system that is more patient-centered and has consumer choice. And the taxpayers who pay for this at both the state and the county level deserve that the medical care they pay for for the folks who rely on Medicaid be addressed with common sense and with attention to the quality of care that we get at the end.

So I thank the members of the Minority who are going to join us on this. I thank my colleagues on the Medicaid Task Force. And I thank Senator Skelos for the assistance which he gave us in bringing this bill to the floor today.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1004, by Senator Padavan, Senate Print 7164, an act to amend the Vehicle and Traffic Law, in relation to the production.

THE PRESIDENT: Senator Montgomery.

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

THE PRESIDENT: You may proceed on the bill.

SENATOR MONTGOMERY: Yes, I would just like to compliment my colleagues -- neither of them are here, so they won't hear me. But I would like to say that this is this is a good bill. I certainly intend to support it.

However, I just want to point out that there are five boroughs in the City of New York, and we would like all of them discovered. This is really an economic development legislation. And it should encompass all of us, all of those of us who represent the city -- i.e., Discover Brooklyn, Discover Manhattan. Although I shall not

speak for Manhattanites, because they have plenty of attention themselves. In fact, people call Manhattan "the City," but it's not so.

So the only consideration that I would like made in this regard is that we have a bill that includes the whole of New York City, each borough distinctly, that says "Discover our borough." And certainly those -- since a large numbers of the inmates also come from Brooklyn, they will be making these license plates. I'm sure that those from Brooklyn will wonder what happened to their license plate.

So that's the one request that I make. And hopefully we can consider such legislation in this house very, very soon. And I'm certain that the Brooklyn delegation will be coming forth with the legislation. But I support this bill as well.

Thank you, Madam President.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1303, by Senator Rath, Senate Print 6639, an act to amend the Family Court Act, in relation to juvenile photographs.

SENATOR MONTGOMERY: Explanation.

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

SENATOR RATH: Yes, Madam President.

This bill was introduced at the request of the Division of Criminal Justice Services. The Family Court Act presently does not allow submission of alleged juvenile delinquents' photographs or palmprints to be sent to the Division of Criminal Justice Services.

And it was requested that this be allowed because it is allowed and used in the

adult system, and it can be very useful as an initial identification, so that some people can be ruled out as not being involved. And they felt that it was very important they have that extra tool.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I would like to ask a question of the sponsor.

THE PRESIDENT: Senator Rath, will you yield for a question?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed with a question, Senator Montgomery.

SENATOR MONTGOMERY: Yes, Senator Rath. Thank you.

I would like to be a little bit more assured as to the extended use of those photographs. Are those photographs ever going to be available for just broad-scale lineup purposes?

SENATOR RATH: No, they are going to be kept separate and confidential. That's what we're advised by the Division of Criminal

Justice Services, that they will be kept separate and confidential. And actually, it's in the statute.

SENATOR MONTGOMERY: Madam President, on the bill. I'll just make a comment on the bill.

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

SENATOR MONTGOMERY: Yes, I see that the language is in this bill that speaks to confidentiality and the exclusive possession of this agency.

It has just been my experience, Madam President, that law enforcement officials have been known to go into high schools and request copies of their yearbooks to use those photos in the lineup identification process. And also they have been known to take young people out of their school, without consent of their parents, to use them in lineups.

So that is why, when I see that you're now forwarding photographs, you're including photographs as well as forwarding them to the juvenile justice services agency,

I'm concerned that those photos might be made available at some point in time to local law enforcement or otherwise, and essentially jeopardize young people just because the photo is there and the agency has access to them.

So that is my concern. And I'm just reluctant to support this legislation. It's based on my experience with law enforcement and how they handle these photos, how they have handled them in the past.

Thank you, Madam President.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Rath, that completes the

controversial reading of the calendar.

SENATOR RATH: Madam President, if we could stand at ease for a few moments.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar 1449, Senate Bill 6074A.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative, Senator Little.

SENATOR LITTLE: Thank you.

THE PRESIDENT: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:00 p.m.)

(Whereupon, the Senate reconvened at 4:13 p.m.)

ACTING PRESIDENT McGEE: Senator Johnson.

SENATOR JOHNSON: Madam President, I'd like to announce an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: There

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

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:14 p.m.)

(Whereupon, the Senate reconvened at 4:36 p.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, would you please recognize Senator Morahan.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President. On page 78 I offer the following amendments to Calendar 1446, Senate Bill 5827, and ask that the bill retain its place on the Third Reading Calendar.

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

SENATOR MORAHAN: On behalf of Senator McGee, on page 78 I offer the following amendments to Calendar 1444,

Assembly Bill Number 4731A, and I ask that the bill will retain its place on the Third Reading Calendar.

