NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

July 22, 2004

10:12 a.m.

EXTRAORDINARY SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

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

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

THE PRESIDENT: Senator Bruno, the chair hands down a communication from the Governor.

SENATOR BRUNO: Madam President, I would waive the reading and ask that it be filed in the Journal.

THE PRESIDENT: To be filed in the Journal.

The Secretary will now call the roll to ascertain a quorum.

SENATOR BRUNO: Thank you, Madam President.

THE SECRETARY: Senator Alesi.

(No response.)

THE SECRETARY: Senator Andrews.

(No response.)

THE SECRETARY: Senator Balboni.

(No response.)

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Here.

THE SECRETARY: Senator Breslin.

(No response.)

THE SECRETARY: Senator Brown.

SENATOR BROWN: Here.

THE SECRETARY: Senator Bruno.

SENATOR BRUNO: Here.

THE SECRETARY: Senator Connor.

(No response.)

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Diaz.

SENATOR DIAZ: Aquí.

THE SECRETARY: Senator Dilán.

(No response.)

THE SECRETARY: Senator Duane.

(No response.)

THE SECRETARY: Senator Farley.

(No response.)

THE SECRETARY: Senator Flanagan.

SENATOR FLANAGAN: Here.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Present.

THE SECRETARY: Senator Golden.

SENATOR GOLDEN: Present.

THE SECRETARY: Senator González.

(No response.)

THE SECRETARY: Senator Hannon.

(No response.)

THE SECRETARY: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Here.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Here.

THE SECRETARY: Senator Johnson.

(No response.)

THE SECRETARY: Senator L. Krueger.

SENATOR LIZ KRUEGER: Here.

THE SECRETARY: Senator C. Kruger.

SENATOR CARL KRUGER: Here.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Here.

THE SECRETARY: Senator Lachman.

(No response.)

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Here.

THE SECRETARY: Senator LaValle.

SENATOR LaVALLE: Here.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Here.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Present.

THE SECRETARY: Senator Little.

SENATOR LITTLE: Present.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Present.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Present.

THE SECRETARY: Senator Marchi.

(No response.)

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Present.

THE SECRETARY: Senator McGee.

SENATOR McGEE: Here.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Here.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: Here.

THE SECRETARY: Senator Montgomery.

(No response.)

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: Here.

THE SECRETARY: Senator Nozzolio.

(No response.)

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Here.

THE SECRETARY: Senator Padavan.

(No response.)

THE SECRETARY: Senator Parker.

SENATOR PARKER: Present.

THE SECRETARY: Senator Paterson.

(Senator Paterson was recorded as present.)

THE SECRETARY: Senator Rath.

SENATOR RATH: Here.

THE SECRETARY: Senator Robach.

SENATOR ROBACH: Here.

THE SECRETARY: Senator Sabini.

SENATOR SABINI: Here.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Here.

THE PRESIDENT: Senator Bruno, a quorum is present.

SENATOR BRUNO: Thank you, Madam President.

Welcome, Senator.

I believe, Madam President, I have Senate Resolution Number 1 at the desk. I would ask that it now be read in its entirety.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Extraordinary Session Senate Resolution Number 1, appointing a committee to inform the Governor that the Senate is convened in extraordinary session.

"RESOLVED, That a committee of two be appointed to inform the Governor that in compliance with his proclamation of July 21, 2004, the Senate is convened in Extraordinary Session and is ready to proceed with business.

"The Temporary President appointed as such committee Senators Mendez and

Hassell-Thompson."

THE PRESIDENT: On the resolution, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe I have Senate Resolution Number 2 at the desk. I would ask that this now be read in its entirety.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Extraordinary Session Senate Resolution Number 2, appointing a committee to inform the Assembly that the Senate is convened in Extraordinary Session.

"RESOLVED, That a committee of two be appointed to wait upon the Assembly and inform that body that in compliance with the proclamation of the Governor on July 21, 2004,

the Senate is convened in Extraordinary Session and is ready to proceed with business.

