NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 17, 2004

11:16 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT DeFRANCISCO: The Senate will come to order.

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

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

ACTING PRESIDENT DeFRANCISCO: In the absence of clergy, would you please bow your heads for a moment of silence.

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

ACTING PRESIDENT DeFRANCISCO: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 16, the Senate met pursuant to adjournment. The Journal of Tuesday, June 15, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT DeFRANCISCO: 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 Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

Amendments are offered to the following Third Reading Calendar bills:

Senator Hoffmann, page 26, Calendar Number 879, Senate Print 7150;

Senator Farley, page 38, Calendar Number 1106, Senate Print 6796;

Senator Hannon, page 41, Calendar 1193, Senate Print 4148;

Senator Larkin, page 45, Calendar Number 1281, Senate Print 5424A;

Senator Leibell, page 4, Calendar Number 51, Senate Print 4330A;

Senator Leibell, page 42, Calendar Number 1208, Senate Print 2359;

And last but not least, Senator Leibell again, pretty active, page 26,

Calendar Number 839, Senate Print 7077.

Mr. President, I now move that these bills retain their place on the order of third reading.

ACTING PRESIDENT DeFRANCISCO: The amendments are received, and the bills will retain their place on third reading.

SENATOR BONACIC: Thank you, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

On behalf of Senator Bruno, I wish to call up his bill, Senate Print Number 6206, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 326, by Senator Bruno, Senate Print 6206, an act to amend the Tax Law.

SENATOR MEIER: Mr. President, I now wish to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR MEIER: Mr. President, I now offer the following amendments.

ACTING PRESIDENT DeFRANCISCO: The amendments are received.

Senator McGee.

SENATOR McGEE: Mr. President, on behalf of yourself, also known as Senator DeFrancisco, I wish to call up your bill, Print Number 6909, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT DeFRANCISCO: Thank you very much.

The Secretary will read.

THE SECRETARY: Calendar Number 838, by Senator DeFrancisco, Senate Print 6909, an act to amend the Public Authorities Law.

SENATOR McGEE: Mr. President, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR McGEE: Mr. President, I now offer the following amendments.

ACTING PRESIDENT DeFRANCISCO: The amendments are received.

SENATOR McGEE: Mr. President, on behalf of Senator Spano, I wish to call up his bill, Print Number 6760, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 709, by Senator Spano, Senate Print 6760, an act to amend Chapter 511 of the Laws of 1995.

SENATOR McGEE: Mr. President, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT DeFRANCISCO: So ordered.

SENATOR McGEE: Mr. President, on behalf of Senator Mendez, I wish to call up her bill, Print Number 6814, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 972, by Senator Mendez, Senate Print 6814, an act to amend the Labor Law.

SENATOR McGEE: Mr. President, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

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

ACTING PRESIDENT DeFRANCISCO: Senator Spano.

SENATOR SPANO: Are there any

substitutions at the desk?

ACTING PRESIDENT DeFRANCISCO: Yes, there are.

SENATOR SPANO: We ask that they be read.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: On page 7, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 9436B and substitute it for the identical Senate Bill Number 5864A, Third Reading Calendar 175.

On page 14, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 11167 and substitute it for the identical Senate Bill Number 1332A, Third Reading Calendar 427.

On page 24, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 10237 and substitute it for the identical Senate Bill Number 4586, Third Reading Calendar 800.

On page 31, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 10004 and substitute it

for the identical Senate Bill Number 6361, Third Reading Calendar 998.

On page 34, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 9890C and substitute it for the identical Senate Bill Number 6268C, Third Reading Calendar 1042.

On page 39, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 8727A and substitute it for the identical Senate Bill Number 5356A, Third Reading Calendar 1157.

On page 45, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 990C and substitute it for the identical Senate Bill Number 4127B, Third Reading Calendar 1277.

On page 45, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7188A and substitute it for the identical Senate Bill Number 4180A, Third Reading Calendar 1278.

On page 50, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 8838A and substitute it

for the identical Senate Bill Number 6830A, Third Reading Calendar 1378.

And on page 51, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 10015A and substitute it for the identical Senate Bill Number 7114, Third Reading Calendar 1453.

ACTING PRESIDENT DeFRANCISCO: Substitutions ordered.

Senator Spano.

SENATOR SPANO: Can we have the noncontroversial reading of the calendar.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 173, by the Assembly Committee on Rules, Assembly Print Number 8586A, an act to amend the Agriculture and Markets Law, in relation to prohibiting.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 175, substituted earlier today by Member of the Assembly Magee, Assembly Print Number 9436B, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 267, by Senator Skelos --

SENATOR SPANO: Lay it aside temporarily.

ACTING PRESIDENT DeFRANCISCO:

Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 415, by Senator Seward, Senate Print 6208, an act to amend the Insurance Law, in relation to determining.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the 180th day.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 433, by Senator Libous, Senate Print 2577A --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 443, by Member of the Assembly Gromack, Assembly Print Number 9661, an act to amend the Transportation Law, in relation to

exempting drivers.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 764, by Senator LaValle, Senate Print 6265A, an act in relation to authorizing the approval of certain transportation contracts.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT DeFRANCISCO:

The bill is passed.

THE SECRETARY: Calendar Number 910, by Member of the Assembly Abbate, Assembly Print Number 9798, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

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

Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 940, by Senator LaValle, Senate Print 2063B, an act to amend the Real Property Tax Law and others, in relation to a separate assessment.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43. Nays, 1. Senator Rath recorded in the negative.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 957, by Senator Alesi, Senate Print 6540, an act to amend the Executive Law, in relation to designating February 15th as Susan B. Anthony Day.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT DeFRANCISCO: Senator Krueger, why do you rise?

SENATOR LIZ KRUEGER: Thank you, to explain my vote.

ACTING PRESIDENT DeFRANCISCO: Please do so.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I'm so proud to be in the Senate the day that we are honoring and creating a day of commemoration for Susan B. Anthony. She fought the fight for women's suffrage and women's right to vote starting in the 1800s. Women finally got the right to vote in New York State in 1917, several years before the federal amendment to the Constitution.

She was an activist, a radical in her time. She was the proprietor of a newspaper called "The Revolution."

She ended up being sued in court for attempting to vote in New York State in 1872 and being found guilty of illegally voting because she actually successfully went and voted. She pled not guilty to the charges. She was dragged through the courts and found guilty. She was fined $100, which in the 1800s was an enormous amount of money, and she refused to pay.

Her efforts on behalf of women throughout this country -- and men throughout this country, because we all are served better

by having a country where everyone has equal rights to vote -- should never be forgotten, certainly not in her home state of New York.

So while one might argue why didn't we do this earlier, I'm very glad and I thank Senator Alesi for moving through a bill to ensure that future generations in New York State will never forget the contributions that Susan B. Anthony has made to all of us and to democracy in New York.

Thank you, Mr. President.

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

SENATOR ALESI: Thank you, Mr. President.

And I thank my colleague for her comments extolling the virtues of our passing this bill today.

And as someone who has lived and grown up in Rochester, New York, I am particularly proud that Susan B. Anthony spent most of her time in residence there. And as has been pointed out on numerous occasions, she is viewed by many in this nation, and in fact worldwide, as the moving force behind the

women's suffrage movement.

In fact, the 19th Amendment most likely would not have been passed were it not for the efforts of Susan B. Anthony. That amendment to the United States Constitution is what gave women the right to vote.

But Susan B. Anthony was also extremely active in efforts to end slavery, and of course that was the 13th Amendment to the Constitution of the United States.

Susan B. Anthony -- again, who spent most of her time in Rochester, lived there, and for whom the Susan B. Anthony House has been established and is a museum now in our community -- was also a publisher, with Elizabeth Cady Stanton, of a newspaper called "The Revolution." And that newspaper, unpopular to some people, was very popular to those people who were favoring labor rights, civil rights, rights for women's property ownership, and rights for women in fact to have custody of their own children.

The University of Rochester, which is a world-renowned educational center, did not allow women into the university until

1900, and that was only because of the efforts of Susan B. Anthony and her willingness to put her own financial security at stake to fund women's entry into the University of Rochester.

So I think it's fitting and proper, and I know my colleagues from the Rochester area join me, as well as all of my colleagues, in recognizing the importance of Susan B. Anthony's efforts on behalf of women's rights, slavery abolition, labor rights, to recognize her with this commemorative day. And I invite all of my colleagues to join us in passing this bill.

ACTING PRESIDENT DeFRANCISCO: Announce the results.

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

Senator Spano, why do you rise?

SENATOR SPANO: Mr. President, there will be an immediate Majority conference in the Majority Conference Room. And we ask that the Senate stand at ease.

Could you please recognize Senator

Ada Smith.

ACTING PRESIDENT DeFRANCISCO: Senator Smith.

SENATOR ADA SMITH: Thank you, Mr. President.

There will be an immediate conference of the Minority in the Minority Conference Room.

ACTING PRESIDENT DeFRANCISCO: An immediate meeting of the Majority in the Majority Conference Room, and an immediate meeting of the Minority in the Minority Conference Room.

The Senate shall stand at ease.

(Whereupon, the Senate stood at ease at 11:35 a.m.)

(Whereupon, the Senate reconvened at 12:37 p.m.)

ACTING PRESIDENT DeFRANCISCO: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, I believe there are several resolutions on the floor.

ACTING PRESIDENT DeFRANCISCO:

Motions and resolutions.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. I wish to call up Calendar Number 858, Assembly Print Number 6506.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 858, by Member of the Assembly Grannis, Assembly Print Number 6506, an act to amend the Tax Law.

SENATOR WRIGHT: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Flanagan's bill, Print Number 4216, on June 7th.

ACTING PRESIDENT DeFRANCISCO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR WRIGHT: I now move that Assembly Bill Number 6506 be recommitted to the Committee on Rules and that Senator Flanagan's bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT DeFRANCISCO: So

ordered.

SENATOR WRIGHT: And now, Mr. President, I now offer the following amendments.

ACTING PRESIDENT DeFRANCISCO: The amendments are received.

SENATOR WRIGHT: Mr. President, again on behalf of Senator Flanagan, I wish to call up Calendar Number 1233, Assembly Print Number 2645A.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 1233, by Member of the Assembly McLaughlin, Assembly Print Number 2645A, an act to amend the Executive Law and others.

SENATOR WRIGHT: I now move to reconsider the vote by which this Assembly bill was substituted for Senate Print Number 7066 on May 20th.

ACTING PRESIDENT DeFRANCISCO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR WRIGHT: I now move that

Assembly Bill Number 2645A be recommitted to the Committee on Rules and the Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT DeFRANCISCO: So ordered.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT DeFRANCISCO: The amendments are received.

SENATOR WRIGHT: Mr. President, on behalf of Senator Hoffmann, I wish to call up Print Number 6349, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 935, by Senator Hoffmann, Senate Print 6349, an act to amend the Agriculture and Markets Law.

SENATOR WRIGHT: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT DeFRANCISCO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT DeFRANCISCO: The amendments are received.

SENATOR WRIGHT: Mr. President, amendments are offered to the following Third Reading Calendar bills:

Senator Fuschillo, page number 25, Calendar Number 832, Senate Print Number 6960A;

Senator Maziarz, page 26, Calendar Number 869, Senate Print Number 6596;

Senator Spano, page number 27, Calendar Number 907, Senate Print 6846;

Senator Spano, page 33, Calendar Number 1025, Senate Print Number 5243C;

Senator Skelos, page 41, Calendar 1190, Senate Print 6610A;

Senator Marcellino, page 51, Calendar 1441, Senate Print 4523A.

Mr. President, I now move that these bills retain their place on the order of third reading. Thank you.

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

Senator Skelos.

SENATOR SKELOS: Are there any substitutions at the desk?

ACTING PRESIDENT DeFRANCISCO: Yes, there is a substitution. Or actually two.

The Secretary will read.

THE SECRETARY: On page 9, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 8636C and substitute it for the identical Senate Bill Number 5156C, Third Reading Calendar 267.

And on page 38, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 9814A and substitute it for the identical Senate Bill Number 5937A, Third Reading Calendar 1105.

ACTING PRESIDENT DeFRANCISCO: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President,

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

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

SENATOR SKELOS: And if we could return to the noncontroversial reading of the calendar.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read where we left off on the noncontroversial calendar.

THE SECRETARY: Calendar Number 998, substituted earlier today by Member of the Assembly Brodsky, Assembly Print Number 10004, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 999, by Senator Leibell, Senate Print 6426, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

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

Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT DeFRANCISCO: Senator Breslin.

SENATOR BRESLIN: Yes, Mr. President, to explain my vote.

I'm delighted to vote in favor of this parking permit bill, as I was a moment ago for Senator Spano's bill and for parking permit systems that have been approved by this body in the past, including parts of Rochester, the City of Rye, the Village of

Pelham, the City of Auburn, the Village of Tarrytown, the Village of Tuckahoe, the City of Peekskill, and the Village of Cold Springs, all that inure to the benefit of those local citizens and enhance their quality of life to be free of pollution from cars and, more importantly, to be able to park in front of their houses.

And I too have a bill dealing with the City of Albany that I introduced, I believe, in 1997, 1998, 1999, 2000. And it's a bill that is in effect this year as well, that's passed the Assembly.

And I hope that when that bill gets to this floor that I can count on the members of this body to allow the citizens of Albany to enjoy the same benefits as many of those locations I have just mentioned.

But I vote in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Announce the vote.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1002, by Member of the Assembly Galef, Assembly Print Number 9705A, an act to amend the Vehicle and Traffic Law and others.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

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

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1021, by Senator Farley, Senate Print 7165A, an act to authorize payment of building aid.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1039, by Senator Morahan, Senate Print 6020A, an act to amend the Environmental Conservation Law, in relation to authorizing.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1069, by Senator LaValle, Senate Print 335B, an act to amend the Vehicle and Traffic Law, in relation to increasing the minimum period.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1075, by Senator McGee, Senate Print 5114, an act to amend the Mental Hygiene Law, in relation to including limited liability.

ACTING PRESIDENT DeFRANCISCO:

Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1077, by Senator Maziarz, Senate Print 6152A, an act to amend the Vehicle and Traffic Law, in relation to the installation.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1105, substituted earlier today by Member of

the Assembly Brodsky, Assembly Print Number 9814A, an act to amend the Limited Liability Company Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1122, by Senator Volker, Senate Print 4846, an act to amend the Civil Practice Law and Rules, in relation to authorizing.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

Senator Spano.

SENATOR SPANO: Mr. President, can we please go back to Calendar 267.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read Calendar Number 267.

THE SECRETARY: Calendar Number 267, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8636C, an act to amend the Public Health Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1157, substituted earlier today by the Assembly Committee on Rules, Assembly Print

Number 8727A, an act authorizing the Coeymans Hollow Volunteer Fire Corporation.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1162, by Member of the Assembly Gunther --

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

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

THE SECRETARY: Calendar Number 1169, by Senator Balboni, Senate Print 7134B, an act to authorize the assessor of the County of Nassau.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1247, by Member of the Assembly Gantt, Assembly Print Number 613, an act to amend the Vehicle and Traffic Law, in relation to the use.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1259, by Senator Saland, Senate Print 5070A,

an act to amend the Education Law, in relation to the education of children.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first of September.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1265, by Member of the Assembly Abbate, Assembly Print Number 3995A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1269, by Senator Saland, Senate Print 2821, an act to amend the Civil Service Law, in relation to the maximum age requirement.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1274, by Member of the Assembly Abbate, Assembly Print Number 4356, an act to amend the Civil Service Law, in relation to providing.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1278, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 7188A, an act to amend the Administrative Code of the City of New York and the Education Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1294, by Senator Robach, Senate Print 6904, an act to amend the Civil Service Law, in relation to the resolution of disputes.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect one year after it shall have become a law.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1362, by Senator Spano, Senate Print 7221, an act to amend the Local Finance Law, in relation to bonds and notes.

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

Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO:

The bill is passed.

THE SECRETARY: Calendar Number 1381, by Senator LaValle, Senate Print 302D, an act to amend the Education Law, in relation to the practice of public accountancy.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 13. This act shall take effect on the 180th day.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1519, by Senator Saland, Senate Print 1928A, an act to --

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

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

THE SECRETARY: Calendar Number 1533, by Senator Hoffmann, Senate Print 7350, an act to amend the General Municipal Law, in

relation to the establishment.

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

Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1542, by Senator Morahan, Senate Print 7448, an act to amend Chapter 256 of the Laws of 2003 amending the Election Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO:

The bill is passed.

THE SECRETARY: Calendar Number 1547, by Senator Bonacic, Senate Print 5953, an act to amend the Education Law, in relation to the qualifications.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1549, by Senator Fuschillo, Senate Print 6319A, an act to authorize the French Speaking Baptist Church.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1550, by Senator Hoffmann, Senate Print 6531, an act to amend the Tax Law, in relation to exempting milk crates.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1561, by Senator Bonacic, Senate Print 7438, an act to amend the Private Housing Finance Law, in relation to affordable home ownership.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1562, by Senator Flanagan, Senate Print 7450, an act to amend Chapter 193 of the Laws of 2001, relating to the establishment.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1596, by Senator Skelos, Senate Print 7195C, an act to amend the Penal Law, in relation to

establishing the offense of unlawful sale.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1602, by Senator Volker, Senate Print 7443 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1604, by Senator Morahan, Senate Print 7449, an act in relation to persons who may temporarily practice.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect August 5, 2004.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1605, by Senator Volker --

SENATOR SPANO: Lay it aside for the day.

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

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

SENATOR SPANO: Go to the controversial calendar, please, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will go to the controversial reading of the calendar.

THE SECRETARY: Calendar Number 433, by Senator Libous, Senate Print 2577A, an act authorizing the Commissioner of Transportation.

SENATOR SPANO: Lay it aside

temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

The Secretary will continue to read in regular order.

THE SECRETARY: Calendar Number 1602, by Senator Volker, Senate Print 7443, an act to amend the Penal Law and the Arts and Cultural Affairs Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Volker, Senator Schneiderman has requested an explanation.

SENATOR VOLKER: Mr. President, I must say that in the -- I've been here 32 years, and I've never quite seen anything as bizarre as the memo by the City of New York against this bill. And the reason is that this bill doesn't pertain to the City of New York. Which makes me wonder what is going on here.

The truth is, and those of us that have been trying to deal with this for many years realize there really is almost no law on

fireworks in this state. We one time took a look to find out how many arrests were made under fireworks laws, and they were minuscule.

The one thing we did find out, though, is that the City of New York Police Department had a habit of coming in when there were fireworks displays or whatever and just picking up everything and walking away with it and saying: They're all illegal, and we're taking it.

So we kind of realized -- this was under Giuliani, by the way, the mayor -- they liked the situation they had, because no one really objected. There were a few lawsuits.

The truth is, this bill tries to put some sense in fireworks laws. Now, the memo opposed to it says that certain things that are now illegal are made legal. Even though those things are in stores all over Albany here, they claim that poppers are illegal, and sparklers.

I'll tell you right now, if I went into my store in Depew, I could pick out all kinds of sparklers. They're not controlled at all.

They argue in the bill that some CSPC person or somebody said they're very dangerous. Well, they probably are somewhat dangerous. But on the other hand, just about everybody has them, and we're trying to put some control under them.