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

SENATOR MORAHAN: On behalf of Senator Flanagan, I wish to call up Calendar 1308, Assembly Print Number 345.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1308, by Member of the Assembly Christensen, Assembly Print Number 345, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: I now move to reconsider the vote by which the Assembly bill was submitted for Senator Flanagan's bill, Senate Bill 6689, on 5/20.

ACTING PRESIDENT McGEE: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR MORAHAN: I now move that Assembly Print Number 345 be committed to the Committee on Rules and that Senator Flanagan's Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT McGEE: So ordered.

SENATOR MORAHAN: Madam President, I now offer the following amendments, on behalf of Senator Flanagan.

ACTING PRESIDENT McGEE: The amendments are received and adopted.

Senator Skelos.

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

ACTING PRESIDENT McGEE: Immediate meeting of the Finance Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing

committees, I believe there's a report of the Rules Committee at the desk. If we could have it read at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 309, by Senator Nozzolio, an act to amend the General Business Law;

745A, by Senator Kuhl, an act to amend the Tax Law;

1337, by Senator Padavan, an act to amend the General Business Law;

2297, by Senator Padavan, an act to amend the Agriculture and Markets Law;

3496, by Senator Leibell, an act to amend the Environmental Conservation Law;

3784B, by Senator Larkin, an act to amend the Penal Law;

4727A, by Senator Hoffmann, an act to amend the County Law;

5096B, by the Senate Committee on Rules, an act to amend the County Law;

5099, by Senator Volker, an act to amend the Criminal Procedure Law;

5145A, by Senator Volker, an act to amend the Criminal Procedure Law;

5530A, by Senator Gonzalez, an act authorizing the Commissioner of General Services;

5594, by Senator McGee, an act to legalize, validate, ratify and confirm;

5823A, by Senator Skelos, an act to authorize a certain joint venture;

6526, by Senator DeFrancisco, an act to authorize the Town of Camillus;

6616, by Senator Wright, an act to amend the Public Authorities Law;

6653, by Senator Volker, an act to amend Chapter 689 of the Laws of 1993;

6747, by the Senate Committee on Rules, an act to amend the County Law;

6849A, by Senator LaValle, an act to amend the Education Law;

7231, by Senator Padavan, an act to authorize the Commissioner of General Services;

And Senate Print 7343, by Senator

Saland, an act authorizing the Chatham Central School District.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, I'd like to move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could just stand at ease.

ACTING PRESIDENT McGEE: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:40 p.m.)

(Whereupon, the Senate reconvened at 5:00 p.m.)

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

Could we return to reports of standing committees, please. I understand there's a report from the Finance Committee at the desk.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read.

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

As a member of the State Liquor Authority, Edward F. Kelly, of Holmes.

ACTING PRESIDENT McGEE: Senator Johnson.

SENATOR JOHNSON: Move the nomination, Madam President.

ACTING PRESIDENT McGEE: Thank you.

Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President. I'm very pleased to rise on this nomination to speak in support of it.

First let me note that I have known Ed Kelly and his family for probably about 30 years. His son Tommy is one of my best friends. I know the family; I know them well in the community. They've been leaders in our community for -- over the course of numerous decades. And Ed had a very successful career in the private sector prior to joining this administration.

Let me say that this is a difficult organization to lead and to run. And Ed Kelly has done a superb job at that. I can tell you that I hear all the time from people who are in the industry how responsive this agency has become over the last few years, how it attempts to work with them. Also, similarly, when there are complaints from the community, how responsive they are.

I know that firsthand, because I know how many times not only myself but the staff in our office have had to call and ask for assistance, and that assistance has always

been there.

So I'm very pleased to rise on this nomination and thank the Governor for the submitting this name once again. It deserves the recognition of everyone here for the fine job that Ed has done.

Thank you.

ACTING PRESIDENT McGEE: Senator Saland.

SENATOR SALAND: Thank you, Madam President. I too rise in support of this nomination.

For those who weren't at the Finance meeting earlier, you would have heard people from a variety of areas from throughout the state speaking only in laudatory terms about the responsiveness, not only of the chairman, but of the agency that he chairs.

I have known Ed for a number of years. Coming from Dutchess County, perhaps not the 30 years that Senator Leibell has known and been friendly with. But suffice it to say that he and his family have a history of community service.

Ed worked tirelessly on behalf of

his community, both in elective and appointed positions, was a successful businessman, also brought the touch of concern of, I'm sure, life in the private sector to the chairmanship of the SLA.

And I can only echo what I said in the course of the Finance Committee meeting: In my eyes, he's batting a thousand. When we've had problems in one or another community in my district, the responsiveness was absolutely extraordinary, the matter was dealt with uniformly, to the relief of whichever community was impacted, and the licensee was appropriately punished and, at times, licenses removed.

That's the kind of responsiveness I think that we all seek from any agency. And certainly when the community has something that's troublesome and festering and noxious in its midst, to have that kind of responsiveness goes a long way to improving the quality of life of the entire community.