"The Temporary President appointed as such committee Senators Golden and Diaz."

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I have Resolution Number 3 at the desk. I would ask that its title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Extraordinary Session Senate Resolution Number 3, empowering the Temporary President to appoint officers and employees necessary for the Extraordinary Session.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe I have Resolution Number 4 at the desk. I ask that the title only be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Extraordinary Session Senate Resolution Number 4, providing for the introduction of bills in the Senate during the Extraordinary Session.

THE PRESIDENT: On the resolution, all those in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

SENATOR BRUNO: Madam President.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Can we recognize Senator Smith for an announcement at this time.

THE PRESIDENT: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President.

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

THE PRESIDENT: There will be an immediate meeting of the Democrats in the Democratic Conference Room.

SENATOR BRUNO: Madam President, I would suggest that we then stand at ease for one half hour, until ten minutes to 11:00.

Does that work? Okay?

SENATOR ADA SMITH: Thank you.

SENATOR BRUNO: Thank you.

And thank you, Madam President. We are at ease.

THE PRESIDENT: The Senate stands at ease for one-half hour.

(Whereupon, the Senate stood at

ease at 10:20 a.m.)

(Whereupon, the Senate reconvened at 10:27 a.m.)

ACTING PRESIDENT FUSCHILLO: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, I'd like to announce an immediate conference of the Majority in the Majority Conference Room. Immediate conference right now.

ACTING PRESIDENT FUSCHILLO: There will be an immediate conference of the Majority in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 10:28 a.m.)

(Whereupon, the Senate reconvened at 11:08 a.m.)

ACTING PRESIDENT FUSCHILLO: Senator Skelos.

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

ACTING PRESIDENT FUSCHILLO: There will be an immediate meeting of the

Rules Committee in the Majority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 11:09 a.m.)

(Whereupon, the Senate reconvened at 11:18 a.m.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we return to reports of standing committees --

THE PRESIDENT: Reports of standing committees.

SENATOR BRUNO: -- and now read the report of the Rules Committee.

THE PRESIDENT: The Secretary will read.

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

Extraordinary Session Senate Print Number 1B, by the Senate Committee on Rules, an act to amend the Education Law, the Tax Law, and the Public Authorities Law.

THE PRESIDENT: Senator Bruno.

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we take up Extraordinary Session Calendar 1B.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1, by the Senate Committee on Rules, Extraordinary Session Print Number 1B, an act to amend the Education Law, the Tax Law, and the Public Authorities Law.

THE PRESIDENT: Senator Bruno.

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

THE PRESIDENT: Yes, there is,

Senator.

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

THE PRESIDENT: All in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(Response of "Nay.")

THE PRESIDENT: The message is accepted.

SENATOR HASSELL-THOMPSON: Explanation.

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

SENATOR BRUNO: Thank you, Madam President.

Senator Saland, our chair of Education, has done an extraordinary job, I believe, in helping, by coordinating with the Governor, with the Assembly, and with our members, with the constituents out there, in getting this bill to the floor this morning.

Now, we don't have agreement. We don't have agreement three ways. We've been

discussing this Campaign for Fiscal Equity response to the courts on July 30th. And as you all know, the courts mandated that there be a legislative response to provide a sound, basic education for every student in New York City.

Now, there are high-needs districts throughout this state. So we have put together a comprehensive plan to deal with all of the needs of the pupils of New York State.

So in a broad view -- and Senator Saland will respond and talk about the details. But in a broad view, we are providing or helping to direct very close to $10 billion of state aid to across this state for education.

$5.19 billion would come from the state, representing a 36 percent increase. Of the $5.19 billion, $2 billion in Sound Basic Education grants would be targeted for New York City and other high-needs pupils throughout the state, in order to comply with the court order as a result of the Campaign for Fiscal Equity lawsuit.