And by the way, there is so little control of explosive fireworks, we for the first time really develop a process to deal with the issue of explosive fireworks, which is the -- I forget the name of them now, these big rockets and all this stuff, which are very tough to control even now. And as I say, primarily what happens is that if someone gets hurt, they go in and they grab it all.

I mean, the truth is that it does make one a little suspicious of why there's so much activity. It almost looks as if some people would rather not have a law. Because the laws are so old on fireworks.

What we're trying to do in this bill, not legalize things, we're trying to control them. We're trying to develop a system for controlling fireworks.

Now, in all candor, as I usually

am, what this will probably mean, after we had discussed this with the Governor's people, they thought it was good, is because the City of New York is doing this memo, I assume it means that poor Paul over in the Assembly probably won't be able to do this bill.

And I have to tell you something. I'm a little angry. They knew, the city knew that we were working on this for two years. And to do a memo in opposition to a bill that doesn't even pertain to the City of New York, a four-page memo, and use the same old shibboleth that they've used in the past when they obviously don't know much about fireworks, is irritating to me. And by the way, the lobbyist is going to hear it from me, because I'd like to know where he got all this information from.

So having said that, this is a bill that for the first time in about 40 years attempts to develop some control over the fireworks industry. It is so difficult to do any prosecutions now. When we looked it up, there were extremely few unless you catch somebody with a whole truckload of material,

which of course obviously is illegal, and then you can just grab it all. On an individual basis, virtually no one is arrested in this state on minor amounts of fireworks, even M80s and all the rest of the things, because it's virtually impossible to arrest them under the archaic statutes that we have in this state, some of which date back to the 1800s.

That's about all I can say. I realize that that memo, which just came out today, speaks to the same things. And to give everybody their due, the previous administration was Giuliani, and they did the same thing. And now this is Bloomberg's administration.

My suspicion is -- and you know I usually support the police department -- that there's a number of police in New York City who would like to let the situation remain the way it is. And I hate to say that, because -- and it's nice to not have any real laws; you can just go in and scoop stuff up.

But in reality, my personal belief is that when this becomes law outside the city, ultimately, and people realize that it

restricts fireworks, the city eventually will come back and want to do this in the City of New York.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I thank the sponsor for his typically candid explanation.

The position of the City of New York on this bill I don't think is really that complicated. I mean, this is a bill that they've opposed before, or a prior version of it.

In 2002, Governor Pataki vetoed similar legislation which legalized the sale and possession of many of the same devices. In his veto message, he cited the danger that fireworks present, particularly to children, as evidenced by the Consumer Product Safety Commission's 2000 Annual Fireworks Report, which estimated that of the 11,000 people

treated that year in hospital emergency rooms for injuries associated with fireworks, more than half of those killed, blinded, disfigured or severely burned were children.

Now, this is a difficult area, and I don't think anyone objects to an effort to provide some regulation.

The objection of the city is that this would make legal devices that are currently illegal, it would make them legal right across the border from the city and almost set up a situation where you're inviting the creation of an illegal fireworks market in the city, where people could bring them right in from Westchester and sell them.

In 1995, former Mayor Giuliani initiated the Police Department/Fire Department Joint Fireworks Task Force, and in its seven-year history it's dramatically reduced the sale of illegal fireworks in New York City, and consequently fireworks-related injuries.

The City of New York feels very strongly that this bill would undermine that effort.

I think that the city's objections are serious. I think they have technical objections to the bill. I think they have an objection to -- they sort of put us in this position, to a certain extent, saying we don't want this to regulate the city, but on the other hand, if you make it legal in Westchester, you're inviting an illegal market. But they do have some serious technical objections.

I mean, this is -- the bill defines devices and makes distinctions based on their chemical composition. Well, the police are not equipped to assess that. I mean, we're still going to be in a situation where things are being scooped up and then assessed later.

I'm going to vote no on this bill because of the objections of the city. I think we have made a lot of progress in the city. And, you know, I don't often rise to give credit to Giuliani administration initiatives, but this is one that clearly has worked.

So for that reason, I'm going to vote no and urge my colleagues to vote no.

This is not something that will help us in the city, and I do think that they have technical objections that should be taken seriously.

I hope we can address the issue. The current situation is, as the sponsor notes, pretty bizarre, where we appear to be unable to pass any legislation regulating fireworks. I hope we will do so, but this bill I don't think is the way to do it.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1602 are Senators Andrews, Dilán, Duane, González, L. Krueger, LaValle, Morahan, Onorato, Parker, Paterson, Sabini, Sampson, Schneiderman, A. Smith, M. Smith. Ayes, 43. Nays, 15.

ACTING PRESIDENT MEIER: The bill

is passed.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, can I please have unanimous consent to be recorded in the negative on Calendar Number 1533. Thank you.

ACTING PRESIDENT MEIER: Without objection, Senator Stachowski will be recorded in the negative on Calendar Number 1533.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

If I could have unanimous consent to be recorded in the negative on Calendar Numbers 1122, 1533, 1550, and 1596.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative with regard to Calendar Numbers 1122, 1533, 1550, and 1596.

Senator Spano.

SENATOR SPANO: Mr. President, can you return to Calendar 433.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 433.

THE SECRETARY: Calendar Number

433, by Senator Libous, Senate --

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Libous, an explanation has been requested of Calendar 433 by Senator Liz Krueger.

SENATOR LIBOUS: Mr. President, I would be extremely honored to give Senator Krueger an additional explanation on the bill that we debated, I believe, on -- hmm. It doesn't have the date here on the transcript, but it was a couple of months ago.

When the bill was sent over to the Assembly, the Assembly majority had requested that before they would accept it from the minority member who was carrying it, that they would like a change in the bill. The amendment clarifies the purpose of the transfer by changing the words "public purpose," which were in my original bill, to the words "job creation and economic development."

And that, Mr. President and Senator Krueger, is the only change to the bill.

SENATOR LIZ KRUEGER: Thank you,

Mr. President. On the bill.

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

SENATOR LIZ KRUEGER: Thank you.

I appreciate the sponsor's explanation of the changes.

While I think it's an improvement to clarify it's for job creation and economic development, I still have the same concerns I had in March, some date in March when we debated this, that we're transferring land that is currently owned by the state to an IDA without an explanation of how that land will be used, what the market rate for that land is, the market rate value, how the money will transfer back to the State of New York, what the role of the local community governments will be in having oversight or say in whether they want this land to be used this way outside of the specific members of the IDA committee.

And that New York State shouldn't be transferring our property to, frankly, off-budget IDAs and other public corporations without much more detail about what those

lands will be used for, what the reimbursement to the people of the State of New York will be, and what the argument for, quote, unquote, claiming it's now of economic development/job creation value as opposed to simply public purpose -- I do think that's an improvement, but I still will have enough problems with this bill that I will vote against it and feel that the people of the York deserve better detailed explanations of how we are selling off their land and for what purpose.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: Just on the bill, I just want to note an important fact that the bill was debated on 3/24/04. That my staff was efficient and did give me that date and I just didn't see it. And I want to give them full credit for their efficiency.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano, that completes the controversial reading of the calendar.

SENATOR SPANO: Mr. President, can we return to reports of standing committees.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 683B, by Senator Seward, an act to amend the Insurance Law;

Senate Print 7434, by Senator Seward, an act to amend the Penal Law;

And Senate Print 7485A, by the Senate Committee on Rules, an act in relation to enacting.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Can you please recognize Senator Smith.

ACTING PRESIDENT MEIER: Senator, could we accept the report of the Rules Committee first.

SENATOR SPANO: Excuse me, please.

I move that we accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

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

All bills to third reading.

Senator Ada Smith.

SENATOR ADA SMITH: Thank you,

Mr. President. There will be an immediate conference of the Minority in the Minority Conference Room.

ACTING PRESIDENT MEIER: Immediate conference of the Minority in the Minority Conference Room.

Senator Spano.

SENATOR SPANO: Mr. President, can we stand at ease for approximately 15 minutes, awaiting the completion of the Minority conference.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 1:12 p.m.)

(Whereupon, the Senate reconvened at 1:58 p.m.)

ACTING PRESIDENT MORAHAN: Senator Robach.

SENATOR ROBACH: Can we please take up the report of the Rules Committee.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 1589, by Senator Seward, Senate Print 683B, an

act to amend the Insurance Law, in relation to the payment.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1612, by Senator Seward, Senate Print 7434, an act to amend the Penal Law, in relation to staging a motor vehicle accident.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1613, by the Senate Committee on Rules --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

SENATOR ROBACH: Mr. President, I ask that we return to Calendar Number 1589.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 1589, by Senator Seward, Senate Print 683B, an act to amend the Insurance Law.

ACTING PRESIDENT MORAHAN: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is before the house.

Senator Breslin.

SENATOR BRESLIN: Mr. President, to speak on the bill.

And I commend the sponsor, as I've commended him many times for bills on insurance that Senator Seward has placed before this house.

However, I also commend a bill that was put forth by Senator Montgomery, which I think would add and enhance the value of this bill because it would include a consumer advocate, so it would balance off the front parts of the bill.

It would also provide a more appropriate method of calculating excess profits by the insurance companies. Additionally, it would ensure that independent medical examiners are really truly neutral parties, by requiring that they be selected from a random list maintained by the State Insurance Department.

And finally, it would provide for a discount on no-fault premiums if an insured who used their own managed-care system were to opt use an insurer's managed-care system.

Having said that, I support this bill and hope that we can deal with these four additional elements before the end of this session.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Breslin.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Robach.

SENATOR ROBACH: Mr. President, there will be an immediate meeting of the Committee on Rules in the Majority Conference Room, and we will stand at ease.

ACTING PRESIDENT MORAHAN: There will be an immediate meeting of the Rules

Committee in the Majority Conference Room, Room 332.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:01 p.m.)

(Whereupon, the Senate reconvened at 2:03 p.m.)

ACTING PRESIDENT MORAHAN: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

Can we return to motions and resolutions, please.

ACTING PRESIDENT MORAHAN: Motions and resolutions.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President. On behalf of Senator Kuhl, on page number 57 I offer the following amendments to Calendar Number 119, Senate Print Number 3438A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MORAHAN: The amendments are received, and the bill will retain its place on the Third Reading

Calendar.

SENATOR BONACIC: Thank you, Mr. President. We have another one.

On behalf of Senator Marcellino, on page number 46 I offer the following amendments to Calendar Number 1312, Senate Print Number 885A, and ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MORAHAN: The amendments are received, and the bill will maintain its place on the Third Reading Calendar.

SENATOR BONACIC: Thank you.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: On page 18 Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 10419B and substitute it for the identical Senate Bill Number 6129B, Third Reading Calendar 556.

And on page 44, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 10057A and substitute it

for the identical Senate Bill Number 7267A, Third Reading Calendar 1254.

ACTING PRESIDENT MORAHAN: Substitutions ordered.

The house will stand at ease.

(Whereupon, the Senate stood at ease at 2:05 p.m.)

(Whereupon, the Senate reconvened at 2:16 p.m.)

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up the supplemental active list at this time, noncontroversial.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 326, by Senator Bruno, Senate Print 6206A, an act to amend the Tax Law and the State Finance Law.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT MORAHAN: Yes, there is, Senator Skelos.

SENATOR SKELOS: Move to accept,

please.

ACTING PRESIDENT MORAHAN: All in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, say nay.

(No response.)

ACTING PRESIDENT MORAHAN: The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 937, by Member of the Assembly Kaufman, Assembly Print Number 1233, an act to amend the Executive Law, in relation to fees and

expenses.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1109, by Senator Skelos, Senate Print 555, an act to amend the Penal Law, in relation to establishing the Class E felony.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

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

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1042, substituted earlier today by Member of the Assembly Conte, Assembly Print Number 9890C, an act to authorize the Bethpage Fire District to file an application.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1134, by Senator Balboni, Senate Print 7141A,

an act to amend the Penal Law, in relation to establishing the crime of unlawful dissemination of spyware.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Senator Schneiderman, on the bill.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

I'd like to say that I appreciate not only has Senator Balboni introduced a good bill, which we've just passed, but he has also, because he is not present, spared us a lengthy explanation and commentary. I would like for thank him for both.

(Laughter.)

ACTING PRESIDENT MORAHAN: Thank you, Senator Schneiderman.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1209, by Member of the Assembly Lifton, Assembly Print Number 6679A, an act to amend the New York State Urban Development Corporation Act.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1260, by Senator McGee, Senate Print 6563, an

act in relation to adjusting certain state aid payments.

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

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

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

SENATOR SKELOS: Mr. President, is the Rules report at the desk yet?

ACTING PRESIDENT MORAHAN: Yes.

SENATOR SKELOS: Then if we could return to reports of standing committees and have the Rules report read.

ACTING PRESIDENT MORAHAN: The

Secretary will read. When he's ready.

Senator Skelos.

SENATOR SKELOS: While we're waiting for the reading of the Rules report, please recognize Senator Krueger.

ACTING PRESIDENT MORAHAN: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. I thought I'd take this moment to ask for unanimous consent to be recorded in the negative on Calendar 1533 and 1550.

ACTING PRESIDENT MORAHAN: Without objection, Senator Krueger will be recorded in the negative on Calendar Numbers 1533 and 1550.

The Secretary will read.

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

Senate Print 1245, by Senator Johnson, an act to amend the Education Law;

1793, by Senator LaValle, an act to amend the Real Property Actions and Proceedings Law;

1846, by Senator LaValle, an act to

amend the Real Property Actions and Proceedings Law;

1931A, by Senator Nozzolio, an act to amend the Criminal Procedure Law;

2372A, by Senator Flanagan, an act to amend the Public Authorities Law;

2766A, by Senator Robach, an act to amend the General Obligations Law;

2778A, by Senator McGee, an act to amend the Education Law;

3018A, by Senator Saland, an act to amend the Education Law;

3523, by Senator Nozzolio, an act to amend the Criminal Procedure Law and the General Municipal Law;

3948, by Senator Robach, an act to amend the Civil Practice Law and Rules;

4136, by Senator Wright, an act to amend the State Technology Law;

4341, by Senator Leibell, an act to amend the General Municipal Law;

4620A, by Senator Little, an act to amend the County Law;

4773A, by Senator Flanagan, an act to amend the State Administrative Procedure

Act;

4777A, by Senator Flanagan, an act to amend the Correction Law and the Public Health Law;

4947, by Senator Kuhl, an act to amend the Public Authorities Law;

4951A, by Senator Spano, an act to amend the Vehicle and Traffic Law;

5048B, by Senator Balboni, an act to amend the Alcoholic Beverage Control Law;

5618D, by Senator Seward, an act to amend the Insurance Law;

5990, by Senator Stachowski, an act directing;

6084, by Senator Leibell, an act to amend the Real Property Tax Law;

6233B, by Senator Wright, an act to amend the Environmental Conservation Law;

6433A, by Senator Padavan, an act to amend the Private Housing Finance Law;

6530, by Senator Hoffmann, an act to amend the Tax Law;

6818, by Senator LaValle, an act to amend the General Obligations Law;

6821A, by Senator Trunzo, an act to

amend the Vehicle and Traffic Law;

6836, by Senator Robach, an act authorizing;

And Senate Print 7018A, by Senator Saland, an act to amend the Alcoholic Beverage Control Law.

All bills ordered direct to third reading.

SENATOR SKELOS: Move to accept the report of Rules Committee, Mr. President.

ACTING PRESIDENT MORAHAN: All in favor of accepting the Rules Committee report say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The Rules report is accepted.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, thank you, Mr. President. I would like to request unanimous consent to be recorded in the negative on Calendar 1602.

ACTING PRESIDENT MORAHAN:

Without objection, Senator Hassell-Thompson will be recorded in the negative on Calendar Number 1602.

Senator McGee.

SENATOR McGEE: Mr. President, on behalf of Senator Kuhl, would you please remove the sponsor's star from Calendar Number 119.

ACTING PRESIDENT MORAHAN: So ordered.

SENATOR McGEE: Thank you.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could stand at ease temporarily.

ACTING PRESIDENT MORAHAN: The house will stand at ease.

(Whereupon, the Senate stood at ease at 2:25 p.m.)

(Whereupon, the Senate reconvened at 2:45 p.m.)

ACTING PRESIDENT MORAHAN: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to Calendar 1613.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 1613, by the Senate Committee on Rules, Senate Print Number 7485A, an act in relation to enacting the Leading Educational Achievement for Results Now Act.

ACTING PRESIDENT MORAHAN: Senator Bruno.

SENATOR BRUNO: Mr. President, is there a message from the Governor at the desk?

ACTING PRESIDENT MORAHAN: Yes, there is.

SENATOR BRUNO: I would move that we accept that message.

ACTING PRESIDENT MORAHAN: All in favor of accepting the message from the Governor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MORAHAN: The message is accepted.

Senator Bruno.

SENATOR BRUNO: Mr. President, the bill that is here before us on the floor really relates to the Senate's plan that we are negotiating now with the Governor and with the Assembly and that, if we hopefully get together, will be submitted to the courts by July 30th as a result of the court decision pretty much mandating that the Legislature put together a plan to provide a sound, basic education for every pupil in the city. This plan is more comprehensive than that. It covers every pupil in New York State.

We feel that it meets all the criteria necessary by itself, if it were to be accepted by the Assembly and the Governor, to meet the court mandate for a sound, basic education. And this plan is very, very comprehensive. It is a combination of state funds, to the tune of about $4.7 billion, federal funds -- this is over five years -- of over a billion, and matching funds from the city having to do with about $1.4 billion on a capital part of $2.8 billion, and about 500-plus million from the city in matching funds.

Total everything up for education over the next five years, and we have about a $10 billion package. And in the first year, about $762 million, part of which would go to fund the high-needs districts in this state to provide a sound, basic education. Of those funds, about 87 percent.

Now, when you look at the total of the way the dollars flow from the state, they relate to the state shares, where the dollars follow the pupils. This also has a tax relief plan in it, because we all know that especially people on fixed incomes, seniors, middle- and lower-income people are having problems meeting the tax payments on their properties to pay for the school aid.

This has about 990 million in relief for people as an enhancement to STAR. And I believe the first year is something like 18 percent of the STAR payment kicks in, next year 25 percent, the following year 36 percent. So that it is huge relief amounting to almost a billion dollars that creates an equity across this state.

And of all of the total, it

increases educational funding by about 33 percent. And it takes present-year state school funding up to about $15.2 billion.

So this is substantial relief in terms of school districts, constituents out there attempting to provide a proper, sound, basic education for every student.

Now, I want to just recognize before I sit that we're relating to a court order as a result of a lawsuit by the Campaign for Fiscal Equity, CFE. We already in this state pay the highest cost per student on the average in the whole United States. It's about $11,500 on the average.

So apparently, with those kinds of dollars going out, young people throughout this state do not equally receive a sound, basic education. So there's a recognition of that as a result of this lawsuit, and we have focused on that in this legislation.

Now, they're not specific recommendations in terms of dollars, because we haven't disposed of the Governor's budget and there's some inhibition on our being able to appropriate presently.

But this is a bill, it is true legislation, and we think it's critically important that it be passed. Because there are ongoing negotiations, and they'll go on between now and July 30th, to see if we can get together with the Assembly and the Governor to submit one plan to the courts.