So I too commend not only the chairman but also the Governor for having the wisdom to have not only made this appointment

but now to offer it to us again as a reappointment.

ACTING PRESIDENT McGEE: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

The Senate Committee on Investigations unanimously approved the nomination of Chairman Kelly. Today he appeared before that committee, as he has done in the past.

I have known Ed Kelly for a long time and, as other members of this chamber, have nothing but the best things to say about someone who runs a real solid, professional agency. Having come from the retail side of the business, he has a unique perspective of the problems that small businesses face across this state and has put that in place as a member of the SLA, and since 1999 having served as chair of the SLA.

So it's my pleasure to join with my colleagues in seconding the nomination of someone who has made us proud and has made the Governor proud by doing an outstanding job as

the chairman of the State Liquor Authority.

Thank you, Madam Chair.

ACTING PRESIDENT McGEE: Thank you.

The question is on the confirmation of Edward F. Kelly, of Holmes, for a term to expire April 12, 2007, as a member of the State Liquor Authority. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Mr. Edward Kelly is hereby confirmed as a member of the State Liquor Authority.

Mr. Kelly is here with us in the chambers today. And may I extend our congratulations to you, Mr. Kelly, on your reappointment.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a member of the Port Authority of New York and New Jersey,

Christine Ferer, of New York City.

As a member of the Port of Oswego Authority, Richard J. Tesoriero, of Oswego.

As a member of the Administrative Review Board for Professional Medical Conduct, Therese G. Lynch, M.D., of Pittsford.

As a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, Eleanor K. Mullaney Coughlin, of Saratoga Springs.

As a member of the State Hospital Review and Planning Council, Sister Joseph Mary Brecanier, of Albany.

As a member of the Minority Health Council, Malcolm D. Reid, M.D., of Briarcliff Manor.

And as a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at St. Albans, Joseph C. Thomassen, of Douglaston.

ACTING PRESIDENT McGEE: Senator Lachman.

SENATOR LACHMAN: Yes, on the confirmation of Christine Ferer, the Port Authority of New York and New Jersey.

As the ranking Democrat on the Transportation Committee, it was my pleasure to meet with her last week when she was in Albany. She's a very impressive lady. She has had experience not only as a member of the Downtown Manhattan Development Corporation, but other corporations. And she has some very interesting ideas in terms of the future of the Port of New York and New Jersey Authority.

And she has my wholehearted support.

ACTING PRESIDENT McGEE: Thank you, Senator Lachman.

The question is on the confirmation of those appointments as noted. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Those noted are hereby confirmed to the offices named.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam

President. I believe there's a bill to be reported.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 7419, by the Senate Committee on Rules, an act making appropriations for the support of government.

ACTING PRESIDENT McGEE: Without objection, the bill is ordered direct to third reading.

Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President. If we could take up Calendar 1480 at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1480, by the Senate Committee on Rules, Senate Print Number 7419, an act making appropriations for the support of government and to amend Chapter 18 of the Laws of 2004.

ACTING PRESIDENT McGEE: Senator

Morahan.

SENATOR MORAHAN: Thank you, Madam President. Is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT McGEE: Yes, Senator Morahan, there is.

SENATOR MORAHAN: Move to accept.

ACTING PRESIDENT McGEE: All in favor of accepting the message of necessity and appropriation will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The message is accepted.

The bill is before the house.

The Secretary will read.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I believe there is an amendment at the desk. I would like to waive its reading and request that I be heard on the amendment.

ACTING PRESIDENT McGEE: Reading

is waived, and you may be heard on the amendment.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

This is an amendment to the budget extender to this appropriation bill to keep the government going for a little while longer while we continue to wallow around in our inability to move forward with an actual budget for the State of New York.

This amendment really points up the severe harm that is being done to programs and to people in the State of New York because of the dysfunctionality that we accept all too easily here in Albany.

We are proposing to add back into the budget $10 million, a modest sum -- that has been cut by the Governor, and that we're about to endorse that cut by passing this extender -- to the Summer Youth Employment Program. The Governor proposed cutting this program that provides summer jobs for young people from $25 million to $15 million, a 40 percent reduction.

We have been passing budget

extenders that essentially provide a de facto endorsement of that cut. It is summer. It is time for summer jobs. These are -- this is one of the most successful programs in the state. In the year 2000, there were 50,000 summer jobs available. That went down to 32,000 jobs in 2003. We're about to cut approximately another 20,000 jobs for teenagers this summer.

Now, I don't have to tell you how much it costs to keep someone in prison. It's well over $100,000 a year. And it is widely recognized that giving troubled youth, giving youth in poor communities good experiences through summer work is a way to help prevent them from getting started on the wrong path in life.

This is a tiny amount of money to invest in the young people of our state. And I would respectfully submit that we should support this amendment, we should restore the funding that the Governor is cutting to this program. And all we're doing is proposing to make a modification to add $10 million into a provision on page 13 of this budget extender

to provide funds so that more people can have summer jobs.