Now, we are also responding with

$3.19 billion over five years, which would increase state support for critical education functions, including operating aid, expense-based aid, transportation, BOCES, special ed, building aid, as well as funding for teaching centers, teacher support aid, the mentor intern program, Teachers of Tomorrow, to attract and retain teachers.

Now, unfortunately, most issues get politicized here in government. They get politicized. And there are people that will vote against this, I don't know for what reason. Because if these dollars aren't enough, then I don't know what is.

Now, the state is expected to receive $1 billion in additional state aid over the next five years. If you take a look at history, that's about what has happened, within a hundred or two hundred million. And of that, New York City is expected to get $500 million.

Now, New York City would be required to provide a minimum of $1 billion in local funds over five years. Now, we have a maintenance of effort that is there now for

New York City. And that supplements what we're doing.

In total -- and I think this is important, that you understand that New York City schools would receive $6.22 billion in additional aid under this plan. Of those funds, $1 billion would be supplied by new Sound Basic Education grants, $9.25 million in additional state operating, and $500 million in the federal funds that I referred to, and $1 billion through enhanced maintenance of effort. Now, we have maintenance of effort which is present law.

Now, local property taxpayers are burdened here in this state. And they're burdened primarily with what? The high cost of education in the city and in the state. The high cost of education. It's the biggest part of anybody's tax bill other than personal income taxes.

So we are helping direct $6 billion plus to make that $10 billion over the next five years. Now, we already break records with about $15 billion in state aid for schools and for education. You all know --

and if you don't, shame on you -- we average $11,500 per pupil now for education in New York State, the highest in the whole country.

So have we been shorting education in this state, with the highest per-pupil average? No. But the courts have said, and they were using data two or three years old -- and remember that. The courts were using data that was outdated. Outdated. But they said that you must provide a sound, basic education for students in New York City.

They didn't say how much. Anybody know how much? Anybody here want to pick a number how much? Every time I hear from the Campaign for Fiscal Equity, they've added another $5 or $10 billion. One of the numbers I heard reaches another $39 billion. I mean, it is irresponsible.

The Senate has always had a priority. This, I believe, is my 28th year here. And I wish that, you know, I could take all the credit for the leadership in providing educational funds in New York State. I can't. But the Senate has taken the leadership in the

past, presently, and we're prepared to do it in the future. We're prepared to do it in the future.

Now, you want to politicize this issue? Here's how you can politicize it. How are you going to fund the next $6.19 billion in five years on top of the $15 billion? How are you going to fund it? It takes money. You've got to fund it. Well, the Governor has proposed, and we support in this legislation, that eight more video lottery terminal sites go in across this state somewhere.

Now, some of you are appalled at that. You're appalled. Well, guess what? Anybody wants to stand up, I am more appalled than you are. And you know what I was more appalled about? When I read that Pennsylvania just voted -- you know what? Rhetorical, Madam President. I see some people that would like to be responding -- 61,000 new slot machines. Slot machines. Okay? In Pennsylvania.

Mohegan Sun and Foxwood, get in your car, drive two hours and 15 minutes and you will be in the two biggest casinos in the

whole world. Go to Atlantic City. You can get there from New York in 45 minutes, if you drive the way some of you drive.

(Laughter.)

SENATOR BRUNO: From here, it's two and a half, three hours.

Now, you don't want to vote for this because it has VLTs in this bill. Well, step up and be responsible. You want to educate the people in this state? All of the money from VLTs, constitutionally, goes for education. Now, you want to keep funding education? You want to keep being in the forefront? Well, then, step up. Step up.

Now, what's your alternative? If you don't compete with Pennsylvania, Atlantic City, Connecticut -- who I believe surround New York State geographically. Don't they? Are there any other states that touch New York? Vermont. Does Vermont have VLTs presently? Anybody know? All right, soon. All right? Soon.

And Vermont only touches in one tip 20 miles from my home. And they're gearing up. In fact, New Jersey has, you know,

Atlantic City and you name it.