But if we can't, we're going to submit this plan, the Assembly will submit theirs, the Governor will submit his. And there may be eight or ten other plans submitted. And I will offer up that when the courts receive these plans by July 30th, that they may take months to review and then relate which meets, according to their mandate, the needs of the school districts to provide an education.

So there are those that talk about not doing a budget until this issue gets resolved. So I would just share with you in this chamber, and the constituency out there, that you will in this state for a long, long time without a budget, probably into September, October, if we wait for the courts to mandate.

And I think it's unconscionable that we would be held up in getting a budget done for the people of this state as relates to a lawsuit that talks about funding education.

So, Mr. President, we have a response, and we think it's a proper response and it's an excellent response to the mandate by the courts. But more important, we think that this offers a true enhancement to every young person in this state to receive a sound, basic education so they can prepare themselves for life.

And our chair in Education is Senator Saland. And he has worked diligently over months and has been providing the leadership to get us where we are. And, Steve, on behalf of the Senate -- and I know that everybody appreciates and recognizes the good work that you have done, on both sides of the aisle -- I want to say thank you.

Because I know that you've been there days and weekends and nights, and this is an arduous task and the committee that works with you and all of the others that are

on staff have worked hard to get where we are today. So thank you for your leadership and for your efforts.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Bruno.

Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. A week or so ago, the Majority Leader had a press conference in which he presented the Senate's response to this issue. I applauded him then, and I applaud him now, as well as the chairman of our Education Committee.

If you look in aggregate at this entire plan and what it means to the City of New York, you will find that 55 percent of the total dollars added over the time frame covered by this legislation inure to the benefit of the City of New York, in operating aid, in aid that responds directly to the needs issue as outlined in the CFE decision, and capital money.

It is an excellent response to a very, very difficult issue and becomes the

basis of hopefully some closure with the other house and the Governor on this critical matter.

Unfortunately, I have one little problem. I want to share it with you. Also included in this bill are eight more VLT locations. Without going into that whole issue again, that does prevent a problem in my mind's eye. I don't think it originated here. I know where it came from. But I'd suggest to you that that's not the right thing to do.

But with regard to the basic thrust of this legislation, laying that issue aside, it is an excellent, positive response to a very complex, difficult issue, particularly in the City of New York, where obviously the overwhelming majority of children in need exist.

At the same time, it acknowledges that elsewhere in the State of New York, in other urban centers in particular, there are needs that are not being addressed.

And keep in mind, if this decision ends up being in the court's hands, there will be no solution to those issues beyond the City

of New York in terms of needs. We should keep that in mind as we move forward on this critical issue.

ACTING PRESIDENT MORAHAN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, if the sponsor or whoever Senator Bruno designates would yield for a question.

SENATOR BRUNO: It depends on the kind of question.

(Laughter.)

SENATOR SCHNEIDERMAN: It depends on who stands up.

(Laughter.)

ACTING PRESIDENT MORAHAN: Senator Saland, will you yield for a question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SALAND: Perhaps, if Senator Schneiderman would like, I would try and provide perhaps a little more background on what's in the bill.

SENATOR SCHNEIDERMAN: Further

elucidation from the chairman is always welcome.

SENATOR SALAND: If not, I'll just yield to your question, whichever you would prefer.

As Senator Bruno, in his opening remarks, pointed out, this is an effort over some five years to commit to what has been required of us under the Court of Appeals decision in June of last year in the CFE case.

And what the court in that case did was to direct the Legislature and the Governor to ascertain the actual cost of providing a sound, basic education in the City of New York by July 30th of this year, and to provide an accountability mechanism by which we can measure whether, in fact, whatever it is that we determine to do does provide that opportunity for that sound, basic education.

This bill proposes to spend some $762 million in Year One. And, in the course of doing that, what we do is we attempt to backfill some areas that have been cut and capped by the Governor, areas including transportation, BOCES, public excess cost aid.

We also provide some $355 million, in effect as our initial down payment, to begin the process by way of creating the new category of sound, basic education aid.

This is not an appropriation bill. It's a language bill. And constitutionally, there are limits to what we can do in a language bill. For instance, we can't provide runs in a language bill. That would be appropriately and constitutionally to be found in the appropriation bill.

But what that bill says, in part, is that we will provide, by the fifth year following the enactment of this bill -- subject, of course, to an appropriation, because we all know that we can't bind future Legislatures -- the sum of $19.225 billion, and an amount not less than $1.4 billion to support sound basic education aid.

When you look historically at what has occurred in this legislation and with this Governor over the course of the past ten years, we have seen increases in aid well beyond anything that historically had been the pattern for this body, these bodies and the

Executive. And yet, were you to look back over those past ten years, you would see aid increases of some $450 million being the average aid per year.

What we are proposing here is to more than double the amount of that average. We're proposing to provide some $950 million as an average over the course of those five years. And what we attempt to do we attempt to do in a fashion that brings compliance to the court's order.

We also provide an accountability mechanism. We're familiar that since the decision was rendered, and the decision was rendered based on the 1996-1997 record, there have been some accountability measures that have taken place. For instance, No Child Left Behind didn't exist previously; it exists now. Our SURR school mechanism didn't exist previously; it exists now.

The court, at great length, raised its concerns about the quality of teaching in the City of New York and the significant number of uncertified teachers in the City of New York. That, to a considerable extent, has

been remedied as we stand here today, although obviously there is more that remains to be done.

The amounts of money, as Senator Bruno pointed out, that would be spent in toto over the course of this five-year package would exceed $10 billion. And of those $10 billion, a portion of it would come from federal money.

And our proposal anticipates, based upon data available to us, that "No Child Left Behind," over the course of these next five years, will provide at least a billion dollars in additional funding. And of that, some $515 million will be directed to the New York City school system.

We call for a relatively modest match on the part of the city, a match of some a $554 million. Both the Assembly and the Governor's proposal are significantly greater than that. I believe the Assembly's is 1.2 and the Governor's is 1.5 billion.

And we also provide the city with the additional bonding authority to bond capital projects -- i.e., schools and school

improvements -- to the tune of some $2.8 billion. Probably it's safe to assume that half of that would be recovered by way of building aid that these projects and the city would be eligible for, the city school system.

The net result is that when all is said and done, from these various sources, the sum total of monies that would be available to the city would be somewhere in the area of 56 or 57 percent.

It's important to note that there's an extensive accountability provision. And there's also a school reform provision to try and shine the light of sunlight on some of the -- on the manner in which school boards and school proposals are enacted and the ability of taxpayers to get more and better information.

And there is -- in addition to that, we also provide for certain teacher or education improvement programs which are enumerated in the bill as well.

Thank you, Senator Schneiderman.

ACTING PRESIDENT MORAHAN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: If the sponsor would yield for a few questions, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: Thank you.

I gather that this legislation really is a one-year language bill embodying the first year of the five-year plan that has been discussed. Is that correct?

SENATOR SALAND: Well, it would be difficult to do anything more than a one-year language bill. Again, understanding that, as we all know, even if we were here to proudly announce a three-way agreement, we probably couldn't do any more than specify for this year what we're doing in this year, absent the willingness of the Governor, perhaps, to give us his budget in its entirety.

But the likelihood is that any

product we would deliver at this time would have immediacy in terms of one year and commitments or attempted commitments -- and I'll continue using the term "subject to an appropriation" -- in the outyears.

SENATOR SCHNEIDERMAN: Through you, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: I just want to make sure that we're all clear that the five-year plan that was announced on May 25th by yourself and Senator Bruno which you were making reference to in your earlier comments is really embodied in the sense that the first year of that plan is really what you're putting forward in this language bill, but the intention of the Senate Majority still is to continue to adhere to the proposal released on May 25th for your five-year plan, which is where, I gather, we got the numbers that were just being discussed.

SENATOR SALAND: And that you would find on page 56 of the bill. And if you look at paragraph 2, starting on line 13, that

section is the one that contains the reference to 19-plus billion dollars and the amount not less than 1.4 billion for the SBEA.

SENATOR SCHNEIDERMAN: Thank you. And with reference to the numbers that were just discussed --

ACTING PRESIDENT MORAHAN: Senator Schneiderman, are you asking Senator Saland to continue to yield?

SENATOR SCHNEIDERMAN: Yes. Through you, Mr. President, if the sponsor would continue to yield.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator continues to yield.

SENATOR SCHNEIDERMAN: With regard to the numbers that were just discussed regarding the total aid to New York City over the five-year plan, I just want to make sure I understand correctly. The statistics that were just given us for the amount of the new appropriations that, under the plan, are proposed to go to New York City, that includes the money for capital, does it not?

SENATOR SALAND: Yes, it does.

SENATOR SCHNEIDERMAN: And in fact, this bill does not -- does this bill change in any way the school funding formula?

SENATOR SALAND: This adds a new funding formula, keeping in mind that the court did not direct any change in formula. The trial court may have preferred or directed a change in formula, but that was specifically rejected by the Court of Appeals.

The concern was delivering the amount of money necessary to provide for a sound -- the opportunity for a sound, basic education.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Do you continue to yield, Senator?

SENATOR SALAND: Yes, Mr. President.

SENATOR SCHNEIDERMAN: So if I understand correctly, then, the funding formula is kept the same but there's an additional new category of aid added which

you're referring to as sound, basic education funds. Is that correct?

SENATOR SALAND: Correct.

SENATOR SCHNEIDERMAN: And according --

SENATOR SALAND: And if I may, at the expense of interrupting you --

SENATOR SCHNEIDERMAN: Yes.

SENATOR SALAND: -- equally important in the eyes of the court, the accountability mechanism is addressed also.

SENATOR SCHNEIDERMAN: And as I read the --

ACTING PRESIDENT MORAHAN: I beg you to come through the chair, both Senators, as opposed to talking across the floor.

SENATOR SCHNEIDERMAN: Excuse me, Mr. President. If, through you, the sponsor would yield for another question.

ACTING PRESIDENT MORAHAN: Senator Saland, will you yield for another question from Senator Schneiderman?

SENATOR SALAND: Yes, Mr. President.

SENATOR SCHNEIDERMAN: Through

you, Mr. President.

As I understand it, then, of the total, all funds that are proposed under the five-year plan advanced by the Majority, the total of state funds is approximately $4.7 billion, of which $3.3 billion would come from the state's General Fund and $1.4 billion would come from VLTs. Is that correct?

SENATOR SALAND: It is projected that VLTs would be the source of the SBE money under this bill.

SENATOR SCHNEIDERMAN: Through you, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

SENATOR SCHNEIDERMAN: So the existing funding formula would be sustained by the state's General Fund, but in large part the funds for the sound, basic education portion of the budget would depend on the revenues of the VLTs; is that correct?

SENATOR SALAND: Well, Senator Schneiderman, to the extent that the language

here provides for certain funding to comply with a court order it would seem to me that, were this to be what was accepted by the court, it would be incumbent upon this body and the Governor to ensure the delivery of those funds.

So if, in fact, whatever is currently proposed to be provided by way of VLTs was inadequate, either there would have to be alternative sources or, perish the thought, greater reliance on VLTs, additional VLTs.

SENATOR SCHNEIDERMAN: Through you, Mr. President, I'm not sure I quite understood the response. According to --

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield for another question?

SENATOR SALAND: Yes.

ACTING PRESIDENT MORAHAN: The Senator continues to yield.

SENATOR SCHNEIDERMAN: According to the documents that were issued today by the Majority that accompanied the legislation, the projection for the five-year plan -- and this

is where we get to the large numbers that Senator Bruno and yourself and the sponsor just mentioned -- according to the five-year plan that is being proposed today, because this is just, as stated, the first year's language bill reflecting a longer-term plan, $4.7 billion in new state funds would be committed over five years, of which it is projected that $3.3 billion would come from the General Fund and $1.4 billion from the VLTs. Is that correct?

SENATOR SALAND: I'm sorry, Senator?

SENATOR SCHNEIDERMAN: That the plan as announced today, the five-year plan, states that $4.7 billion in new state funds would be provided to schools, of which $3.3 billion of the $4.7 billion would come from the General Fund, and $1.4 billion from VLTs.

SENATOR SALAND: Correct. In fact, with the additional VLTs that are provided for in Part K of the bill, beginning at page 65, it's anticipated that the amounts of money that those VLTs would generate would

be somewhere in the area of $2 billion.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator continues to yield.

SENATOR SCHNEIDERMAN: As far as the City of New York is concerned, is it correct that under the five-year plan proposed by the Majority, the total state funds to the city, new funds, would be $1.8 billion?

SENATOR SALAND: I'm sorry?

SENATOR SCHNEIDERMAN: Referring to New York City now, that the funds, the new state funding for New York City under the Majority's plan over the next five years would be $1.8 billion.

SENATOR SALAND: Yes, that would be correct.

Other monies that would be provided by the state would be -- you could reasonably

anticipate somewhere in the area of an additional $1.4 billion, which would help to pay the bonds for the capital needs of the city for construction or renovation.

That would be state-aidable. That would be capital, not, you know, operating expense. But it would still be state money that would be flowing.

I would say, out of the total amount that would be going to the city, when you include the capital component, it would probably be somewhere in the area of $3.1 to $3.2 billion.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: I may be confused, but my understanding is that there is no authorization for state financing of the

capital expenditures and that in fact what's being proposed -- and I'm using the materials distributed by the Majority -- is the authorization that New York could borrow money.

SENATOR SALAND: You are correct.

But understand that once those dollars are bonded and expended, they become state-aidable. And like any building aid proposal, once you build, you are entitled to be reimbursed by the building aid formula.

The city generally would receive 50 percent.

SENATOR SCHNEIDERMAN: I understand.

And through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: And does this proposed legislation, or the five-year

plan that it embodies, change the disparity or correct the disparity in the reimbursement of building aid for the city?

SENATOR SALAND: I wasn't aware of a disparity.

SENATOR SCHNEIDERMAN: Through you, Mr. President.

ACTING PRESIDENT MORAHAN: You can expand on the question.

SENATOR SCHNEIDERMAN: There are differences in the reimbursement rate for capital expenses around the state. Does this change the current system for reimbursement?

SENATOR SALAND: No, the building aid formula remains as it currently is.

SENATOR SCHNEIDERMAN: Thank you.

Can you tell us, in this particular bill --

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield for another question?

SENATOR SALAND: Yes.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: In the

bill before us today, how much money under this bill would go to New York City for the 2004-2005 school year? Not counting capital. Let's take out the capital portion and talk about operating aid.

SENATOR SALAND: The amount would be approximately 37 percent of $762 million.

I'm being counseled by one of much higher authority than me that the number would be $282 million. And I would never question it, I might add.

SENATOR SCHNEIDERMAN: I appreciate that.

ACTING PRESIDENT MORAHAN: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator continues to yield.

SENATOR SCHNEIDERMAN: Under this bill that we're voting on today, through you, Mr. President, could the sponsor tell us how much would be allocated under this language bill to the city of Yonkers for the 2004-2005 school year?

ACTING PRESIDENT MORAHAN: Senator Saland, will you yield for that question?

SENATOR SALAND: I don't think I can provide you those numbers, because we don't have runs.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Senator, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: Yesterday the Assembly passed a resolution which they accompanied with a breakdown of school aid that would be provided under their resolution. They provided, the Assembly's plan would provide, for Yonkers in the 2004-2005 school year, $110,993,574.

Can you tell us whether or not this bill that you're seeking to have us vote on now would provide more or less money for the

City of Yonkers than that proposed by the Assembly?

SENATOR SALAND: I can't tell you that.

I can only tell you that the reason the Assembly resorted to the artifice of a resolution was because they knew that they couldn't constitutionally provide runs in a language bill.

So the bottom line is that they have a proposal which they are certainly advancing which, according to them, is based upon dollars available in the ordinary revenue stream, no need to raise any additional taxes. Something which, speaking for myself, I don't believe is particularly realistic. But nonetheless, that's what they've chosen to do. And, you know, there's nothing I'm going to say or do that's going to make that any different.

I couldn't tell you what my own school district would get under this proposal, because, again, we can't include runs in a language bill.

SENATOR SCHNEIDERMAN: Through

you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: There's no reason why -- there's been reference to the constitutional requirements -- why we can't draft and introduce an appropriation bill at this time in the Senate, is there?

ACTING PRESIDENT MORAHAN: You're asking the chair?

SENATOR SCHNEIDERMAN: I'm asking the sponsor, through you, Mr. President.

I was directed not to talk to him.

ACTING PRESIDENT MORAHAN: Senator Saland?

SENATOR SALAND: I would think that it might be possible, and I'll defer that to counsel, to have a bill draft. You couldn't introduce it, and it certainly couldn't be the subject of any discussion on

this floor if it can't be introduced.

SENATOR SCHNEIDERMAN: Through you, Mr. President. But there's no reason --

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Mr. President.

SENATOR SCHNEIDERMAN: There is no reason why we couldn't have a draft of an appropriation bill to accompany this language bill; is that not correct?

SENATOR SALAND: Senator, it would be a vain gesture. If it couldn't be considered, why would it be before us?

SENATOR SCHNEIDERMAN: Through you, Mr. President.

ACTING PRESIDENT MORAHAN: Senator, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

SENATOR SCHNEIDERMAN: The bill that we are voting on today, though, does have an aggregate amount of money that it provides and that it directs the allocation of for the State of New York for the 2004-2005 fiscal

year, does it not?

It is a language bill that, the way the budget process operates in this state, is designed to accompany an appropriation bill. But nonetheless, this bill provides the numbers you've been referring to, the $762 million and the other numbers; correct?

SENATOR SALAND: But it clearly states that it's subject to an appropriation. And there is no appropriation bill. An appropriation bill could not be introduced. And that being said, it just could not even be on the floor for discussion.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: Nonetheless, whatever the issues are relating to the technicalities of the appropriation

bill, there are numbers here that you've been referring to. And there's some -- if there are no calculations or runs, as they're called, how do we know New York City's share? How do we know the total number for the 2004-2005 fiscal year if there have been no numbers run so that we know how much money is in here?

SENATOR SALAND: In order to comply with the court decision, we have prepared what we believe to be a reasonable estimate reflecting what will be required of us.

I think it's safe to say that given the fact that the Governor in his budget proposed some $147 million, this is some 600-plus million dollars more than the Governor's proposal, that no district will fare certainly worse than they would have under the Governor's proposal. And in fact, I think it's safe to say that no district will sustain any losses or diminution in their aid under this proposal.

But more than that, at this point, in the absence of runs, I can't provide you

any specifics.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: Can you provide us with a reasonable estimate of the amount of money under this bill that the City of Poughkeepsie would receive?

SENATOR SALAND: No, I cannot.

As I mentioned earlier, I can't even tell you what my own district will receive.

SENATOR SCHNEIDERMAN: The Assembly again, however vain the gestures may be -- some might argue that a language bill without an appropriation bill is a vain gesture. But what they gave us was a resolution, for whatever reason they chose to proceed that way. They did provide an

analysis of what their plan would produce. And in their plan they gave the reasonable estimate that the City of Yonkers would get $110,993,574.

I gather that you are today unable to give us the reasonable estimate that the Senate's alternative plan would provide.

ACTING PRESIDENT MORAHAN: Senator Saland, do you yield to that question?

SENATOR SALAND: I'm not sure if I --

ACTING PRESIDENT MORAHAN: I assume it's a question.