These are good jobs. Many of them are camp counselor jobs or jobs working in the community. So they're also providing services to members of our community as well as receiving the good experience of the employment -- learning responsibility, learning time management and workplace expectations.

I would urge everyone here that the damage done when we continue to kick out budget extenders that passively acquiesce in the Governor's cuts to programs like this -- we're doing a disservice to all of our constituents.

So, Madam President, I would urge everyone to support this amendment. Let's restore this funding for the Summer Youth Employment Program. And let's send a message to the Governor that we're not going to go along with cuts that have such devastating long-term consequences.

If we can keep 1, 2, 10, 15 kids out of jail, we'll pay for the program. We'll

pay for the program. It's just not even a question. Let's do it. Let's do the right thing. I urge everyone to vote in favor of the amendment.

ACTING PRESIDENT McGEE: Those Senators in agreement with the amendment please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Duane, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Schneiderman, A. Smith, M. Smith, and Stachowski.

ACTING PRESIDENT McGEE: The amendment is lost.

Senator Johnson.

SENATOR JOHNSON: I'd like to explain my vote.

ACTING PRESIDENT McGEE: I haven't called for the -- this is just the amendment, Senator Johnson. If you'll wait for just one moment.

The amendment is lost.

The Secretary will read the last section.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: On the bill, Madam President.

ACTING PRESIDENT McGEE: The amendment is lost.

Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Thank you.

I'm sorry that we didn't restore that funding.

I actually rise right now to speak in support of Senator Bruno. Senator Bruno very candidly acknowledged, when we were last in session, that we're really not getting very much done this year in the Legislature and that we should be ashamed of ourselves. And I actually have looked into things and found substantial support for Senator Bruno's candid, accurate position.

Today is the 51st working day of the 2004 session. And I would urge that we put "working" in quotes. Including today, there are 10 scheduled session days. So when we're done with today's session, nine scheduled session days remaining. Senator Bruno told us last week in no uncertain terms

we're going to be out of here on or about the 22nd of June.

The budget is 67 days late. Today we are taking up another appropriation bill necessitated by our inability to comply with our constitutional obligations and our obligations to our constituents to pass a budget.

But I would also suggest that we're past a budget deadline, but we're rapidly approaching another deadline. There are 53 days left to the deadline set by the court in the Campaign for Fiscal Equity case.

And it may be new information to some of you, but there's a hearing in that case in front of Justice DeGrasse next Thursday at which the plaintiffs are formally putting in a request for a panel of special masters to take their place immediately and begin to prepare for what is anticipated to be our failure to pass an adequate budget to comply with the CFE decision.

What are we doing here? Well, Senator Bruno is right. We haven't done much. We've passed 535 one-house bills in the

Senate. The Assembly, ever more eager to tear up trees for no particular use, has passed 724 one-house bills that have not been acted on by our house. Only 98 bills have been signed into law by the Governor. Virtually all of those are emergency appropriations bills, local tax and revenue bills, chapter amendments, and program extenders.

So we're now here to pass a budget extender that costs the people of the State of New York, that costs the children who are not getting summer jobs, that costs all of the local governments of the state -- because again, we're appropriating another $700 million, more or less, every week for Medicaid.

And every week that goes by we fail to enact any of the reforms that have been proposed by the Senate task force, Majority or Minority, or any of the Medicaid reforms that have been proposed in the Assembly.

We can't get that money back. We could be saving millions of dollars. We're wasting millions of dollars a day of the money that our local governments need.

We also are failing in our pledge to the City of New York where we promised to restructure New York City's $2.5 billion MAC debt. That's costing the City of New York money.

So there are real consequences. And we are told that we can't do this because we can't figure out a way to come up with a formula to comply with the CFE decision.

I would urge all of my colleagues that the money is there. Senator Paterson, on March 31st, released a report where -- you know, we're condensing it to one page so there can be no question that everyone in this house at least should be aware of the fact that his proposals would generate more than enough money for us to comply with the CFE decision.

Enacting combined reporting would generate $450 million. Closing corporate loopholes, as was done in New Jersey, $310 million a year. Delaying the income tax cut for the highest income brackets, $100 million a year. Reforming the Empire Zone program, $75 million. Expanding the Bottle Bill, $168 million.

There's money there to pay so that the children in our schools in poorer communities do not have to be in inadequate facilities with an unacceptable portion of uncertified teachers, without enough books, without up-to-date computers, without laboratories, without gymnasiums.

We don't have to have that in the State of New York. We do not have to have a two-tier school system where you have some of the best public schools in the state and others that are an absolute disgrace.

And I would urge any of my colleagues who think that we're -- people from the city are being greedy, read the findings in the Campaign for Fiscal Equity decision. Read the findings. Read the testimony.