So here's what I'm saying. You've got $6 billion of new dollars to flow and you've got to pay for it. Okay? So step up and let's fund education, let's increase, let's meet the high needs of the people of this state, and let's do it with responsibility.

Now, some of you will lean back and say, Hey, we can always raise taxes. Oh, yeah, you can always raise taxes. But we're not going to raise taxes. Not next year or the year after. Why? Because we are already, still, after $100 billion in tax cuts in the last -- since this Governor has been governing and we have been in the Senate and the Assembly has been organized as they are, $100 billion in tax cuts. Guess what? We are still the highest tax per capita in the entire United States.

Why? Because of the educational taxes that go up. With seniors having to sell their homes and move out. Senior citizens can't afford the escalating taxes. You hear from them. People on fixed incomes, people

moderate, in lower incomes, they can't afford to live in their homes.

So what I am saying is I gag when I have to vote for VLTs. And you know what? You don't know this, because most of you weren't here. I debated against the lottery. And I think I'm one of the two votes against the lottery when it first went in in New York State.

And you know what? I was wrong. First time in my life I was wrong.

(Laughter.)

SENATOR BRUNO: And I haven't been wrong since.

(Laughter.)

SENATOR BRUNO: Now, I was wrong. Why? The lottery has about a billion and a half, a billion-six some that goes into education. Constitutionally, that's where the money has to go, into education. Now, what is more important in our lives, in our future, than properly educating our young people?

So I was wrong. I'd like to be able to go back 18, 20 years ago, when I didn't know better, and vote for the lottery.

Why? Because it's all over the country. It's all over the country.

So I'm going to vote for VLTs. I have voted for revenue from gambling to support education. Not because I like it -- because I gag, and I don't like it. I don't think any municipality should raise money by encouraging people to gamble. But you know what? We can't close Monte Carlo. You can't stop gambling in Atlantic City. You can't close the casinos in Connecticut. You can't close or stop Pennsylvania with their 61,000 new slots. You can't do that. I can't do it, the Governor can't do it, the CFE, the judges can't do it.

So why are they doing this? They want New York State voters, New York State taxpayers to travel conveniently and spend their money -- to educate people in Connecticut, educate people in Jersey, educate people in Pennsylvania.

Well, you know what I'm saying to you? Vote for this, increase state educational funding, let's meet that court order and step up and vote for a funding

mechanism that you can hold your nose but you can't control because people are going to do it. They're going to do it.

And you don't have to have VLTs on the street where the lowest-income people walk in and spend their bread money. You don't have to do that. You can put them in places that aren't as accessible to people, if you want to step up and be responsible.

Now, you know, great luxury -- you fold your arms: Oh, we're for more money for education. Yeah, we want to meet the court order. Shame on you, Bruno, you can't get together with the Speaker and the Governor. And you sit there, you know, and you're going to vote against this, potentially.

Although I don't know of anybody here that would want to vote against it. I can't imagine, Senator, anybody voting against this. I mean, it's beyond my powers of comprehension. Especially given this, you know, great monologue that I've just been giving that I'm giving primarily, I guess, to impress myself. Because I'm not impressing any of you. And I'm not sure that any of you

are going to do anything different than you were going to do 15 minutes ago, or 12.

But I just feel as if I owe it to you to let you know how I feel personally about what's on the floor. And we have got to get this done. We should get it done now. When we leave here, it's not going to get done. The courts are going to mandate.

And I promise you, if the courts mandate, New York City I doubt will get the dollars that we have in this plan. And they won't get them because you're going to be in court for the next two or three years, minimally.

And there are lawsuits now all across upstate being pondered to do something if all the money flows to New York City, as is mandated by the courts. So the dollars are not going to flow. So who gets the satisfaction? Who gets the education?