SENATOR SALAND: We haven't been asking the same question back and forth since a number of occasions.

I can't -- I can't provide you with a number. And I think, quite candidly, it's a rather cruel hoax on the part of the Assembly to throw out numbers that they know are not sustainable, knowing full well that all it's going to do is increase expectations for those who may not understand what's happening here, only to have them dashed later on when the reality of what they're going to receive

actually comes in whatever appropriation bill we ultimately do.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I appreciate the sponsor's answers. On the bill.

ACTING PRESIDENT MORAHAN: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: We're engaged in a bizarre legislative dance here. I don't think -- I haven't been here that long, but I don't think even old-timers have seen anything quite like this before.

But what we do have, very clearly, are several competing plans, as Senator Bruno has stated. And the competing plans all purport to be an effort to comply with the Court of Appeals decision in the Campaign for Fiscal Equity case.

I respectfully submit that the five-year plan proposed by the Senate Majority, and the first year of which is embodied in the bill we are now being asked to vote on, would not pass judicial scrutiny, would not be approved by Justice Leland DeGrasse, and would not be found to be in

compliance with the CFE decision.

In fact, this legislation and the five-year plan that it reflects provide $4.7 billion in new state funds. That is less than the amount required to meet existing contractual obligations and to cover inflation.

Further, the key reform touted here is that there's now a sound, basic education fund on top of the existing formula which is being preserved. But the sound, basic education fund is not taken care of by the state's General Fund. It's dependent on VLT revenue.

And while I appreciate the sponsor's statement that he believes we might have to comply in some other way if VLT revenue went down, nonetheless we're being asked to sign off on a five-year plan, the first year of which is before us in the form of a piece of legislation.

And the difficulty here is that the regular funding formula, the State General Fund would provide virtually all the money. But as far as the sound, basic education fund

goes, the bulk of it would be provided by VLT revenue.

So we're in a situation where, if Gamblers Anonymous has a good year and gambling goes down, the high-needs school districts would suffer.

Furthermore, and I think -- I don't think that there -- I think everyone here is sincere in their desire to get moving towards a solution to this crisis. But we have a piece of legislation on the floor before us today, and the sponsor has candidly acknowledged that he cannot give us even a reasonable estimate of how much money is in it for the school districts around the state.

At least when the Assembly asked its members to vote on the resolution, they provided numbers so the members could see what the effect of the resolution would be.

The Senators here are being asked to vote without knowing how much is in it for the Syracuse district, the Yonkers district, districts in Senator Johnson's district. Senator Breslin is being asked to vote without knowing how much is in it for Albany.

That's not the way to conduct the legislation. There's no emergency today that requires us to proceed forward without clearly identifying how much money would be allocated to each of the school districts in the state.

We can draft an appropriation bill. We can even introduce an appropriation bill. There's no bar to that. And we certainly can provide runs.

And I strongly urge that if you're telling us we should vote on a bill where we can't even tell our constituents how much money is in it for their districts -- we're being asked to vote on a bill where the Majority is now acknowledging we don't know and cannot even give a reasonable estimate of how much money this would provide to our districts -- that that's not the proper way to undertake legislation.

We have a moral obligation as well as a legal obligation under the CFE opinion. I would respectfully submit that this plan does not address the needs of New York City. We are told that the portion of aid to New York City, and let's -- you know, we might

as well get everything out on the table. There's a plan that's been advanced by the plaintiffs in the CFE case, $9.5 billion over four years. The Regents came up with a plan, $14.4 billion over seven years. The Senate Minority, Senator Paterson issued a plan showing how we could get $10 billion over five years. And I would respectfully suggest that Senator Paterson's plan is the only one that has extremely explicit sources of the revenue to fund that plan identified.

The Senate has proposed a plan for $6.3 billion over five years; the Assembly, $7.3 billion over five years.

All these plans are being submitted in an effort to comply with the CFE decision. There is a dramatic difference, however, in the portion of the money that would go to the City of New York and in the portion of the money that would go to high-needs districts.

The five-year plan of the Senate is not going to satisfy the court by providing $840 million from VLTs for the City of New York. I mean, it's just -- that's not going to satisfy the court. That's not enough

money to deal with the issues that were raised in the CFE decision.

And I would also urge my colleagues that while we're hearing a lot of rhetoric about how we want to avoid judicial review, that it has been -- the predictors of a long, drawn-out legislative process really reside here in this house on the other side of the aisle.

And I have great respect for Senator Saland, but he has repeatedly stated that he expects this to be dragged out in litigation for many, many years. Senator Bruno has said similar things. There is no way that we will avoid that litigation if we adopted the plan presented today into law.

So I would urge my colleagues that if you want to pass this bill today and you want to adopt the Senate Majority's five-year plan, you might as well hang a banner out on the lawn of the Capitol saying "Welcome Special Master," because the special master will be here.

The Campaign for Fiscal Equity decision, which I am prepared to read from at

as much length as you would like -- I've done it before here -- made extraordinarily explicit findings of the needs of the 1.1 million children in the school system of the City of New York. It spoke about buildings in collapse, spoke about hundreds of thousands of children graduating from high school with an 8th-grade reading level.

This is not something that's going to be addressed with the amount of money that's offered here. This is the lowest amount of money of any of the plans, even lower than the Governor's.

And so I would suggest that this bill before us today should not be voted on because it's not going to avoid a special master. It should not be voted on because it doesn't provide the funding that, even if we weren't under a court order, that our moral obligation should require us to provide. It's the lowest amount of money of any of the plans now on the table.

And finally, it should not be voted on because the members of this house are being asked to vote on a plan when they can't even

tell how much money is in it for their school districts.

This is not the way to solve this problem. This is another example of bad Albany process. This is the reason that in a recent poll -- and I must say we should all be ashamed of this -- more people in the state of New York think the courts should run the school system than the State Legislature. That's pretty disgraceful. That's pretty disgraceful.

So I'm going to vote no on this. And I urge that everyone vote no. And I hope that we will return to negotiations in good faith. But if the plan of the Majority is to throw something out on the table and say, We put out a plan, and just really with the understanding that we're going to wait for a special master and we're drag this out through twenty years of litigation, then that is -- then let's get that out in the open. That, in my view, is proceeding in bad faith.

Remember, remember, there has been a lot of talk about the comparison between Brown v. Board of Education and the Campaign

for Fiscal Equity case. In his opinion, Justice DeGrasse opened with a quote from Brown v. Board of Education. And you all remember the resistance to the implementation of Brown.

I hope that the State of New York will show more integrity in the implementation of the mandate of the CFE decision than many of the states in the United States showed in the implementation of the Brown decision.

Let us not proceed by delay and litigation in which the Governor of the State of New York has opposed this every stage of the way. You know, we're not required to go in front of the special master with the Governor opposing what the plaintiffs want. But that's clearly the policy that he's endorsed. And I respectfully suggest that by his sending us a special message to get this bill on the floor, he seems to be collaborating in some respect with my colleagues on the other side of the aisle.

The policy of this house and the policy of the Governor should not be to fight the CFE decision, fight the plaintiffs, fight

those advocating for basic civil rights, for a sound, basic education, every step of the way. If we pass this bill today, we're back in court, the special master is coming, and we are, quite frankly, derelict in our constitutional duty.

I urge everyone to vote no.

ACTING PRESIDENT MORAHAN: Thank you, Senator Schneiderman.

Senator Robach.

SENATOR ROBACH: Yes, Mr. President. I have to respectfully disagree with my colleague. I think that you have to look at this in a very global manner.

You know, a while back ago there was a commercial on television, I can't remember if it was the poultry industry or the beef industry, it said "Real food for real people."

I think we're at the point in these budget negotiations and the CFE where we really have to have a real plan for real people, all the people, and avoid the court case and not make sure this only affects the pupils in New York City but also affects the

students all across New York State that are in high-needs districts, not just New York City.

My job is to try and make sure, at least how I interpret it, that a budget is in place, something is done to make sure it will help other students in my district. While my colleague has stated that he thinks this is the guarantee that the courts will draw this, it was the Senate, in fact, which came out with the first plan of CFE, a real bill, not a resolution. It was in fact the other house who seems to be dragging their feet. And their leader has said in print it might be the best way to go is to let a master draw this.

And it is a very great concern to me that we are not embracing any plan, especially all my colleagues, regardless of party, from upstate New York, but really the whole state, to move anything forward that will spur more dialogue and make us come to an agreement on this that is not going allow the courts to do it, which is really going to allow the people who should do it, those of us right in this room.

I cannot, in good conscience, say

to my people in my district what I did was wait to see what would happen, not advance any measures. And I think our job is to act on these things.

Now, I don't know the exact dollar amount of what this will do. But I know if we do nothing, there will be nothing in the court case for upstate school districts, high needs -- Rochester, the greatest concentration of poverty in comparison to any school district.

What I do know is this plan moves getting something done and will certainly give more money to the highest-needs school district I represent, and that's the one in the city of Rochester. I know it will have the same effect on a lot of other cities in upstate New York.

And I would encourage all my colleagues to vote for this measure and encourage everyone in the process to continue the dialogue, using all these things, a specific proposal, this one right here, as an impetus to get real negotiation to try and get this done prior to the date when a master

would be brought in.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Bonacic.

SENATOR BONACIC: Mr. President, would Senator Saland yield for a question.

ACTING PRESIDENT MORAHAN: Senator Saland, do you yield for a question?

SENATOR SALAND: Yes, Mr. President.

SENATOR BONACIC: Steve, did the courts, in its decision, define what a "sound, basic education" is?

SENATOR SALAND: No, it did not.

SENATOR BONACIC: Thank you.

Why are we in this mess? I have watched this from the very beginning this year, for five, six months. I'm frustrated. I'm stained, like we all are, of a dysfunctional legislature, a session that's the worst ever. And I can tell you, I've been here 15 years, this is a session that's the worst ever. We have done nothing.

But I know every member in this chamber works hard. They want to do

something. I know that we have talent on both sides of the aisle looking for a solution. Why are we in this mess?

Now, first of all, I think that, for the years that the courts reviewed on the allocation of money, every state elected official in the Assembly and the Senate in budgets approved those votes and it became adopted by the Governor. I think the courts went a little too far in judicial activism. That's where it started, the problem. We've got to deal with it, because it's reality.

Why not talk about transportation and analyze that for allocations downstate, upstate? Why not health care? You open up a Pandora's box that's very difficult to solve.

And when I became a Senator, I said: I'm going to protect my district, but I want to be reasonable, I want to be fair, I want to represent everybody in the state of New York and do it wisely and learn how to compromise.

What's happened? Why are we in this mess? We have political polarization. That's number one. We have regions --

New York City fighting upstate. That's number two. I have never seen the intensity of that, in 15 years, as I see now.

Now, we should have done a budget. There's no reason why CFE has stymied health care, transportation, economic development. Is there one person in this chamber that really believes we should tie CFE to the budget? It makes no sense to me why that happened. That was a political decision, to drive up the price of money to New York City. These are political decisions. These are not leadership positions of why we came here to do the right thing.

Now, how do we get off this dime? I have no answer for CFE. I really don't. Every one of us could put up a plan. But we are in such an arena that we can't agree, Democrats and Republicans, between the Assembly and here, whether we should have a round table or a rectangular table when we negotiate. Now we're going to figure out what's best in educating and money for the children of the city of New York?

The other thing that I think we've

made a terrible mistake, everything is linkage. Everything. We don't do HAVA, we don't do the Rockefeller Drug Laws, we don't do Timothy's Laws and any other important priorities that you have. All tied into CFE. Because that's what this amounts to, how the Assembly negotiated from the very beginning.

We probably need a change of leadership to get back on track, so we can get back to what's reasonable and not have political warfare and polarization. There shouldn't be one person that can be a wrecking ball to have so much power to stymie the process and stain us all. That's what's happened this year.

So I say that all of us should be clamoring for a budget, like we have argued on this side of the aisle. On our CFE proposal, is it perfect, is it the best one? I say maybe there is better minds. Maybe it should be compromise more.

But knowing how we have behaved, the courts are going to decide this. And how can you define numbers when no one has defined what a "sound, basic education" is?

Mr. Schneiderman?

SENATOR SCHNEIDERMAN: If the Senator would yield for a question.

SENATOR BONACIC: I'd like to finish my remarks, and I'll gladly yield.

ACTING PRESIDENT MORAHAN: The Senator will not suffer an interruption.

SENATOR BONACIC: I think we've got to get back to basics. And the basics are -- because I don't like being stained, just like you don't like being stained. And I don't like this institution being stained.

Let me just say, in conclusion, CFE will probably wind up in the courts, because the polarization, the regional differences -- it's a way to get more money to New York City. And perhaps they do need more help down there. But, you know, I'm a product of poor schools with an excellent education, because we had excellent teachers. It wasn't throwing money at the problem.

And you know what blows my mind in this analysis and that court decision? The asterisk by the plaintiffs saying: We can't guarantee that if you gave us $19 billion we

would increase accountability in excellence and education.

I -- for the life of me, I can't understand that decision. You have to have reforms. We have to have accountability. And at some point, whether the courts do it or we do it and we come up with billions of dollars for the New York City children, you know what? Let's make sure they come out smarter and we do a better job down there. It's not just about the money. It's got to be about reforms and accountability.

This is a start, what we're trying to do. It's not perfect. And then we get up and we beat the report up, we send messages to the court saying: Don't accept this plan, because it's really not taking care of New York City. And it goes on and on and on.

Reasonable people can be put in a room, they can talk about compromise, giving more money to the city, talk about accountability, reforms, and how we're going to help those kids. None of those discussions have taken place. Not at all.

This is about political

polarization. That's what we've become. It's a sad day. It's a sad day for our institution that we've reached this level. We can do much better. We all should.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Stavisky.

SENATOR STAVISKY: Mr. President, if somebody would answer a couple of -- I don't know whom to address my question to.

If Senator Saland would yield to a couple of questions.

ACTING PRESIDENT MORAHAN: Senator Saland, do you yield?

SENATOR SALAND: Yes, Senator Stavisky.

SENATOR STAVISKY: Senator -- through you, Mr. President -- I heard you say that the City of New York would receive approximately 37 percent of the total dollar amount.

SENATOR SALAND: I said of the combination of what we're calling SBE, or sound, basic education aid, and additional

school aid that would be provided over the next five years, the city would receive, of that, approximately 37 percent. And I went on to explain that with the capital component, that would be beyond that.

And I would just like to point out also, it's worth noting -- and I don't think anybody who has read the case would dispute this -- the court basically said they didn't care where the money came from. The court said: State, you didn't abide by your constitutional obligation to provide a sound, basic education. It has to be fixed. But we don't care where the money comes from.

If you want to ask more of the city, you can do that, because the city, in effect, is a component of the state.

SENATOR STAVISKY: If the Senator would continue to yield.

SENATOR SALAND: Yes, Senator.

ACTING PRESIDENT MORAHAN: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR STAVISKY: That leads me to the question that I'm asking. How much will the City of New York be required to put into the pot, so to speak?

SENATOR SALAND: Well, we -- under this proposal, the city would provide about $554 million, which probably, over a five-year period, amounts to maybe about 2 percent a year of an increase. The city's probably putting up right now somewhere between $5.5 billion to 6 billion.

So it's not a tremendous amount of money to ask of the city in terms of maintenance of effort or expanded beyond maintenance of effort. As I mentioned in my earlier remarks, the Assembly proposal calls for $1.2 billion. The Governor is $1.5 billion. And then there's also a capital component.

And I know, as you know, Senator Stavisky, the mayor has a five-year capital plan for $13 billion. We're saying we'll give you bonding authority for another $2.8 billion above that, of which the state, by way of building aid, would reimburse about half of

that.

SENATOR STAVISKY: And if the Senator would continue to yield.

SENATOR SALAND: Yes, Mr. President.

SENATOR STAVISKY: Through you, Mr. President.

What would happen if the city does not put in the approximately 500-and-some-odd million dollars that they would be required to put in under either this legislation or the governance legislation that we passed in 2000?

SENATOR SALAND: The failure to put your matching -- or the required amount of money would result in the monies from the state not flowing to the city.

SENATOR STAVISKY: And if the Senator would continue to yield and elaborate on that response.

ACTING PRESIDENT MORAHAN: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes.

SENATOR STAVISKY: Would you elaborate on that?

SENATOR SALAND: I'm glad I

checked with staff, because I might have told you something that might not have been completely correct.

The monies would be recouped from general operating aid.

SENATOR STAVISKY: Dollar for dollar?

SENATOR SALAND: Yes.

SENATOR STAVISKY: In other words -- my last question, if the Senator would continue to yield.

SENATOR SALAND: Yes.

SENATOR STAVISKY: In other words, if the city does not put in its share, then they would not be in compliance with the CFE. To a greater extent, there would be less money available for the sound, basic education.

SENATOR SALAND: Correct.

And in all fairness, the court didn't say the city must pay. What the court said was, in effect, we don't care where it comes from, and you can make the city pay. It didn't say there should be a specific share allocated to the city. They basically said

the city could be part of the solution.

SENATOR STAVISKY: Thank you, Mr. President.

Thank you, Senator Saland.

ACTING PRESIDENT MORAHAN: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President. On the bill.

We've been debating this for seven, eight, nine months now about how do we fix the problem. And everybody looks at the Legislature and says it's their fault.

But, you know, I went and done a little research. I found out we have a State Education Department, a holy empire made up of people who don't even return your phone calls because they don't work for you. We have a Regents that nobody on this side of the aisle has ever voted for any of them. We've never had an opportunity to put forth one of our candidates, because they don't meet the criteria of somebody else.

Now, you're starting to say here that, hey, wait a minute, there's a problem here. We need the money. Can somebody tell

me what the Regents or State Ed has been doing? I remember two years ago the Regents said, We need $9 billion. When I called my Regent and said, "By the way, what's it for?" "I'll get back to you." That was last October.

How are we supposed to sit here and listen to what a court says when a layman's reading of the court decision says, What does it cost to educate somebody in New York City? As Senator Saland just said, very clearly, that New York City can be asked to be part of the solution, not part of the problem.

We keep looking around at one another and everybody back in your districts are saying, It's your fault, it's your fault. Did you ever hear anybody talk about the Regents?

I did a poll last weekend, 110 people. Not one of them knew who the Regent was that represents Orange County. Not one. He also has Westchester, a few others. He's never set foot in our county.

So why are we having these kind of individuals assigned a responsibility with no

accountability to try to help us solve a problem that they haven't even addressed themself?

And when the court looks at it, you have to understand -- or question the court, did the court ever decide to ask somebody in the State Education Department what happened, how did this get so far out of hand?

And if you go back and check, since Governor Pataki has been in office, New York City has increased -- its aid has increased every single year. Every year. Not once or twice, but every year.

And the problem is it just doesn't seem that anybody wants to solve it. It's simple. Just give us more money. Where does the accountability come in? Who's responsible?

Many of us grew up -- you see the white hair on the president up there, he was in school a long time ago when there was accountability, as I was, and many of you. But you just can't throw money and solve a problem. And that's what it seems that the people who are looking at New York City think.

Give them money, money.

Joel Klein, the chancellor, three weeks ago had an article in the Post, and he had a figure of $30 billion. Our total package is $14.9 billion. And now we're sitting here saying there has to be more money.