Read the testimony of people like Frank DeStefano, who's the superintendent of Community School Board 15, who spoke about the fact that he has one school that's operating at 131 percent of capacity but that he sends students to that because another school in his district is operating at 182 percent of capacity. Less than half the district's

elementary schools have a library.

Read the testimony of people like Helene Duran, who's a policy analyst for the New York City Public Advocate's Office, who issued a report called "No Room to Learn." They surveyed 43 public schools, and out of the 43, more than half, 22 of the schools' cafeterias -- and this is going on today -- are forced to run split-period lunches of 25 minutes each. Lunch runs, at one of those schools, PS 135 in Queens, from 9:40 a.m. to 2:15 p.m. That's when our kids have to eat lunch.

This would be absolutely unacceptable in most of the districts of my colleagues on the other side of the aisle. It shouldn't be acceptable in anyone's district.

So I urge, again, that my colleagues vote no on this extender. I think we have to do something more dramatic than just continuing to pass through these budget extenders where the Governor is able to just wait us out and cut programs that I think even many of my colleagues on the other side of the aisle would like to restore.

You're never going to get the money back for Medicaid reform. You're never going to get the money back for the summer jobs programs. We have to do something else. We have to do something else. So I'm going to vote no. I encourage everyone else to vote no.

There are other things that are being done. Incomprehensibly, the Governor's draft bill for this week included a $12.5 million supplemental aid payment to the City of Yonkers, which is owed to the City of Yonkers. But in the final bill, that payment has been defeated.

Again, things like that are happening every week. There are cities and local governments that are waiting. Yonkers again, high-needs school district, high needs in many areas. Why aren't we paying them their money? We're not paying them their money because we can't get to a serious budget negotiation.

I'm not saying that the sole blame lies here with the Majority. There's enough blame to go around. But we have to do

something. Senator Bruno was absolutely right when he spoke about the decay of the legislative process this year.

We have done our best. Even though we have more modest resources for our finance staff, we have high-quality people performing well. We've identified money. Senator Johnson's vastly, vastly larger staff should be able to identify some money too.

So if you could find a couple of billion, as we have, we should have no problem. The money is there. It is a lack of political will. It is simply a lack of political will. This would not be tolerated in any other area of work. This would not be tolerated in any private business.

Senator Bruno is absolutely right. We should be ashamed of ourselves. And if we pass this budget extender and take another shot of legislative methadone so the pain won't be felt by us but it will be felt by the people we're supposed to be representing, we should be even more ashamed of ourselves.

I'm voting no, and I urge everyone to vote no.

ACTING PRESIDENT McGEE: Senator Johnson.

SENATOR JOHNSON: I was going to say, in regard to the amendment, that we do not have the authority under the constitution to amend the Governor's budget until we prepare a budget of our own. So we couldn't make that change if we wanted to. I think many of us on this side would want to.

As far as your exhortations about the attitude or the expenditure of energy on our staff, they're expending their share of energy. We could put a bill together with the Governor tomorrow, so we can't get any action across the hall. So remember that. It takes three to tango, and there's only a two-legged tango here.

So we can't do a budget, which we all want to, until everybody agrees to do it. And we don't have that agreement from the Speaker. I think you know that.

As far as the school mismanagement in New York City, it's not the fault of anybody else in the state but it's the fault of New York City and the school board people.

They don't tax their people like we do. In the suburbs you pay $10,000, $20,000, $30,000 a year real estate tax on your house to carry the schools. I don't know if anybody puts any comparable amount of money, any individual in New York City, in their schools.

So, I mean, when you're getting a free ride, essentially, don't complain if you're not managing your schools properly, you're not fixing the ceilings or whatever's going on. It's mismanagement, primarily.

Nevertheless, Joe Bruno has advanced a plan which meets the CFE requirements. And if we get an agreement from the other house, we'll have that done soon.

ACTING PRESIDENT McGEE: Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President.

Senator Schneiderman, I couldn't resist not really commenting, because I think you picked very selectively what Senator Bruno said. And I think we have to be fair about those remarks that our Majority Leader expressed on behalf of the members here who

feel a good deal of frustration.

Because if you look at the issues -- and we were debating a bill that dealt with gambling. The Senator was saying, you know, the time was for action. And this house has over and over again led issue after issue, whether it was budget reform -- passed here, sits over in the other house. The gambling issue, passed here, sits in the other house. Rockefeller Drug Laws, passed here, sits in the other house. And we could go on and on.

The issue of CFE, I don't think there has been an issue -- and by the way, Senator, I carry around every day, because I keep reading and rereading, the court decision. Here it is. I bring it into the chamber. I look through, I highlight it.

And it's far beyond the issues of money. Senator Johnson talked about mismanagement. The court talked about mismanagement of dollars. And it goes on and on. The outputs in education, the qualifications of teachers. And we really haven't talked about those things.