When are we going to find out what happened to the School Construction Authority? How much did they have, how many projects were done on time, and what do we see as an advantage for our students? The excuse is, We overran the budget, we did this, we did that. Who's accountable? We never want to put the finger and blame somebody. We blame the Legislature. And we shouldn't be blamed.

We have a responsibility. But shouldn't we be asking the Regents: Come over here, tell us what you did, tell us what you didn't do?

This is a mistake, a mistake, because everybody is saying find the money. Where's the money going to come from? I heard someone say, We're not going to use VLTs. I'll never vote for a tax increase. You don't

want the VLTs, then you find the money.

And then I hear someone say, Oh, well, this program won't work. What have you contributed except holler We need more money, we need more money?

I think it's about time that we brought some people in that are supposed to be accountable and make them accountable.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President. I'd like to ask if Senator Saland would yield for a couple of questions, please.

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

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Hoffmann.

SENATOR HOFFMANN: Let me just ask you a few very basic civics-lesson questions, if you don't mind.

If I were to explain to a group of high school students from Central New York how this situation came to exist and where the

balance of power is, I would like to follow a little bit of the line of questioning that Senator Larkin talked about.

In fact, Senator Larkin and I were chatting a little while ago, and I asked some questions just for my own edification, because in this chamber we sometimes feel such weight on our shoulders from other forces, and I think it behooves us to take a minute and go back to a very basic understanding of how the state government operates and how the various branches and agencies operate.

Now, State Education operates a little differently and is configured a little differently than other state agencies. In this chamber, we regularly confirm commissioners that are the nominees of the Governor to head state agencies -- Agriculture, Insurance, Labor. But Education is different. Please explain, if you wouldn't mind, Senator Saland, why and how -- well, just how Education is different. Why is not really as relevant right this minute.

SENATOR SALAND: Well, the education policy, pursuant to the

Constitution, is primarily driven by the Board of Regents. The Education Commissioner is appointed by the action of the Board of Regents. That does not mean that the Legislature and the Governor have no say in education policy; the Constitution clearly provides that the Legislature has the ability to engage in education policy.

The Regents basically propose education policy, and they have the comfort of doing something that none of us do; they can make proposals which have, in effect, the weight of law without having to worry about the fiscal impact of those proposals. They make the proposals, and we are responsible to fund them, to the extent that we choose to fund them.

SENATOR HOFFMANN: Thank you.

Senator Saland, would you yield for an additional question?

THE PRESIDENT: Senator Saland, do you yield for another question?

SENATOR SALAND: Yes, Madam President.

SENATOR HOFFMANN: Thank you. I

appreciate your indulgence.

SENATOR SALAND: And I should add that I think that New York may be the only one of the 50 states -- maybe the only one; I'm not sure if South Carolina has something similar -- but I can safely say certainly no more than two, but maybe the only one that has a system like that.

SENATOR HOFFMANN: With a system in which the Regents have the ability to --

SENATOR SALAND: Where the Regents and Education Commissioner are independent of the Legislature and the Governor.

SENATOR HOFFMANN: Are able to create policy which is then funded by the Legislature and the Executive branch.

Senator Saland, the Regents, as we know, are selected by a majority of the Legislature. Which in this state means the Assembly, with the largest number of votes, has the authority to pick most of the Regents. Is that correct?

SENATOR SALAND: Well, that's correct, because of the disproportionate

membership of the Assembly. I believe currently there's in excess of a hundred members of the Democratic conference in the Assembly, and less than 50 in the Republican conference. And the numbers here are 37 on the Republican side, 24 on the Democratic side.

The combination of the two basically, when you combine both houses, basically says that there is disproportionately the ability by those, should they choose, who are members of the Democratic Party to pick the Regents.

And as a practical matter, that's what has been happening certainly for some period of time.

SENATOR HOFFMANN: It's been happening for some period of time, but, Senator Saland, would you say historically it's always been a political decision, from your knowledge of education policy in this state?

SENATOR SALAND: I would assume. It would be hard for me -- I can't say that I'm a student of what has occurred decades ago

in the appointment process. But I have to assume that there's probably always been some element of politics involved in the selection of the Regents.

SENATOR HOFFMANN: Thank you.

Senator Saland, if you would yield for an additional question.

THE PRESIDENT: Senator Saland, will you yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: He does continue to yield.

You may proceed.

SENATOR HOFFMANN: Again, for a high school civics lesson, the selection of the Commissioner -- now, we appoint -- the Governor appoints the commissioners subject to confirmation by the Senate. All other state agencies are thus created, are thus led by their commissioners.

What happens with the Department of Education?

SENATOR SALAND: Neither the -- the Governor has no role. The commissioner

really is a creature of the Regents.

SENATOR HOFFMANN: Okay. Is selected by the Regents, not subject to any confirmation by the Legislature.

SENATOR SALAND: Correct.

SENATOR HOFFMANN: For an additional question, Senator Saland -- a final question, I think -- was there a purpose stated any place that you know of? I mean, in your role as chair of Education, I'm sure you're asked this from time to time.

Why is it considered --

SENATOR MONTGOMERY: Point of order. Point of order, Madam President.

THE PRESIDENT: Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: I would like -- point of order. I would like a ruling on the germaneness of this discussion between Senator Saland and Senator Hoffmann.

SENATOR HOFFMANN: Madam President, if --

THE PRESIDENT: I find that the discussion is germane, Senator Montgomery.

SENATOR MONTGOMERY: This is

germane to our --

THE PRESIDENT: This is germane.

You may proceed, Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

Is there a rationale within the Constitution or within recent education policy that explains why this department is configured differently than other state agencies?

SENATOR SALAND: I believe the intention was just to establish it as an independent policy entity.

SENATOR HOFFMANN: Okay. All right. Thank you very much, Senator Saland. I appreciate your indulgence in going through this line of questioning.

And rather than simply injecting my own thoughts and philosophical ponderings to this issue right now, as I think many people are very interested in doing, I just wanted to go through a few of the facts.

As I said earlier, Senator Larkin and I talked somewhat earlier about this. And I had said to Senator Larkin I am -- I'm very

troubled by the fact that as a legislator I have to go back home and explain to people how this situation has come to exist.

And while it's easy to point the finger of blame at the judicial branch and a judge in particular who has issued a ruling that has shackled us all to this CFE situation and compelled us all to come up with some means of satisfying the court, I think we really do need to stop and look at the situation that we have in our state. Which, as Senator Saland just pointed out, is different from every other state.

Our state education system is clearly not operating with the best interests of the children of this state at hand. It's also, I think, fairly clear now to many of us that the State Education Department does not really take into consideration the way funding for education can and should be configured.

Various parts of the state pay a tremendous amount to fund education. And as Senator Bruno said earlier today, we pay more per pupil, on average, through all sources, than every other state in the nation. We are

funding our student education at a very high level, more than $30,000 per student. Is that correct? $11,000. Oh, excuse me. My per-person figure is based upon another state agency that is also ridiculously high, but that's the Department of Corrections.

At $11,000 per pupil, we are funding more than any other state in the nation for an education that has now been determined by the courts to be inadequate for students in New York City.

Now, this Legislature, and certainly this house, does not have within it the ability, nor should it, the ability to micromanage education. But yet we are saddled with the obligation to come up with a formula for people who, as Senator Larkin said, often don't return our phone calls at the State Education Department, and yet we don't have any idea how much money will be enough money to satisfy the courts.

And the courts, by the way, required that the funding be adequate for a sound, basic education for every student in New York State, yet the same court did not

define what a sound, basic education actually is. I mean, talk about being in an Orwellian world where we are being asked to do something, not given the tools to do it, not told exactly what we are expected to have for an outcome. I mean, I cannot imagine how we could be more entangled in red tape and in unreasonable admonitions and expectations than we are today.

I think Senator Bonacic, who just vented a little bit and showed a level of emotional frustration, is a very apt spokesperson for most of the members of this house.

And the public needs to know that many of us are trying to do the jobs to which we are elected, are trying address other pressing responsibilities in this state. But we are thwarted from doing that because (a) of a lawsuit, (b) the court ruling about that lawsuit and, now, (c) the determination by the other house in this Legislature, the Assembly leader in particular, who has said that there will be no state budget until this CFE lawsuit is settled. How utterly unreasonable is that?

I know in my part of the state there are some people who are trying to send a message that we are spending too much on education.

Last year we made a bold move when we in this chamber and the other chamber partnered to write a budget. Because we didn't think that the Governor had put enough money into education, we had done something that was going to greatly expand education. The Governor vetoed it. And then, in an even bolder move, we overrode that veto, because we wanted to send as much money as we could to the school districts all over the state to educate our students.

I stand here as an example of a legislator being targeted for doing that very thing. There are people out there who are reacting most critically of us for spending too much for education. And yet we have a court ruling that says we must spend more, more, more. How much is enough? Nobody knows. What constitutes "sound, basic education"? We don't know. And yet we can't put a budget together until somehow we find

the answers to these questions.

I feel very much like Alice in Wonderland right now. This is not an acceptable way for government to operate. And the people of this state are very, very angry. Perhaps we need to start looking at something like initiative and referendum and let the people themselves make the decisions if we are going to have a hogtied legislature that can't do its job.

I think that the proposal before us, everything that I've heard from Senator Saland and Senator Bruno makes me feel confident that this is a reasonable, a very reasonable attempt to try to meet the needs as explained by the court. Even though all the information is not presented from the court about filling in the blanks, I think that this document, this bill that we're voting on I think is very reasonable.

Is it totally fair to all parts of the state? Gosh, I don't know. I have a district that includes rural poor, urban poor, wealthy suburban areas, struggling middle-class districts. All of them are ably

represented by local members of their own school boards. All of them have hardworking teachers. And yet all of them are frustrated by regulations imposed upon them by the same Board of Regents that we talked about just a little while ago.

Is this a be-all, end-all? I don't know. But I am proud of the fact that this chamber is at least willing to present a document, a fairly detailed document to the courts to say here is our attempt to answer the questions that you have asked us to answer.

I'm also proud of the fact that it attempts to provide a framework that is fair to the whole state. It does not simply address New York City, but it does not want to penalize -- here in this chamber, we do not want to penalize any other part of the state for the problems in the New York City schools. We want to be as fair as we can in funding the New York City schools as ordered by the courts. But we can't do it while breaking the bank for the rest of the state or shifting too much of a burden on property taxpayers in

other parts of the state.

I think that this is a responsible step. I hope, I really hope that the court will look favorably upon this. And I also hope that the court will consider how hard it is for an entire branch of government to be hogtied to a court ruling and to a legislative chair in the other chamber who is unwilling to do -- as Senator Bruno said, unconscionably unwilling to address the needs of the state to allow a budget to be passed until this is addressed first. It is, as Senator Bruno said, unconscionable on the part of the Speaker.

Thank you, Madam President.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Certain things were mentioned this afternoon that I will not go into because I'm limiting myself to five minutes.

When I was president of the New York City Board of Education 25 years ago, New York City was being shortchanged. Today, New York City continues to be shortchanged, as do other parts of the state.

Now, though the Campaign for Fiscal Equity concentrated on New York City, the court gave us the possibility of going beyond that, to other parts of the state, to rectify wrongs that have long been in existence.

I think this is outrageous and unconscionable that these wrongs are still in existence and this bill does not meet these wrongs head-on and attempt to correct it in a major way and in a major situation.

Now, previously one of the speakers spoke about the Legislature's being supreme in the area of education and that powers are being taken away from this Legislature by the courts. The only reason the courts have entered the situation is because it is so egregious in New York State that they enter the situation.

The only reason the U.S. Supreme Court entered the situation four years ago in Bush versus Gore was because it was getting out of hand and the Legislature and the courts could not handle it.

The only reason that the U.S. Supreme Court was involved in Marbury versus

Madison was to show that though we have three branches of government, the courts are the first among these three equal branches of government.

These are important things to realize. The courts would not have been involved -- and we're saying they should spell out sound, basic education. That means they're taking everything away from the State Legislature. We have to spell out what is sound, basic education.

It was said that there is no accountability for education. What in the world are we talking about? Two and a half years ago I stood here with my Republican and Democratic colleagues and voted to recentralize education. The mayor of the City of New York is totally responsible for education. No place in the United States is there a mayor who has such absolute centralized power over education.

Ladies and gentlemen, the simple thing is the precise thing is the accurate thing. This bill does not face up to the egregious discrimination in the area of

education to New York City and other areas in New York State, and therefore I cannot vote for it.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor -- or Senator Saland, in this case -- would please yield.

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

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Senator Saland, we had quite a bit of discussion about numbers earlier and what couldn't be found and what could be found. What's the breakout of what percentage of the STAR tax cut rebates would impact New York City versus the rest of the state? Because there is a formula for that in your bill.

SENATOR SALAND: Probably somewhere in the mid-90 percent of the benefit, the rebate, would go to areas outside of the City of New York.

I would say out of 990 million, which I believe is the gross amount over the five-year period, less than 50 -- I'm going to say somewhere between 45 and 50 would benefit New York City real property taxpayers. And the balance would go to areas outside of the city.

And that reflects the existing STAR formulas, which certainly reflect the fact that the real property tax effort in the City of New York is dramatically lower than anywhere else in the state.

And also, if you may recall -- no, it actually predates you, I think, STAR --

SENATOR LIZ KRUEGER: It does.

SENATOR SALAND: -- there was at that time requested, as part of the agreement to do STAR, some personal income tax benefits that went to City of New York residents as part and parcel of that agreement.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

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

SENATOR LIZ KRUEGER: Thank you.

So much has already been said today, and I don't want to repeat my colleagues on either side of the aisle. I did want to ask that question about the STAR refund, because there was a discussion about what percentage, 37 percent, might go to New York City over some period of time if we were actually doing a budget that projected out for real years, but we're really only doing one year.

So what we know is what the cost will be to New York City if they want matching funds, not necessarily what they would get in the future. We have really no commitments long term about the amount of money, new money available to high-needs districts, because again it isn't a budget appropriation bill. Therefore, we can only do projections here.

We know we're not doing new funding formulas here. It specifically says that we're not addressing that.

And yet we also now know that we're going to have tax cuts in here from the STAR program, of which it sounds like about $900 million of the $990 million won't apply

to New York City. I didn't ask the details about the other high-needs urban districts that also have renters versus homeowners.

So we know that there's going to be a tax cut applying primarily outside the high-needs districts, because it applies primarily to homeowners, not renters, which ends up being an urban versus suburban/rural argument.

We don't know what the real money will be here going into the high-needs districts over a five-year period. That seems a little unjust to me if we're trying to evaluate this bill.

We also heard a great deal about the frustration and the embarrassment of having the courts order us, the Legislature, to get something done. And I think Senator Lachman did a very good presentation of some history.

But I'll make the argument to us, shame on us in the year 2004 that we so failed to address unfair funding formulas in school aid in this state for so many decades that others had no choice but to go to the courts

and get the courts to force us to do something that we in fact should have done certainly 10 years ago, and some people would argue 20 or 25 years ago.

So we may be mad that the courts have ordered us to act, but I actually think we should be, for those of us who might have been here 25 years ago, madder at ourselves and, for those of us who are more recent additions to the Legislature, reflective of the fact that we are in this position today not because of people bringing a lawsuit, not because we're actually having a current fight over whether CFE fair funding formula decisions should be attached, coupled with or decoupled from the current annual late budget fight, but over the fact that we got here through a very long history of failed action and inaction.

And that it is a shame that the people of New York had to go to the courts to get resolution for something that we, as a legislature, should have done decade after decade.

So I think the shame is that we

lived with and accepted unfair funding formulas for decades, that we forced the people to go to another wing of government, the courts, to get resolution on their claims.

That we -- Senator Bonacic talked about before about politics and leadership. That whether it was the failure of leadership or the failure of our political partisan structure, we didn't get the job done. And now the courts have ruled and the public is begging us to get the job done. They are begging us to come up with fair funding formulas.

And in fact, a previous senator claimed that no one has come up with a definition of what is both a fair funding formula and a reasonable standard of a quality education. But in fact, there are a series of reports out there, we all have them -- the Zarb report, the Regents report, the CFE report. I'm sure there are others. There are reports for us to work off of, but we don't in the Senate proposal before us today.

There are alternative options for us to consider, but we don't in the bill

today. Senator Bruno started out by making the argument that we spend an average of $11,000 per student in the State of New York and that it's the highest amount nationally. Well, the trick in math about an average is somebody is above and somebody is below. And in New York State, what's so important to highlight is the true inequity behind that $11,000 number. Because we have children where we're not spending more than $6,000 a year per student in some districts, rural upstate districts, and we have some districts that are spending over $16,000 per student.

So one can't work off of an average for the State of New York, which is what the courts also said in their decision.

And Senator Bonacic argued we can't let the courts decide this because then maybe they should be deciding transportation aid or health care aid. Well, since those two formulas are also incredibly inequitable -- New York City gets a dramatically lower share of public transportation aid than its suburban counterparts in relationship to the number of people -- I would be the last person to argue

that you have to go to court to get good legislation and a fair budget in the state of New York, but maybe people should explore going to the courts for transportation aid and for health care and for any number of issues. It's all an indictment of our failure to do the right thing.

So I urge us to do the right thing -- not to pass this bill today, but not to leave town without sitting down and negotiating a real answer to this problem starting now, before June 30th [sic]. Don't let it get thrown back into the courts. That's the embarrassment for ourselves if we don't address this, if we don't address this correctly. And now we are months and months and months too late; we have to keep going forward now.

And Senator Bonacic argued that perhaps it was a failure of leadership. I am sure he did not mean the leadership of this chamber when he said that. But I do believe we need to ensure, on behalf of all of us, that we can go home to our districts and say to our constituents that we did work as

legislators to resolve such a serious issue that the courts of New York had to speak and order us to do it, but that we recognized our obligation and we in fact did the job.

So I urge us to vote no on this bill today and, frankly, to not leave town until we get this resolved and not let it fall back into the courts on June 30th, because that does harm to all of the children of the state of New York, and it certainly does further harm to our reputations as the elected representatives of our districts.

Thank you, Madam President.

THE PRESIDENT: Senator Sabini.

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

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

SENATOR SABINI: You know, I've been amazed at the evolution of the arguments today.

Because over the last few decades, we've heard in New York City about waste at the Board of Education. We heard about the wild man from Miami, Joe Fernandez, who had no

accountability. We heard about Ramon Cortines, who our former mayor used to make pejorative comments about, about not having a spine. We heard about Chancellor Crew, who was very nice to have around Mayor Giuliani when he was sitting around reading books to children in 1997. When '98 came and the election was over, out. Those were guys who were unaccountable.

Now I've learned that it was, all along, the State Department of Education that was unaccountable. News to me. I always thought it was the City Board of Education. I always thought -- in fact, I learned in this chamber when we voted on it that we gave the mayor of the City of New York accountability for education. And his commissioner, who's not an educator, not an educrat, but someone who is business, who knows how to manage a buck, we gave him responsibility.

I think that's where the responsibility lies. You did it.

Now, I happen to think the mayor and the chancellor -- or the commissioner of education, as some now call him -- are doing a

pretty good job in trying to make sure that the city is getting the best bang for the limited bucks we give them. But if you think that those are the guys, the mayor and the commissioner of education, Joel Klein, are not doing a good job, well, when the members on the other side of the aisle are spending their money at the Republican convention in New York City, why don't you ask them where the money is? Because they are appointees of the mayor.

I happen to think they're doing a good job. But if you think there's an accountability problem, ask them.

Because, you know, I heard one of my colleagues say, well, it's not about the money. Well, there's a famous philosopher on the radio every morning who says: When you say it's not about the money, it's about the money. It's about the money. You want to make sure that we don't get what is our fair share.

Now, I heard a big long dissertation about the court system and about interventionist judges. Well, I'll tell you what. I'll stop talking -- if you stop

talking about interventionist jurors, I'll stop talking about President Bush. Because that works both ways. We have a president who was elected by the Supreme Court.

So if you think there was some cabal between parents looking out for the needs of their children and a bunch of judges across the street here, because it was upheld by the State Court of Appeals, then I guess that things are a lot darker in this state than I thought, that there's a lot more of a conspiratorial attitude that they're all together to sort of flush money away down the toilet. I don't think so. I think they were looking out for their children and the needs of the children of the City of New York.

This plan, for example, does things like cuts education to people for whom English is not their primary language. Well, that happens to be 80 percent of the children in my district. I don't think that's particularly fair to me.

I happen to think, having been up here a while, that the members of this body are pretty smart people on both sides of the

aisle. But yet the devil is often lost in the details.

Let's take a look at the back end of this bill. A minor point, but it's an important one. Last year the Legislature enabled the harness tracks to have VLTs to save the harness industry. That was going to be a good by-product of that. And we asked people to invest millions of dollars into those tracks, into Saratoga, into Buffalo, now Yonkers, Aqueduct.

And what this bill does is basically tell them it was money wasted, because we're going to put eight more around the state. And yeah, there's a 15-mile buffer. But as I've learned, 15 miles in a lot of parts of the state is a milk run. That's not a very long piece of territory at all to cover in just a few minutes.

And there is a limited amount of gaming revenue in this state. You're going to cannibalize what's there now and frankly hurt the people that we told, Trust us and invest millions of dollars in your facility.

So it's sort of like with -- one of

the reasons that there's an unlimited supply of golf magazines is that golf magazines will tell you one month here's how to correct your slice, and then the next month they tell you here's how to correct the hook that came about correcting your slice.

So one day we say, here's a bill that's going to save the harness industry, and next year, here's a bill that's going to destroy the harness industry. Now, the bill is not really about the harness industry, but I'm just pointing out how government doesn't work for people up here.

I believe members of the Majority are smart people. You wouldn't be voting for a bill that you thought was going to hurt your districts. That's why I don't really believe, in my heart of hearts, that you don't know what the outcome of this bill is going to be. Unless they're serving Kool-Aid in the conference and I'm not aware of it.

I think that you know, in your heart of hearts, that you're going to be protected and that ultimately the court will have to decide and you'll be off the hook.

That's not what we're sent here for.

And I've got to tell you that the level of rhetoric and placing the blame around -- to the courts, to Commissioner Mills -- it's just misplaced. Let's deal with the facts of our children, everyone's children, including in the high-needs districts all over the state, deserve the best education they can get and the dollars to get them that best education.

I'm all for accountability, I'm all for educational reform. But let's stop fighting over who's to blame and who the bad guys are here, and let's get to the level of passing something that we can put our finger on and say, This works for us, this works for everyone.

Until such time, I can't support this. I'm going to be recorded in the negative.

Thank you.

THE PRESIDENT: Senator Brown.

SENATOR BROWN: Thank you, Madam President.

You know, colleagues, I have to

tell you I am really very frustrated with this process. I want to vote for a budget. I want to vote for a school aid formula. And this bill that we have before us today, we all know, if we're honest, this doesn't do it. We all know this is a one-house bill. We know that there isn't a companion bill in the Assembly. And without the Senate, the Assembly, and the Governor all coming together, we have nothing.

So what we've done for hours in this room today is essentially going to be meaningless.

Now, I know that all of us in this room are frustrated because we want to do something. And I know that those who have advanced this legislation have advanced it because you want to see this process move forward. And I certainly respect that.

But the thing that troubles me, and I think the thing that does us all a disservice is we will be voting on this bill today without knowing, without knowing what's going to go to our school districts all across the state.

Now, you know, there was some reference to the Assembly resolution. But at least the Assembly resolution has a formula, has dollar amounts for every school district in the state.

I represent Buffalo, Niagara Falls, Grand Island, and the City of Tonawanda. Buffalo, under the Assembly plan, would get $58 million. I'm for Buffalo getting $58 million in additional aid. Niagara Falls, under the Assembly plan, would get $3.1 million. I'm for Niagara Falls School District getting an additional $3.1 million. Grand Island would get close to a million dollars under the Assembly plan. The City of Tonawanda would get $318,000 under the Assembly plan. In this plan, I know what my school districts are receiving.

I think it's unfair, it's improper, and it's unrealistic to put us in a situation where we have to vote on something as important as this and we don't know what our districts will be receiving.

If I vote on this today, and I get home tonight and the next-door neighbor asks

me, "Senator Brown, what is our school district going to be receiving from this vote that you made earlier in the day?", I won't be able to give that person an answer. Is that reasonable? Is that the way this Legislature should be doing business? I don't think so.

Let me also say that, as Senator Sabini just indicated, the Legislature didn't make this problem. The Legislature did not make this. We all know we did not create this problem. But there are children in communities all across this state that are not getting the education that they deserve. There are children all across the state that are failing, and it's not just in New York City.

There are 517 school districts all across this state that are not spending at adequate levels. That's not just New York City, 517 school districts. Our children deserve better.

And we all know that if we don't take action by July 30th, children outside of New York City, all across this state, will lose. Because the court will appoint a

special master who will make the decision, and that special master will make a decision based on what that court has ruled on, and that ruling is only based on the needs of New York City. And that's because only the parents and educational advocates in New York City brought this court case.

So, I mean, let's not pit ourselves against each other, upstate versus downstate. In New York City, parents that saw their children failing, they did something about it. They filed a lawsuit, and they won that lawsuit. And that's why we have this situation.

But those same parents and those same advocates realized that they were not the only community with this problem. And because of that, they retained the best educational experts to look at this. And they did a Campaign for Fiscal Equity Adequacy Report. And in that report, it gave a formula for the funding that should go to every school district across the state.

That provides us with a guideline. We can't say that we don't know what that

report holds. We can't say that there aren't numbers out there that we can look at as a framework for doing the right thing in this State Legislature.

You know, I want to do something. And I am frustrated, very frustrated that we're not doing more. Because the reason I ran for this office was to make a difference in the lives of people that live in my community. But we're not doing that. It saddens me this bill doesn't do that. And because this bill doesn't do that, I can't in good conscience vote for it.

Thank you, Madam President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Point of information. When did the debate on this bill begin?

THE PRESIDENT: Ten minutes of 3:00.

SENATOR PADAVAN: Ten minutes of 3:00. So there are roughly 12 minutes left, right?

Thank you, Madam President.

THE PRESIDENT: Senator Malcolm

Smith.

SENATOR MALCOLM SMITH: Thank you very much, Madam President. And I'm so happy that the note of time still gave me enough time, Senator Padavan, to make my comments.

But I think it's important that as many of my colleagues on both sides of the aisle get up and speak to this particular issue. Because everyone knows that this particular issue is probably the most significant matter that we will handle during this session, outside of coming up to and finalizing a budget.

There are just two things that I think become a superpriority for us throughout this entire state. One is public safety, and we've been debating and talking about that ever since 9/11, how our lives have changed and it's so important in terms of maintaining safety for everyone. And obviously the next thing is education.

There is no doubt in my mind, and no doubt in anybody's mind here, that what happened in terms of the court decision with Judge Leland DeGrasse is something that will

go down in history. Whether it was Brown versus Board of Education, whether it was the Civil Rights Act, whether it was the Voting Rights Act, this is one of those particular decisions that one will never forget and it will have a profound effect on this entire state.

The interesting thing, though, I do want to point out from some of my colleagues, Senator Larkin talked about just throwing money at a particular problem and that is not the solution. And while I can agree that obviously you need some accountability, the bottom line to Senator Larkin is the fact that it's a court order and every lawyer that is in here understands, when you're under a court order and you do not follow such, the results and the consequences of that is pretty dire.

The second thing is Senator Bonacic -- and he's correct. Senator Bonacic rightfully said there was a lot of talent around this room. The sad part about that is the talent wasn't used.

Unfortunately, we became aware of this particular bill last night, early this

morning. And, quite frankly, had the other side of the aisle taken the time to involve some of the intellectual capital on this side of the room, we might have come up with something that we could be sitting down talking about and agreeing to.

That didn't happen. I agree with Senator Bonacic, we've got a lot of talent in this room. We should use it, there's no question about it.

Senator Robach made a profound statement. He talked about looking at this from a global standpoint. And he's right. If you take the time to look about what is happening in this state, and probably in this world, we are currently in a fierce intellectual global competition. The problem is because we are not educating the children of this state, which is also turning into this country, we are falling behind other countries around the world.

And when you start talking about outsourcing and why things are being outsourced, it's not just being outsourced because of labor costs, it's being outsourced

because the intellect that they can purchase far exceeds the intellect that they can purchase from this state.

We have a challenge before us that we need to take a look at from a global perspective. It's not just about New York City. It's not about just upstate New York. It's about what our children will be able to do in terms of competing on a global perspective with all the children in this world. And we are failing at that in a dramatic sense.

In this state, we basically do three things. We incarcerate, we medicate, and we educate. That's all we do. No matter how much else goes on throughout this chamber, we do those three basic things.

We are looking to change what we do around incarceration. I believe we are. Where'd Senator Volker go? He left. No, he's over there. I believe we are looking to do some things around medicating, which is why I know my leader, Senator Paterson, was on that task force. And hopefully that will happen. But when it comes to education, that is where

we seem to have a problem.

My colleague Senator Schneiderman rightfully pointed out all of the numbers, the disparity in the numbers, where they make no sense. And I think it's just a -- it's just pretty sad, just like my good friend, my mayor from Buffalo, Senator Brown, stated. We should just do the right thing.

We have several choices before we end this session. One of them is to come up with a plan that is sound, one that will educate all of our children so they can take their natural place in the cycle of life, they can compete around the world, and we will no longer be in a position where we're not considered the premier state.

I like the fact and I like to boast about the fact that New York State leads the rest of the country, leads the rest of the world not only in how we do our business but in our intellectual abilities. Right now we have a problem with that, because we can't say so.

I would like to continue to be proud about being a citizen of this state. I

would like to be proud to be around this country and to be around the world saying we can offer the intellect, you can come purchase the intellect from our state because we have it.

If in fact we don't enact this bill, and in fact if we don't enact the right bill, we won't be able to do so.

Unfortunately, because this bill falls far short of the need -- $1.2 billion, $282 million is not the number. We need to use the talent that we have around this room. Involve Senator Schneiderman. Involve Senator Paterson. Senator Toby Stavisky has a wealth of intellect. Senator Lachman has a wealth of intellect. Senator Ruth Hassell-Thompson has a wealth of intellect. They all have a wealth of intellect.

Take the time. Put your basic petty concerns to the side. Use the intellectual capital that's on this side of the room, and let's come up with a real bill that we can leave on the 22nd and be proud to go home and tell our children that they're going to be able to be competitive in the rest

of world.

Thank you very much.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

There has been some talk circulating around this chamber that we should have a Campaign for Fiscal Equity II, a case that would teach the Assembly and the Senate and the Executive branch about a sound legislative agenda, that would allow us to have on-time budgets and would allow us to address educational issues.

The Court of Appeals acted on June 26, 2003. A commission was appointed by the Governor. Yet the Zarb report came in just before April 1st, just before our budget deadline. Yesterday a resolution passed the New York State Assembly; nothing binding.

The only real proposal that came in was back in March, when the Senate Minority issued a report with a five-year plan that was balanced, effective, efficient, that would provide an education to all people in the State of New York.

And now we are faced with a bill today where none of us know what will happen to our particular school districts. And I'm asked to vote -- having 12 school districts in my district, I'm asked to vote in the blind, to say this is good for them or bad for them. It's impossible to tell. And as Senator Brown so aptly said, it's a one-house bill. It's going nowhere.

It's time for the three leaders, for both houses to really come together, to really make a difference. Because many of us have said for a long period of time, even though there's posturing to the contrary, the three proposals are not that far apart. And if we think about that Court of Appeals decision, which went through the courts for years, was almost a year ago -- and to paraphrase a great legal saying: CFE delayed, students denied.

I will vote in the negative.

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

Senator Montgomery.

Senator Connor, excuse me.

SENATOR MONTGOMERY: Oh, I'm sorry. Go ahead.

SENATOR CONNOR: Thank you, Madam President.

And I believe I was on the list. I signaled much earlier and got a nod back from someone there.

THE PRESIDENT: We were unaware of that, Senator. I recognize that. And you have the floor.

SENATOR CONNOR: Thank you.

You know, the question that no one is really addressing is how did we get here. Why are we here? We know why it's a problem for the Majority in this house, the Majority in the other house to see eye to eye on this issue and resolve it. How did we get here?

And sitting here and listening to everyone speak, it occurred to me there's a root cause here, and there's only one way out of this. Everyone, naturally, has the question "how is my district going to do?" But that's how we got here, because of pure, single-member district -- we didn't create this system -- democracy that says your job is

to get for your district.

And in past crises a hundred years ago when reformers like Teddy Roosevelt and then Al Smith on the labor issues, he became a reformer on that, addressed major problems and conflicts and needs in this state, the concept of civic virtue carried them. It wasn't because their constituents demanded it. It wasn't because the people that elected them, who would vote for them again and again, said: You've got to take care of these poor people down on the Lower East Side even though you represent a rich part of town.

That's not why they did what they did. They did it because they had a concept of community, of civic virtue, that the whole civic body, the whole state, would be better off, better off if these problems were cured, better off if there were decent working conditions, better off if kids were educated. Not just their kids. The other kids were the problem, and they cared about the other people's kids because of the circumstances that were involved.

We got here because -- and Senator

Hoffmann is not here. The State Education Department sets curriculum. They don't run schools in New York. They don't run schools. They don't spend all this money we're appropriating. They really don't. They don't manage them. They may try sometimes, but they're not supposed to be managing them.

Education was always a local charge. How did the state get in the business. What was the impetus for that? Quite frankly, the impetus were members of this Legislature, mostly the postwar boom, where people poured into the suburbs and tremendous, tremendous pressure was being put on suburban areas around this state to build new schools. There were lots and lots of kids and lots and lots of people moving into towns that certainly didn't have schools to support that.

And the legislators of the day who represented those areas did what good legislators should do: they came up here to get a fair share or a needed share of the pie for their districts to meet some of these problems.

But it's that very constituency thing. They had the power, let's face it. The political affiliations of most of those suburban legislators were in favor at the time in Albany, 50 or 60 years ago, in both houses. So they were able to get what they needed for their districts.

And you know what? The other side didn't fight that hard. The people, frankly, in those days that represented New York City didn't fight that hard about this because, hey, New York City was doing great, booming. Yeah, a lot of people seemed to be moving away, but we didn't seem to have any room for them anyway. Forget about the drain on the tax, the ultimate drain on the taxable population.

But, you know, middle-class people were moving out to the suburbs. That's fine, took the pressure off. You know, apartments weren't that plentiful after World War II anyway. You know, nowhere for the kids to stay here when they got married. Let them go to the 'burbs.

So the city didn't really fight

that hard in those old days, as this little effort -- and it started as so many of the things we've all done as members for our districts, it starts a little bit and it grows and grows.

Then we end up, over decades, with this huge state contribution to education, but it never rectified or adjusted to the new reality, the new needs of places like New York City and our upstate cities that were losing the manufacturing tax base and the ability to sustain school systems and meet the needs, coupled with, of course, immigrants with special needs.

We never adjusted. Because we stayed in that mode of where's the school runs, how much is my district getting, that's what I care about. How many of you ever said, when you got the school runs, I want to see what they're getting over here, not in my district? And I don't mean looking to see if they're getting more than you. I mean looking to see if they're getting enough somewhere else.

We don't look, we've never looked

at that as our job to look at those runs for somebody else's area and see, gee, are we meeting our collective civic obligation to educate those kids. It's not the nature of the beast. It doesn't get you reelected.

Well, it wasn't the nature of the beast a century ago for Teddy Roosevelt or Al Smith or whatever to take care of those other people that they didn't represent. But it was better for our state. And we have to get back to that mindset.

And, look, it's not just this Legislature. It's the same mentality that drives the single-member-district elected U.S. Congress to decide they need homeland security money in Montana at a huge per-capita amount, much greater than they're giving to New York State or New York City, which we unfortunately know is the prime target and has borne the brunt of prior attacks. But it's more like we've got to treat that like pork too.

And, you know, I don't know how we get out of that mindset. But that's why we're here on this CFE problem. When I was first elected 26 years ago, I had people saying to

me: You have to do something about that school aid formula. New York City has 37 percent of the state's school population and it only gets, at the time, 34.5 percent of the school aid.

I was up here a while and I learned something. There's no school aid formula. You all know there's never been a school aid formula. It's all made up afterwards to drive the numbers. Once everybody is happy with the numbers their district is getting, the techies go make up a formula. That's why it's so obtuse and convoluted and whatever, because it has to drive the dollars that have already been decided upon.

So this isn't about, oh, we have a faulty formula, let's change it. We have a faulty mindset about how we cut up the state's fiscal resources. We don't necessarily say let's apply it where it's needed most. We totally succumb and -- look, it's a representative democracy. There's always that element of you have to take care of the people who elected you, you have to look out for your own local parochial concerns in your district.

But, you know, when is the last time we all said, gee, you know, is somewhere else getting enough? Why do you care? Well, if all you care is about is your next reelection, you don't care. If you care about where the State of New York is going to be five or 10 or 20 years from now, then you ought to care. It's our responsibility.

This proposal, in my mind, doesn't address the problem. It doesn't address it in the right spirit. It doesn't address it with enough resources. I'm not sure any other proposal I've seen doesn't do anything more. Maybe better for my constituents, some of other proposals. Certainly better for my city.

But I don't know if any of them are out there in the proper spirit of let's address the needs for the future of the state, not just for bragging rights in your district.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Mr. President. I will try to stay within the time limit.

I want to just identify myself, first and foremost, with Senator Bonacic and his words. I think that he is absolutely correct. And as he throws up his hands in frustration, I join him. This is quite a frustrating time, to see a legislature so completely broken.

However, I understand that he probably wasn't -- didn't intend to refer to this house, but I will take his words and use them for our house. I know he was trying to say the other house, but I'm going to say it's broken in our house here as well.

And I hear all of this -- these conversations. I know that Senator Hoffmann, she throws up her hands, she's frustrated with the Board of Regents. I see that this is blame the victim. So it's the fault of the children, the fault of the communities, the fault of the judges, the fault of everyone that we hear today, and not our own fault.

So I really -- I can't imagine how we've come to this point in history in our state. However, we have to deal with what we have.