But our Majority Leader, once again, long before his taking the lead to talk about a proposal that this house led -- the Governor followed the day after, and then the Assembly about a week after that followed with a proposal -- that proposal, the Majority Leader didn't just wave a magic wand. People have been working, Senator Johnson, Senator Saland, members of the Education Committee have been working from last summer, almost nine months, on what it is we would propose in this house.

And so we're going to get there. And I think the court was very, very specific that the Legislature, the Legislature, will have until July 30th. And so people can go before the court and hype up that they want to, before that date, intervene, while we in the Legislature have certainly the rest of this month and next month to come up with a plan.

And I honestly believe that the members of this house will do everything in its power to meet the court's test of a sound, basic education, accountability, and to have

the kind of money that you need to fulfill a sound, basic education, whether it be in New York City or elsewhere.

But I think, in all fairness, that we in this body, while we've talked about plans and proposals, there's a lot more that goes into it. And the court has talked about these things -- again, mismanagement, qualified teachers in SURR schools, schools that are under review. And we could go on and on.

But I think it's unfair, because our Majority Leader, and I would say our Minority Leader also have done everything possible to represent the 62 members in this house, and our respective constituencies, as to what are the priorities. And we started off, again, with budget reform and all these other issues.

This house has acted. This house has acted. And as Senator Johnson said, it takes three parts of the process. And I think sometimes, yes, we're frustrated. But I think sometimes we take unfair criticism because we do work, we do work on these proposals. And

the staff is working on these proposals on both sides.

And when we had a proposal, I think the members on both sides of the aisle felt very good that this body took the leap, which is not always the politic thing to do. But we did the right thing, and we jump-started a process that was stalled.

And so once in a while we shouldn't be overly critical of ourselves, because a lot of other people, there are plenty of them outside of this chamber that love to criticize us. I think that we are working in a cooperative, collaborative way. And I think we should continue to do that but not beat on ourselves.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

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

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

SENATOR LIZ KRUEGER: Thank you.

The comments were interesting. I worry that because, we think, it's June 7th,

we have plenty of time to deal with CFE because we have till July 30th. And I'd like to put that in the context if we were running schools today, if any of us were administrators or teachers.

Because in fact the objection to the bill today -- and I respect Senator Schneiderman's points about raising CFE. And I think it is appropriate and timely, given how late we are in the year.

But Senator LaValle and Senator Johnson, if I am running a school today and I look at this extender bill on June 7th, I'm trying to plan for whether I can hire qualified teachers for next September. I'm trying to figure out how many children I can have per classroom for next September.

And when I look at this extender bill today, the ninth one for the year, with $111 million of education aid, and I add it up, I learn that of all the extender bills the Governor has given us so far for April, May, and June, I'm only getting $3.47 billion when, on a normal annual year, even under the Governor's original proposals before CFE gets

into the mix, I should have received allocations of $6.6 billion.

So if I'm running schools anywhere in the state of New York, I am in panic about what are my funding streams for this coming September. How do I plan for improvements in my schools under a CFE decision? How do I get my schools running at all for the next school year starting in September?

We are leaving our schools in a worse situation than they were coming into this year, even before we have our fights about what does the CFE lawsuit call for for our districts. Late budgets is one of the greatest contributors to our current school financing inequity.

My schools at home don't know what their money will be for next September, and it's June. If you're going to hire new teachers, if you're going to change your classroom formula, if you're going to decide whether or not you can have any aides in the classroom, if you're trying to figure out what is going to be your new model, if there is one, for special education, how do you do that

when we can't get any budget done, even the basic current funding streams for education? Forget our obligations under the court order for a moment to significantly change those funding formulas.

So my frustration is the same as everyone's here, that we are not getting the job done. And I believe Senator Bruno did mean all of us last week when he talked about enough dithering and study. Sometimes you have to get something done.

We should not be leaving our schools in this precarious situation. And it doesn't matter whether you're a school in Senator Ray Meier's district or Senator Volker's district or my district or Senator Sabini's district. These ongoing budget extenders are not giving our schools even last year's funding at a reasonable timeline, leaving them in the precarious situation of either overspending, based on the money they're getting, or not knowing how to budget at all for the current year.

And it ties directly into the fact that it's June 7th when the Senate Democrats

attempted an amendment on the Summer Youth Employment Program. And the fact that because we don't have a budget, we haven't made the decision about the $10 million being replaced by the Legislature or lost as the Governor proposes.

It's June. If you're running a summer youth employment program, you basically need to know whether you have those monies now or you can't have the program at the size it was last year. It's as simple as that. You can't learn on July 12th or June 29th whether or not it's a $15 million state allocation or a $25 million state allocation and expect to have a program running. You need to reach those kids before they left school. You need to hire those people who are going to run your programs.

We do an enormous disservice in every one of our communities when we let our budgets go later and later each year, when we don't put in fair allocations of aid such as our school aid where we're cheating for a while on giving them the money -- I don't know, maybe hoping that, what, we save some on

the interest or something, rather than handing it out to the localities?