Now, I've been trying to look through the legislation, and I thought that a major part of the mandate, the requirement from the judge, was that we should create a new and equitable formula for funding public education. That's what I thought. But as I look through here, I can't find that formula. So I must be overlooking something. I haven't had time to scrutinize this legislation carefully and page by page, but I've been trying desperately to, and I don't see.

Now, I know that there have been a number of issues raised over the years. What have we done about the issue of save harmless? Where is that? Do we address that in this legislation? What is -- what have we done, what does this legislation do about the problem that we have in New York City, in particular, about the accountability of funds directed to education? We have, over the years, given more money to New York City. And we can never know what happened to the money, because they all seem to say they never received it. So somewhere along the away, the money is displaced, or whatever happens to it,

but we can't track it. It's not a transparent process. There is no accountability for it.

Where is that? Is that in this legislation? Because I thought for sure if we're giving this much more money, we should have some more accountability. I haven't been able to find it. Where's the flexibility? People at the local level have asked for some flexibility. They would like to be able to make decisions about the funding for various programs, the design, the approach to programs and issues at the local level. Is that in this bill? I don't see any of that.

I see some new things in here that I never heard of, I never heard anybody particularly ask for. We have a "Teacher of the Year" award somewhere in here. And we have this new thing we call some sort of national board of certification grant. And some new little bits and pieces. Then we have a creation of this thing called the Office of Educational Accountability, where we're now harassing the State Ed Commissioner one more time.

So I don't see what we have been

instructed to do by the judge. But I see a whole lot of other things in here that I don't know of anyone making any request about or anybody saying there was a problem with it.

So I think that, yes, I would like to have a discussion with Senator Saland, who is the author of this, or Mr. Rules or somebody about this. I would like to be able to share my thoughts and my concerns.

And most of all, I think that we do a tremendous disservice when we don't work together to try to come up, at least in some instances -- and this is one of them. There should be some level where we say we will not go beyond this. There should be some standard of requirement where we have to work together for the good of the whole. And then we can go back to having our press conferences.

I have press conferences too, ladies and gentlemen, when I have nothing to say but I wish to make sure my constituents know I'm still here. So I say something. I have a press conference. We all can do that. We all have access to the press.

But on this issue, where the future

of our state and the future of our nation and the young people that we're going to send to West Point and to Annapolis and to the universities around the country and throughout the world, and we're going to go to fight our wars and we're going to try to send them to make peace in the world, we should not allow ourselves to fall into the trap and the habit of having a press conference on nothingness before we are willing to sit down and honestly negotiate for the benefit of the whole.

So, Mr. President, I'm voting no on this legislation.

ACTING PRESIDENT MEIER: Senator Schneiderman, to close for the Minority.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Very, very briefly.

I appreciate all of the emotion that's been reflected in the comments here, but I'd like to try and bring this back to the decision of the Court of Appeals. Because after today, when we walk out of here having passed this one-house bill that I respectfully submit will not survive scrutiny if it were to become the law and were submitted to the

court, we still have to deal with the fact that we're under a court order.

And there have been a lot of disparaging comments made about the decision in the Campaign for Fiscal Equity. And I respectfully request that my colleagues take a closer look at that decision, because this is a carefully reasoned decision that documents a crisis. We're not here because people are greedy. We're here because the trial court and the Court of Appeals found that New York City schools are in a state of crisis and failing hundreds of thousands of children.

It is not true that the Court of Appeals did not give us guidance as to what constitutes a sound, basic education. I'm reading from the opinion. It was first set forth in the 1995 Campaign for Fiscal Equity opinion, in which the court made it clear that the Court of Appeals is responsible for adjudicating the nature of the duty to provide a sound, basic education.

And the court said, and this is -- I'm just trying to bring us down to earth here -- "A sound, basic education is equated

with the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury."

We are not talking about a fancy education. The Court of Appeals has said you've got to give our children the minimum, the minimum skills they require for basic literacy, calculating and verbal skills. Is that too much to ask?

We are here today because the State of New York has failed and whether you look like it or not, the Constitution of the State of New York says it's the duty of the Legislature to provide for the system of common schools.

So the court has given us guidance. The court has documented a crisis, a crisis in which 17 percent of the New York City teachers are uncertified, versus a much small portion nationwide; where there is this unbelievable failure of the physical plant. Out of 350 buildings, only 41 ranked in good to fair condition or better. Everything else was --

and in some cases, they had water pouring down, they had children being taught in bathrooms and in closets. The testimony is all there.

So we're here because of a crisis. We're here to solve a crisis. I hope this is just the first step. I realize everyone here knows it's a one-house bill. We have to get back and negotiate.

But let's not pretend we're here because of the greed of the people of the City of New York. And I would urge my upstate colleagues and my colleagues from outside of the city, we need to tone down the rhetoric, the us-versus-them rhetoric, because it's not going to help us solve the problem.

A lot of the references to the City of New York, I remind my colleagues that in the last year for which we have data, 2003, the taxpayers of the City of New York sent $3.5 billion more to the state than we received back in funds and services.

The people of the City of New York have the greatest concentration of wealth in the state but also the greatest concentration

of poverty. Of the 2.5 million New Yorkers living below the poverty line, 1.7 million are in New York City.

So we're not greedy. We're subsidizing the rest of the state. The Court of Appeals has found that our school system is in crisis. And under the constitution of this state, the Legislature has to fix it.

So let's not pretend that if we swap one-house bills with the Assembly and walk away we are complying with our constitutional duty. We have a constitutional duty; we also have a moral duty to get this resolved so that we don't fail another generation of schoolchildren.

I'm voting no on this bill. I don't know where we go from here. I hope that the chairman of the Education Committee perhaps can give us some guidance. But I certainly hope that we are not contemplating adjourning without more efforts to resolve this problem, to come up with an actual two-house bill that can become a law. If we do that, I think that, as Senator Bruno said some time ago, we ought to be embarrassed, we

ought to be ashamed.

And I really question, question our ability to go to our constituents and ask for their support this fall if we walk out of Albany without addressing this issue.

I urge everyone to vote no, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland, to close for the Majority.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, we certainly have, for more than one quarter, more than one member of this body, heard discussion of frustration. I think it's safe to say there can't be anybody in this house who is not frustrated. Speaking for myself, I'm certainly frustrated with a system that has been openly and notoriously, with total abandon, hostaged. The Speaker made no bones about it. He basically said no CFE, no budget. And he's been true to his word. No CFE, no budget.

And I suspect -- in fact, I'm somewhat surprised more than being

suspicious -- I suspect that many of us either have very short memories or have conveniently suffered memory lapse. A couple of weeks ago, there was nothing on the horizon for CFE. And Senator Bruno decided that enough was enough, he was going to advance a proposal, that this conference, this Senate Majority conference was going to advance a proposal.

And we did that. The fact of the matter is there would still be nothing out there and we would just be chalking the days off the calendar getting closer to July 30th if this conference didn't decide we had to make a good-faith effort to try and bring closure to this issue.

Now, I take no joy when the media contacts me and says: Much of what you said back in September certainly seems prophetic now, in September of 2003. And I said, I don't want to be a prophet. I take no joy in being a prophet. And I hope that I'm not a prophet.

What I said I said not to be an ogre, not to incite people. I said it because I simply understood the dynamics, I understood

the political process, and I understood that, without attempting to condemn the court, we have a court that made an activist decision. That could be a good thing, that could be a bad thing. It all depends upon your perspective from where you sit.

But the bottom line is that the court has effectively set itself up as the final determinant of what shall constitute a sound, basic education.

Because the fact of the matter is that while, as Senator Schneiderman made reference to Judge Ciparick's 1995 decision in which she wrote for the majority, the simple fact is an adequacy standard is certainly not what CFE is maintaining. And I tend to think they'd be rather distressed by Senator Schneiderman's comments that that's all that should be done.

Because what CFE is saying, using their professional judgment model, as was alluded to earlier by Senator Brown, is that there's some 517 districts that are being inadequately funded.

Now, they're being inadequately

funded because in this professional judgment model, which is really a somewhat ivory tower approach to dealing with an issue, they've decided that, among other things, there should be class sizes of 14 to 16, a standard not found anywhere in the world unless you happen to live in an extraordinarily small class -- district with small classes, and this would be for purposes of elementary school. They've decided that prekindergarten should start with 3-year-olds.

These may be wonderful concepts, but somebody's got to foot the bill. The bottom line is, when they gave us their proposal, notwithstanding the passion and the zeal and the strength of conviction that they had, it was alluded to a bit earlier by Senator Bonacic, there was a little obscure footnote.

And what that footnote said -- and if you want to look at their initial report, it's on page 2, it's Footnote 5. It says: It must be recognized that the success of schools also depends on other individuals and institutions to provide the help, intellectual

stimulus, and family support upon which public school systems can build. Schools cannot and do not perform their role in a vacuum. And this is an important qualification of conclusions reached in any study of adequacy in education.

Now, nothing would be more dangerous for any of you who were talking about the Assembly and their numbers than to go home and say, This is the number that the Assembly provides, this is what we'll get. Because there can't be anybody in this chamber who truly believes, who truly believes that any one of your districts are going to receive the money in that press release piece.

You know it's not going to happen, I know it's not going to happen, and you know why it's out there.

Now, the same 517 school districts out of the approximate 680 that reference has been made to have also been, in effect, evaluated by the very Regents that we've been talking about. They say that some 330 of them are what they term successful school districts.

So on the one hand you have CFE saying 75 percent of the districts are unsuccessful, and the Regents saying nearly 50 percent of them are successful. An interesting conflict. I don't know how it resolves, but certainly you take it from whence it comes.

With respect to the amount of money, the Zarb Commission identified a resource gap statewide of $2.5 billion for high-needs school districts. They said $1.9 billion of that was in the City of New York. This bill provides operating aid to the City of New York of $2.83 billion. It certainly meets the resource gap.

I submit to you, not because I derive any pleasure from it, that even if we came up with an agreement -- let's assume that we can. And certainly we would like to. Nobody should want to go to court. Period, the end. I will only cite the experience in New Jersey. They've been in court for 33 years. The courts have effectively taken over their education system. Nobody will dispute that.

The fact of the matter is, is that we can think that we have created whatever it is that constitutes a sound, basic education, but you know what? Until somebody gets back to the Court of Appeals and they put their imprimatur on it, we don't know that we're there.

It's much like Justice Potter Stewart, when asked to define pornography, said: "I can't define it, but I know it when I see it." And that's what's going to happen here if we go back to court.

And even if we come to an agreement, let's assume for the moment both houses and the Governor come to an agreement and CFE says, No, not good enough. We're the plaintiff, we want to continue in court, we'll take our chance in court.

Only the Court of Appeals, not Judge DeGrasse -- and I'll tell you quite candidly, there's nothing that CFE will ask for that Judge DeGrasse won't give them. He gave them far more than the Court of Appeals gave them.

I mean, it's all about the

appellate process, and that takes time. And keep in mind, the City of Utica is talking about suing, the City of Syracuse is talking about suing. I can identify at least probably five or six lawsuits that will spring up around the state, minimally.

Those five or six lawsuits will go to different venues, different appellate divisions, work their way back to the Court of Appeals. There will be multiple decisions until this is resolved, over, again, Lord only knows how long of a time period.

I would just like to point out a couple of other things. I mean, it's pretty well basic math, if we are providing $4.7 billion more over what's currently about $14.5 billion over a five-year period, that's 33 percent, an increase of 33 percent. That is well in excess of the rate of inflation, averaging about 6.6 percent per year. Inflation has been hovering in the 2-plus-percent range for Lord only knows how long.

As I mentioned in my earlier remarks, average $450 million or so over the

course of the past 10 years. We're proposing to provide here $950 million. There's no district that will fail to get at least what they received, and in all likelihood more, under this proposal.

The bottom line is, this is a balanced proposal. It meets the requirements of the court's decision. The court did not require any particular formula. The court did not say you've got to adopt the Regents' standards. In fact, it specifically rejected the Regents' standards. There's a host of things that the court did or didn't say.

But there's nobody who can say with any degree of authority that this does not provide by way of meeting the resource gap, by way of providing for a sound, basic education, by way of providing some 5-plus billion dollars, closer to $6 billion over that five-year period to the City of New York, that we haven't endeavored to adequately fund what the court has required of us.

I would respectfully submit to you that this conference should take great pride in bringing this before this body. We should

similarly feel equally proud in the fact that did we not take this action, we would still be dealing with an obstructionist in the Assembly who in effect would not merely hostage this, but use this, in effect, to extort anything and everything else that they could get their hands on.

The bottom line is, please let's not go to court. I fear, however, that's where we're going to wind up.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll call.

(The Secretary called the roll.)

SENATOR SCHNEIDERMAN: Party vote in the negative.

SENATOR LARKIN: Party vote in the affirmative, with exception.

ACTING PRESIDENT MEIER: Senator A. Smith, to explain her vote.

SENATOR ADA SMITH: Thank you, Mr. President.

I have listened closely to the debate. And I am even more perplexed than I was when we started. Because I know fully now that the acronym LEARN does not mean anything that is good for the children of the City of New York. LEARN, in this case, should mean Let's Erase All Reasonable Needs, rather than something that is positive.

If this should go into effect, the children of the City of New York will be back where they started from. It is not time to return to our archaic system. The CFE decision was the right decision for our children, and we need to dig in our heels and fulfill the obligations that the courts have put upon us.

ACTING PRESIDENT MEIER: Senator Ada Smith was recorded in the negative.

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I am voting no, which will sound strange back in the district, because I have been one who has been pushing for us to come

up with a budgetary response to CFE. But I'm voting no because this is not the answer.

When I have spoken in my district and people have said to me, Why haven't you passed the budget, and what is wrong with the vote and what's going on up there, my answer has been: I have encouraged us to pass a budget limited to whatever influence I have in these chambers. But I won't push for us to pass a budget that is not going to be in the best interests of all children in the State of New York.

And so we are going to wait until we have a CFE response. Many people said, Well, why did you vote -- from Westchester, why did you sign on to the CFE? And I said, Because 84 percent of my district is in the Bronx. And the children in New York City, and if you have been through my district -- and I would encourage and invite anyone who would like to come to the school districts. I'd like you to see the inadequacy of the classrooms. I'd like you to see the size of rooms that were storerooms that have been taken over to become classrooms.

I would like you to see three different schools functioning within a school, in an attempt to create small schools. I'd like you to see one school on the first floor, one on the second floor, one on the third floor, none of which are responding to smaller classrooms.

And so when we talk about leaving no child behind, we are leaving scores of children behind. We cannot talk about a global concept and then deny our children an opportunity to be educated properly.

We have failed them. Brown versus the Board of Education, we commemorated it, but we could not celebrate it because we have still denied the children of this country the right to be educated properly.

And while we may not see this as our obligation and our responsibility, we would be very angry if the courts had told us how to do our job. And our job is to work with and create a plan that is in the best interests of all of the children in the state of New York.

And it's going to be difficult

because we have different regional needs, we have different cultural needs, we have different educational needs. But difficult is not impossible. We are being asked to do the impossible, but we have the skill and the ability to do that.

And until we do that, I will continue to vote no. I thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson is recorded in the negative.

Senator Parker, to explain his vote.

SENATOR PARKER: Thank you, Mr. President.

I'm unfortunately having to vote no on this bill because this CFE decision is exactly about what we've talked the least about today, which is about the children. The children not just of the city of New York, although the 1.1 million school kids that go for public school in the city are at the heart of this.

And I'm actually just, I guess, again, for the second day in a row,

disappointed in what's happened. Because the, I guess, insincere and disingenuous attempts to deal with this issue and bring the budget to a resolution is very worrisome as to me.

Budgets are about priorities. And either the children of the state of New York are a priority and their education is a priority or it's not. And this is about children. This is not about placing blame with other agencies or with the Regents or anyone else.

It's important that we understand that we have to provide the money. We have no choice. The courts have determined it. And it's interesting to me that after hearing so much debate on this floor about the letter of the law, about obeying, you know, laws and about how we have to penalize when they don't obey laws, that people here actually are disturbed by the fact that the courts have mandated something and we are now, you know, faced to do it and there's a real reluctance to get this done.

I'm voting no. We have to get this settled sometime shortly. And I'm hoping that

our next attempt is a more sincere one.

ACTING PRESIDENT MEIER: Senator Parker is recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 34. Nays, 25. Party vote with exception.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Malcolm Smith, why do you rise?

SENATOR MALCOLM SMITH: Yes, Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1134.

ACTING PRESIDENT MEIER: Without objection Senator Malcolm Smith will be recorded in the negative on Calendar 1134.

Senator Paterson.

SENATOR PATERSON: Mr. President, without objection, I'd like to similarly be recorded in the negative on Calendar Number 1134.

ACTING PRESIDENT MEIER: Without objection, Senator Paterson will be recorded in the negative on Calendar 1134.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 1134.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 1134.

Senator Liz Krueger, why do you rise?

SENATOR LIZ KRUEGER: I'm following a trend. I would also like to ask for unanimous consent to be recorded in the negative on 1134. Thank you.

ACTING PRESIDENT MEIER: Without objection, Senator Liz Krueger will be recorded in the negative on Calendar 1134.

Senator Ada Smith.

SENATOR ADA SMITH: I'm usually a trendsetter, but today I'm a follower. I also would ask for unanimous consent to be recorded in the negative on Calendar Number 1134.

ACTING PRESIDENT MEIER: Without objection, Senator Ada Smith will be recorded in the negative on Calendar 1134.

Senator Larkin.

SENATOR LARKIN: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in Room 332, the Majority Conference Room.

SENATOR LARKIN: Let's now return to motions and resolutions.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Seward.

SENATOR SEWARD: Yes, Mr. President. Amendments are offered to the following Third Reading Calendar bills:

By Senator Little, on page 18, Calendar Number 568, Senate Print Number 5533;

By Senator Hannon, on page 21, Calendar Number 713, Senate Print Number 1091 --

ACTING PRESIDENT MEIER: Just a second, Senator.

We're still conducting business, members.

Senator Seward.

SENATOR SEWARD: Yes.

By Senator Rath, on page 40, Calendar Number 1174, Senate Print Number 4505A;

One of my bills, on page 40, Calendar Number 1179, Senate Print Number 6679A;

Another one of my bills, page 40, Calendar Number 1180, Senate Print Number 6708;

By Senator Rath, on page 49, Calendar Number 1358, Senate Print Number 7013B;

By Senator Marcellino, on page 52, Calendar Number 1497, Senate Print Number 7331;

By Senator Bonacic, on page 20, Calendar Number 675, Senate Print Number 6391;

By Senator Kuhl, on page 47, Calendar Number 1321, Senate Print Number 6878A;

And finally, by Senator Hannon, on page 8, Calendar Number 266, Senate Print Number 4016A.

I move that these bills retain their place on the order of third reading.

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

Senator Maziarz.

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

I wish to call up my bill, Print Number 7171, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1361, by Senator Morahan, Senate Print 7171, an act to authorize the County of Rockland.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator

Maziarz.

SENATOR MAZIARZ: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, on page number 57, I offer the following amendments to Calendar Number 677, Senate Print Number 6777, and ask that said bill retain its place on Third Reading Calendar, and remove the sponsor's star.

ACTING PRESIDENT MEIER: The amendments are received and adopted. The bill will retain its place on the Third Reading Calendar. The sponsor's star will be removed.

Senator Maziarz.

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

I wish to call up my bill, Senate Print Number 7424, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number

1600, by the Assembly Committee on Rules, Assembly Print Number 11354, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is restored to the order of third reading.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now move to discharge, from the Committee on Rules, Assembly Print Number 11354 and substitute it for my identical bill.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1600, by the Assembly Committee on Rules,

Assembly Print Number 11354, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

I wish to call up Calendar Number 1393, Assembly Print Number 10968.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1393, by the Assembly Committee on Rules, Assembly Print Number 10968, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: I now move to reconsider the vote by which this Assembly bill was substituted for my bill, Senate Print Number 6899, on May 25. Which happened to be my birthday, Mr. President.

ACTING PRESIDENT MEIER: A belated happy birthday.

And the Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: I now move that Assembly Bill Number 10968 be recommitted to the Committee on Rules and my Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT MEIER: So ordered.

SENATOR MAZIARZ: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

I wish to call up my bill, Print Number 2978A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1271, by Senator Maltese, Senate Print 2978A, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: I now offer the following amendments, Mr. President.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

I wish to call up my bill, Print Number 4230, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 120, by Senator Kuhl, Senate Print 4230, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The

amendments are received and adopted.

More, Senator Maziarz?

SENATOR MAZIARZ: Several more, Mr. President.

Mr. President, I wish to call up my bill, Print Number 1465, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 49, by Senator Farley, Senate Print 1465, an act to amend the Not-for-Profit Corporation Law.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I wish to call up my bill, Senate Print Number 6831A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

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

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator

Maziarz.

SENATOR MAZIARZ: I now offer the following amendments, Mr. President.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

I wish to call up my bill, Print Number 2611A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 97, by Senator LaValle, Senate Print 2611A, an act to authorize payment.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

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

ACTING PRESIDENT MEIER: Thank you, Senator Maziarz. You must be exhausted. You can sit down now.

Senator Larkin.

SENATOR LARKIN: Mr. President, we'll now move to Supplemental Calendar 57A, noncontroversial.

ACTING PRESIDENT MEIER: Senator Larkin, could I interrupt?

We have two substitutions. Could we get those out of the way quickly.

SENATOR LARKIN: Yes.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 40, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 10224

and substitute it for the identical Senate Bill Number 6660, Third Reading Calendar 1164.

And on page 43, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 10808A and substitute it for the identical Senate Bill Number 6661A, Third Reading Calendar 1228.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Trunzo.

SENATOR TRUNZO: Mr. President, on page 40 I offer the following amendments to Calendar Number 1177, Senate Print Number 5220B.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR TRUNZO: And also on page 55, I offer the following amendments to Calendar Number 1605, Senate Print Number 7454, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the bill will retain its place on third reading.

Senator Larkin.

SENATOR LARKIN: Mr. President, we'd like to turn now to Supplemental Calendar 57A, for the noncontroversial reading.

ACTING PRESIDENT MEIER: The Secretary will read noncontroversial reading of Supplemental Calendar 57A.

THE SECRETARY: Calendar Number 1614, by Senator Johnson, Senate Print --

SENATOR STAVISKY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1615, by Senator LaValle, Senate Print 1793, an act to amend the Real Property Actions and Proceedings Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1616, by Senator LaValle, Senate Print 1846, an act to amend the Real Property Actions and Proceedings Law, in relation to payment.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1617, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 3980A and substitute it for the identical Senate Bill Number 1931A, Third Reading Calendar 1617.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1617, by Member of the Assembly Oaks, Assembly

Print Number 3980A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1618, by Senator Flanagan, Senate Print 2372A, an act to amend the Public Authorities Law, in relation to financing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1619, Senator Robach moves to discharge, from the Committee on Judiciary, Assembly Bill Number 10961 and substitute it for the identical Senate Bill Number 2766A, Third Reading Calendar 1619.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1619, by the Assembly Committee on Rules, Assembly Print Number 10961, an act to amend the General Obligations Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1620, by Senator McGee, Senate Print 2778A, an act to amend the Education Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1622, by Senator Nozzolio, Senate Print 3523, an act to amend the Criminal Procedure Law and the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1623, Senator Robach moves to discharge, from the Committee on Codes, Assembly Bill Number 5983 and substitute it for the identical Senate Bill Number 3948, Third Reading Calendar 1623.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1623, by Member of the Assembly Abbate, Assembly Print Number 5983, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1624, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 8747 and substitute it for the identical Senate Print Number 4136, Third Reading Calendar 1624.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1624, by the Assembly Committee on Rules, Assembly Print Number 8747, an act to amend the State Technology Law and others, in relation to the Office for Technology.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1625, by Senator Leibell, Senate Print 4341, an act to amend the General Municipal Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1626, by Senator Little, Senate Print 4620A, an act to amend the County Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1627, by Senator Flanagan, Senate Print 4773A, an act to amend the State Administrative Procedure Act, in relation to guidance documents.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1628, by Senator Flanagan, Senate Print 4777A, an act to amend the Correction Law and the Public Health Law, in relation to regulation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1629, by Senator Kuhl, Senate Print 4947, an act to amend the Public Authorities Law, relation to conforming.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1630, by Senator Spano, Senate Print 4951A, an

act to amend the Vehicle and Traffic Law, in relation to authorizing.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1631, by Senator Balboni, Senate Print 5048B, an act to amend the Alcoholic Beverage Control Law, in relation to the issuance.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 45th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays,

2. Senators Duane and L. Krueger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1633, by Senator Stachowski, Senate Print 5990, an act directing the fireboat E.M. Cotter to be listed as historical property.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1634, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 9657 and substitute it for the identical Senate Bill Number 6084, Third Reading Calendar 1634.

ACTING PRESIDENT MEIER:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1634, by Member of the Assembly Bradley, Assembly Print Number 9657, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1635, by Senator Wright, Senate Print 6233B, an act to amend the Environmental Conservation Law, in relation to the placement.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1636, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 10186A and substitute it for the identical Senate Print Number 6433, Third Reading Calendar 1636.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1636, by Member of the Assembly Robinson, Assembly Print Number 10186A, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1637, by Senator Hoffmann, Senate Print 6530, an act to amend the Tax Law, in relation to exempting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1638, by Senator LaValle, Senate Print 6818, an act to amend the General Obligations Law, in relation to the authority of caregivers.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1639, by Senator Trunzo, Senate Print 6821A, an act to amend the Vehicle and Traffic Law, in relation to aggressive driving.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1640, by Senator Robach, Senate Print 6836, an act authorizing Richard D. Sanow to receive retirement credit.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1641, by Senator Saland, Senate Print 7018A, an act to amend the Alcoholic Beverage Control Law, in relation to reducing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Larkin, that completes the

noncontroversial reading of Supplemental Calendar 57A.

SENATOR LARKIN: Mr. President, can we now have the controversial reading of the calendar.

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

THE SECRETARY: Calendar Number 1614, by Senator Johnson, Senate Print 1245, an act to amend the Education Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Johnson, Senator Paterson has requested an explanation of Calendar 1614.

SENATOR JOHNSON: Mr. President, this bill has been drawn up to meet the requirements of a Supreme Court decision of the year 2000 which said you cannot have a referendum -- well, this first calls for the present referendum on mandatory or voluntary student activity fees.

But the way we're doing in it in New York State, we also have a separate vote on the activity fee money diverted to NYPIRG.

The court decision said that's illegal, you can't do it, it's unconstitutional.

So all this says is we have one vote for all the student activity fees, and the student council or student body will devise how much money goes to each different agency. That's all it does.

And it also has a vote every two years. Now, the State University, for example, has a vote every four years, so some students never get a chance to vote even once on this activity fee, whether they want it mandatory or voluntary.

So this way, every two years, you figure everyone at least has an opportunity to vote one time or maybe twice during their college career on whether or not to continue this mandatory activity fee.

That's about it.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, if the sponsor would yield to a question.

ACTING PRESIDENT MEIER: Senator Johnson, do you yield for a question?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: There are lots of fees that students pay. And in fact, the activity fee at SUNY I believe is $100. And yet there are other fees that are in the neighborhood of, average, $800 per student.

Why doesn't this legislation pertain to those fees, the laboratory fees, parking fees, fees for the artistic programs and so on?

SENATOR JOHNSON: There is another bill that deals with those fees.

SENATOR STAVISKY: I'm sorry, I can't hear you.

SENATOR JOHNSON: There's another bill, by Senator LaValle, which deals with those fees.

SENATOR STAVISKY: Oh, okay.

SENATOR JOHNSON: This also covers SUNY and CUNY and community colleges. I should add that as well.

SENATOR STAVISKY: If the Senator

will continue to yield.

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

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR STAVISKY: Why is SUNY included in this legislation when they gave notice last month that they intend to require the two-year renewal fee?

SENATOR JOHNSON: Well, they didn't tell me. So I didn't know about it.

SENATOR STAVISKY: Well, it was posted in the New York State Register on May 19th.

SENATOR JOHNSON: Well, we're making laws, we're not making regulations.

SENATOR STAVISKY: If the Senator would -- I have two more questions, if the Senator would yield.

ACTING PRESIDENT MEIER: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: You mentioned the constitution. And yet it's my understanding that that court case, the United States Supreme Court case involving University of Wisconsin versus Southworth, the Supreme Court did not hold that referenda are unconstitutional, it said that they had to be neutral in their presentations.

SENATOR JOHNSON: Well, of course you can't -- what they really said, you cannot have a separate referendum for one organization. You have to decide among all the organizations on a neutral, objective manner in order to comply with the First Amendment.

SENATOR STAVISKY: My last question before I very briefly speak on the bill, there are memoranda in opposition from the City University of New York, the State University of New York, the SUNY Student Assembly, NYPIRG.

Who has requested this -- at whose request is the bill being introduced?

SENATOR JOHNSON: At whose request are you reading several-year-old memoranda?

SENATOR STAVISKY: How old?

SENATOR JOHNSON: Several years old.

SENATOR STAVISKY: Several years old?

SENATOR JOHNSON: Well, NYPIRG is referring to a previous bill I had. And they're probably all referring to a previous bill that I had.

SENATOR STAVISKY: All right. On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Stavisky, on the bill.

SENATOR STAVISKY: For the record, the City University memorandum is dated June 15, 2004, the SUNY one is dated June 15, 2004, and so on. These were done on the Assembly versions of the bills.

Very briefly, I think that this is a mistake. This is an intrusion on the student activity -- the students' referenda in terms of activities. To impose a two-year

requirement instead of the four-year is a burden which will simply make it more difficult.

And it refers to the previous year's funding, not the current year funding, so that they're voting on history, not the future.

There is a question involving the court case. There are other problems with this bill.

The SUNY Board of Trustees has established guidelines, and the fees are subject to administrative regulations by a wide, wide cross-section of administrative oversight by the campus presidents.

So I urge a no vote on this bill. And hopefully this will remain in this house.

Thank you.

ACTING PRESIDENT MEIER: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Mr. President. On the bill.

As a product of the City University of New York and also a member of the University Student Senate, I take exception to

this bill because it would do away with the rights of students and it would put an onerous burden on them.

And I concur with the trustees of the City University and SUNY that this is bad law, and therefore I will be voting in the negative.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

I wanted to clarify I believe that NYPIRG does still oppose it, because I ran into them in the hallway when I went out, and they were still on record as in opposition to the bill, in addition to the City University and State University and, as was mentioned, the Student Assembly of SUNY.

I want us to think this one through, though, a little bit more. The imposition that we'd be putting on our universities to have to, with every tuition bill, conceivably, list every student activity would be a nightmare for our universities to re-set up their billing, tuition and reporting

system.

And while I understand, I believe, the argument of the sponsor that you want to make sure that students know where their fees are going and have some say in it, the truth is it's the year 2004 and college students in particular are a subuniverse of young people who are exceptionally good at using the computer.

And it's my understanding that at SUNY and CUNY campuses, all student-activity-funded student groups are actually provided -- information is provided on the Internet. So any student can actually choose to get this information at any time they wish, which is a much less expensive and more effective way of providing the information than having the expectation that you would send this out with quarterly -- or I guess it's not quarterly, it's semester tuition bills.

It is a level of minutiae for this Legislature to walk into the policy of our State University system and our City University system to mandate this kind of requirement. I don't see an argument for why

we need to do this. I have not certainly been hearing complaints, at least in the city of New York, from students about this.

And to some degree I'd argue if it's not broke, don't try to fix it. So I will be respectfully be voting no.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Mr. President, I'm quite shocked to think that SUNY, CUNY and whatever other agencies, community colleges, would defy the First Amendment and say we don't care what the Constitution says, we still want to have separate votes for separate organizations.

Even though this district court order issued as a result of the Supreme Court decision said: It is further ordered that judgment be entered in favor of the plaintiffs and against the defendants. The segregated university fee utilized at the University of Wisconsin is in violation of the First Amendment because it fails to conform to the principle of viewpoint neutrality in

allocating fees compelled from plaintiffs, et cetera, et cetera, et cetera.

So if you say the state doesn't want to do it, they want to break the law. If you say it's an imposition to have a two-year vote because it's too many votes for the poor college, you're just saying that what SUNY just did, you don't agree with. They just made it a two-year vote, as I've been informed by Senator Stavisky.

So it's no imposition at all on anybody. All it says is maybe a person who goes to college might have the opportunity to vote once or maybe even twice during his college career on it. Some people will never be able to vote. If it's a four-year vote, they'll probably graduate before it comes up and they'll never have the chance to vote on it.

I think every student and every parent who is involved in paying this fee should have some opportunity to express their view whether this should be a mandatory fee or not. Simple as that.

Allocation of the money will be

simply done by the student government, and that's perfectly democratic and it's the way it ought to be.

And this is a darn good bill. You ought to rethink your opposition and go for it.

ACTING PRESIDENT MEIER: Senator Montgomery.

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

I tried to compare the attempt in the bill to reconcile the practices at the university and the ruling in the court case. And it seems to be doing that, except I was just curious as to why we added into that legislation -- which seemed to be otherwise neutral in its attempt to just simply make a correction there -- but we add that the election that every two years the student body has the opportunity to vote on the student fee, the student activity fee, whether it should be mandatory or voluntary.

And I just -- I'm concerned that having this kind of potentially very, very -- if you know students and how campuses operate

and how they are very politicized, and there's every two years there's, you know, this round of people trucking through the campuses to make speeches, and they politicize them.

And I'm just afraid that we're going to jeopardize a very important aspect of university life for students by making it every two years having to vote on it.

And while some of the things that activity fee may fund we may not necessarily agree with, but one major part of that activity fee is the health services and mental health services for the students on those campuses. And I think that is extremely important.

So I just -- I was a little concerned, Mr. President, that we were adding this one piece to what otherwise seemed to be a good bill, in fact. It brings us in line with the court decision except for that piece.

So I'm still waiting to make my decision, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect on the first of August.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR STAVISKY: Yeah, very briefly.

We just gave the students a tremendous increase in their tuition, both at SUNY and CUNY. And it seems to me that by -- what SUNY, particularly SUNY has done is increased all of these other fees, whether they be lab fees or parking fees or whatever. It averages approximately $800 or $900 per student. I think we are socking the students with additional problems when many students cannot finish their education within four years, they have to work. And particularly with the proposals to cut TAP, it makes it very difficult for a student.

And this is just one more burden, and I vote no.

ACTING PRESIDENT MEIER: Senator Stavisky will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1614 are Senators Breslin, Brown, Duane, Hassell-Thompson, Montgomery, Paterson, Sabini, A. Smith, M. Smith, Stachowski, Stavisky. Also Senator Andrews. Also Senator Parker.

ACTING PRESIDENT MEIER: Could I remind members that it's difficult for the Secretary to record no votes if you're scattered around the chamber. You know, it's better if you're going to be in your seat.

The Secretary will announce the results.

THE SECRETARY: Also Senator L. Krueger.

Ayes, 45. Nays, 14.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1621, Senator Saland moves to discharge, from the Committee on Rules,

Assembly Bill Number 11317 and substitute it for the identical Senate Bill Number 3018A, Third Reading Calendar 1621.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1621, by the Assembly Committee on Rules, Assembly Print Number 11317, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 17. This act shall take effect on the first of September.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Larkin, that completes the controversial reading of Supplemental Calendar 57A.

SENATOR LARKIN: Can we now, Mr.

President, return to reports of standing committees.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 6408A, by Senator Oppenheimer, an act authorizing the City of New Rochelle;

7070, by Senator Spano, an act to amend the Public Health Law;

7123, by Senator Farley, an act to amend the Penal Law;

7133, by Senator Balboni, an act requiring;

7145, by Senator Hoffmann, an act to amend the Agriculture and Markets Law;

7185A, by Senator Padavan, an act to amend the Real Property Law;

7311, by Senator Marcellino, an act to amend the Criminal Procedure Law;

7314A, by Senator Spano, an act to amend the Tax Law;

7362A, by Senator Balboni, an act to allow;

7372, by Senator Golden, an act to amend the Real Property Tax Law;

7389, by Senator Kuhl, an act to amend the Vehicle and Traffic Law;

7398, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

7403, by Senator Fuschillo, an act to amend the Labor Law;

7404A, by Senator Padavan, an act to amend the Real Property Tax Law.

7405, by Senator Farley, an act authorizing.

7461, by the Senate Committee on Rules, an act authorizing the City of New York;

7480, by Senator Volker, an act to allow;

7481, by Senator McGee, an act authorizing;

7491, by Senator Balboni, an act to amend the Real Property Tax Law;

7499A, by Senator Spano, an act to

amend the Public Authorities Law;

7505, by Senator Larkin, an act to amend the Penal Law;

And Senate Print 7507, by Senator Marcellino, an act to amend the Environmental Conservation Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Larkin.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

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

Senator Larkin.

SENATOR LARKIN: Mr. President, can we stand at ease for a few minutes.

ACTING PRESIDENT MEIER: The

Senate will stand at ease.

(Whereupon, the Senate stood at ease at 6:08 p.m.)

(Whereupon, the Senate reconvened at 6:12 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions.

On behalf of Senator Hannon, on page number 41, I offer the following amendments to Calendar Number 1197, Senate Print 6656, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR SKELOS: Mr. President, on behalf of myself, on page number 41 I offer the following amendments to Calendar Number 1190, Senate Print Number 6610B, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The

amendments are received and adopted, and the bill will retain its place on third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, on behalf of Senator Volker, I wish to call up his bill, Print Number 5452B, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 299, by Senator Volker, Senate Print 5452B, an act to amend Chapter 824 of the Laws of 1933.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, I now move to recommit the bill to the Committee

on Rules.

ACTING PRESIDENT MEIER: So ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, I wish to call up my bill, Print Number 7195C, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1596, by Senator Skelos, Senate Print 7195C, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, I

now move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT MEIER: So ordered.

SENATOR SKELOS: I believe we'll be having one more motion.

ACTING PRESIDENT MEIER: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

I wish to call up my bill, Print Number 5869A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

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

SENATOR LITTLE: Mr. President, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Little.

SENATOR LITTLE: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR LITTLE: Thank you very much.

ACTING PRESIDENT MEIER: Thank you, Senator Little.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any other housekeeping at the desk?

ACTING PRESIDENT MEIER: There is none.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Monday, June 21st, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, June 21st, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 6:20 p.m., the Senate adjourned.)