This is the ninth budget extender. There's no excuse for that even if we haven't resolved the issues on CFE. But again, to close, to say we still have plenty of time, the court gave us to June 30th -- excuse me, the court gave us till July 30th, I believe is a disingenuous argument by this legislative body on June 7th of 2004. I will be voting no.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Schneiderman, for the second time on the bill.

SENATOR SCHNEIDERMAN: Please recognize Senator Montgomery.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Madam President. Thank you, Senator Schneiderman.

I would like to just -- I'm going to vote no this time as well, and I think obviously for all the reasons that have been enumerated so articulately. The system is

broken.

But I just want to point out to you, Madam Chair, and I want for the record, on behalf of the hundreds of young people in my district, I have a list of the summer youth employment programs in the City of New York that are funded by the state. And there are 17 in Brooklyn. Eight of those are in my district.

So there are hundreds of young people who are depending on us. Now, that's only my district, because obviously I have to represent my constituents. But these are hundreds, thousands of young people on this extensive list of all the boroughs. And I'm sure if we went around the state we would find an even thicker list with young people who are depending on us.

Now, the Governor has already given us a budget with $10 million cut from summer youth employment. Now, this is at least a 40 percent reduction. But that represents a cut from the prior year, where we funded them 30,000. They were cut last year, and now again this year. And the Governor keeps -- we

keep receiving these piecemeal budgets.

So how can we say to our young people that we care about them? I hope that people don't go back to their districts and speak at graduations and say how much they are supporting the young people and that they hope they have a bright future and that they want them to do good in school and they want them to be good citizens. Please don't say that to young people if you are giving them this as an answer to their needs in terms of summer youth employment and after-school and all of the programs that we fund for young people.

So I'm voting no on this, because I think this is totally irresponsible as a process for delivering services and programs and resources to the citizens of our state. So I'll be voting no, Madam President.

Thank you.

ACTING PRESIDENT McGEE: Senator Schneiderman, for the second time on the bill.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I have to respond to a few of the observations of my colleagues. And I'm sorry

that we're doing this so late in the session. It might have been useful for us to have a discussion earlier.

With respect to our great Finance chair, the Court of Appeals in the Campaign for Fiscal Equity decision -- which I commend to you reading it, as Senator LaValle is reading it -- explicitly rejected two arguments. One, it rejected the argument that it is the mismanagement of the city and the state is not responsible for the schools. Two, it rejected the argument that we're giving enough money, the state government, to the city schools.

The reason that we are here, the reason that the Campaign for Fiscal Equity plaintiffs were successful, is that the Constitution of the State of New York, for better or worse, says that the Legislature must provide for a system of common schools wherein all the children of this state may be educated.

And in the Levittown case in 1982, the Court of Appeals made it clear that that doesn't just mean any old system of schools

that doesn't necessarily have any standards. Everyone here supports standards in education. The Court of Appeals in the Levittown case made it clear that the schools have to provide a sound, basic education for all of our children.

We're not asking for luxury. And we're not in a situation where we can say, as the State Legislature: Well, it's the city's fault. I mean, keep in mind that the defense of the state -- and I think a shameful defense -- was we, the State of New York, we the Legislature, create the Board of Education, we fund them, we're in charge of all the statutes that create them, but they're mismanaging the money, our agent that we have total control over; therefore, we're not liable.

That's a ridiculous argument. The court rightly rejected it. We are responsible under the constitution. We have to solve the problem. We've been avoiding this for too many decades.

Coming to the issue of the city and its need to provide more funds, which is an

argument that's been made, I would respectfully urge that according to all of the best estimates -- and this was in a report that was released by the speaker of the City Council, and this is all taken from the state budget -- the City of New York, the taxpayers in New York City pay $3.5 billion more to the State of New York than we receive in services and funding for our programs.

So I don't really like it when we are accused of being greedy on this issue. We're not asking for more money than we're paying. We're asking for a slight reduction in the inequitable treatment of the taxpayers of the City of New York. Because the City of New York has great wealth, but it also has a much higher proportion of the poor people in the state.

And in our school system, while we receive -- and again, these are findings from the Court of Appeals, findings by Leland DeGrasse affirmed by the Court of Appeals -- per-pupil expenditures by the state for the City of New York were lower than three-quarters of the state's districts,

including all the other large city districts.

The reason we need more money is because of the population of our schoolchildren. And again, I know everyone fights hard for their schools. And I don't think that there's any ill will here in this debate. But I would urge you that if you had a school system where 73 percent of the children were eligible for the federal free lunch program, because that's how poor they are, where 442,000 children came from families receiving Aid to Families with Dependent Children, you would need more money for those children. Also where you have a high portion of children who are not native English speakers. Where you have 135,000 children enrolled in special education programs.

We have higher-needs children. We have higher needs, and yet we get less from the state while we're subsidizing the other programs around the state.

So the Court of Appeals rightly rejected those arguments, and I don't think we should get back into rearguing them. The fact of the matter is that under the Constitution

of the State of New York, the Legislature is responsible.

And coming back to a point that Senator LaValle made, which I think is extremely important, the court, at page 51 of the Court of Appeals opinion, which in my view is the penultimate paragraph, doesn't just limit us to financing issues. We are required also to enact whatever reforms we deem appropriate.

The door is open. If we have ideas on how to reform the city education system to more efficiently deliver funds, the door is open to do it. It's not just an opinion about money.

The court stated: "Reforms to the current system of financing school funding and managing schools should" and then goes on to talk about what they should do.

So, you know, it does again note that because of their findings that the city is underfunded, that we have to ensure as a part of that that every school in New York City would have the resources necessary for providing the opportunity for a sound, basic

education.

So the court did not take away its ruling that we're underfunding the city. But we're allowed to enact reforms to the system of financing and also reforms to managing schools. So the door is open there.

But the constitutional obligation is on us. The constitutional obligation is not on the mayor of the City of New York, it's not on the City Council, it's on the Legislature.

So here we are, June 7th, making these arguments that I think were resolved pretty conclusively by the Court of Appeals. Here we are waiting for the hearing next Thursday where the plaintiffs are going to seek the immediate appointment of a panel of special masters. And we're not passing a budget, and we are telling our constituents it's because we can't agree on CFE.

I think we can. And I, with all sincerity, urge my colleagues that our proposals for finding revenue -- we understand that money is tight. We've come up with ways to fund the program. And that's what we're

trying to do, and that's what is documented in Senator Paterson's March 31st budget proposal.

And we can argue in more detail about the proposal that Senator Bruno announced. Absolutely correct, he went first. You got the issue on the table.

But I would argue, if we get into that, that the $4.5 billion over five years in new state funds is an amount that does not even keep up with the natural growth of inflation in contractual obligations. And I would respectfully submit that I do not think that's going to stand the scrutiny by the court and avoid the appointment of a special master. I think we have to come up with more money.

We're working with you. We're trying to find ways to come up with the money. We think it's there.

So I'm voting no on this. Frankly, it's good to have a debate about this. I don't know that there's a debate going on anywhere else about this. And we're happy to talk with you. We need to get money for the schools.

But let's not get back into arguments that were rejected by the Court of Appeals. The City of New York is underfunded. There are detailed findings of fact on that. And the legal obligation is ours.

If you want to come up with a proposal to reform the way the city delivers services, we can pass a law to do it. But we can't walk away and say: Well, we're only going to give you a little money and force you to pay more money and not enact any other reforms. We're not going to solve the problem that way.

We're talking about the future of our state. If you're the most hardhearted vulture capitalist in New York, you should support funding excellent public schools for all of our children, because it's good for the economic health of our state. This is not charity. This is our obligation.

I'm voting no, Madam President. But I appreciate my colleagues at least engaging in the discussion of this pressing issue. I'm sorry we've waited till June 7th to do it.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Thank you, Madam President. Very briefly.

While we're talking about obligations, I want to talk about an obligation that's going to compel me to vote yes. And I don't think there's much of a debate in the chamber about the level of dysfunction in the budget process, the lack of results on some serious issues.

It's been suggested that it's very difficult, if you're a school administrator, to plan your budget for next year not knowing the resolution of the CFE decision. I would suggest to you that the more immediate problem might be, if we vote this down, about how you're going to pay your teachers within the next two weeks.

I would suggest that the more immediate problem might be how do we pay the people who clean our offices and run the elevators and work out on the road in the DOT and work throughout state agencies as secretaries; about how local governments are

going to pay for things like programs for the elderly; about how nursing homes and hospitals are going to fare over the next month without their Medicaid payments.

Now, gestures are one thing. But shutting the government down because we can't get the job done? In the eloquent words of Homer Simpson: Huh? I don't get it. The responsible thing to do is to buckle down and to get our job done. But it's totally irresponsible to punish our constituents because we can't do it.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1480 are Senators Dilán, Duane, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Onorato, Paterson, Sabini, Schneiderman, and A. Smith. Ayes, 47. Nays, 11.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Is there any housekeeping at the desk?

ACTING PRESIDENT McGEE: Yes, there is.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator Spano, on page number 62 I offer the following amendments to Calendar Number 1250, Senate Print Number 7188, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Morahan.

SENATOR MORAHAN: Madam President, there being no further business, I move we adjourn until Tuesday, June 8th, at 3:00 p.m.

ACTING PRESIDENT McGEE: On

motion, the Senate stands adjourned until Tuesday, June 8th, at 3:00 p.m.

(Whereupon, at 5:50 p.m., the Senate adjourned.)