So this is a plan that works. I can tell you now, this is the Governor's language, mostly. These are our numbers. If the Assembly passes this, with your support, I believe the Governor would sign it. He hasn't

said he will, and maybe he won't. But I can tell you this, that if it passed both houses and lands with the Governor in a balanced plan, with the spending balanced by revenue, I believe this Governor would look at this seriously and hopefully sign it. And you'd have a plan that goes to the courts.

Now, without this, the courts are going to mandate. And then we're going to be back here implementing the court's mandate. You know that. Someday. Two years from now, three years from now, whenever. The dollars are not going to flow.

So, Madam President, thank you for listening so attentively. Thank you to my colleagues to listening so attentively. And we'd appreciate your support for this best bill that has been put together thanks to Senator Saland, who may have something to add. Although I can't imagine.

(Laughter.)

THE PRESIDENT: Senator Saland, do you wish to add?

SENATOR SALAND: If the leader can't imagine, why should I?

(Laughter.)

SENATOR SALAND: Very briefly on the bill.

I would just call the attention of my colleagues to pages 20 and 21, which talks in terms of a five-year commitment. Obviously, as we discussed several weeks ago, subject to an appropriation of some $19.69 billion dollars, of which some $2 billion would be used for Sound Basic Education monies.

The long and the short of it is, is that there's a maintenance of effort requirement required of the city if the city fails to match the $1 billion that we're proposing to provide to the city under this construct, they would in fact have their SBE money reduced by the amount of their failure to maintain that maintenance of effort.

Ladies and gentlemen, we went through a lengthy debate some four or five weeks ago. Many of the provisions that we discussed at that time when we discussed our LEARN proposal are contained in this bill.

Let me just point out a few things

where there is some divergence. There is a maintenance of effort requirement now imposed upon the remaining members of the Big Four, based upon the existing City of New York maintenance of effort requirement.

There is an effort to try and provide greater accountability by ensuring that independent auditing firms would not be able to provide those services to a particular school district for more than three years, after which there would have to be a contract with a separate firm.

It provides the ability of the Commissioner of Education to conduct, in conjunction with the Comptroller, annual examinations of financial conditions of each school district, and particularly conduct audits in those districts deemed to be in financial distress.

There is a provision for an expedited 3020A hearing process for tenured teachers, with due process provisions for remediation during a 90-day period after the result.

Those are among the most salient

features that have been added. Please be mindful, again, we are attempting to deal with a mandate of the Court of Appeals to come up with a response by the 30th, now, of this month. It's been more than a year since we've been faced with that mandate.

Our responsibility is to determine the actual cost of providing a sound basic education in the City of New York. We are obviously all interested in a statewide solution, not interested in leaving this to the court, which can only deal with the city solution.

We do propose to ensure, as the court directed us, that every New York City school has the resources necessary to provide the opportunity for that sound, basic education. And we do have a system of accountability that's in this bill, again, that substantially parallels what we did previously.

Lastly, Senator Bruno discussed the kinds of dollars that are proposed to be spent under this construct. The total amount of those dollars is nearly $10 billion over a

five-year period. Keep in mind that's an annual increase of in excess of $1 billion. $1.37 billion would be the average increase. The record that this Legislature and Governor have ever managed to provide by way of an increase was back in 2000 when we provided $1.1 billion. There is a 36 percent increase over a five-year period.

Again, we've prided ourselves over the course of these ten years on the kinds of dollars that we've added to aid our education system, our districts, whether they be city, rural, or suburban districts. We did some $4.5 billion over 10 years. That's about $450 million per year. We are more than doubling that under this construct, providing some $1.1 billion. New York City would be the beneficiary of some $6.2 billion of those dollars.

Be mindful, if you will recall, that the Zarb Commission said that the resource gap statewide was $2.5 billion, of which $1.9 billion was in New York City. This would provide $6.2 billion to the City of New York over the course of a five-year

period, more than triple what Zarb has identified as the resource gap for the City of New York.

Thank you, Madam President.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

First of all, I'd like to thank Senator Bruno and Senator Saland, who have worked very hard since the Court of Appeals decision came out.

This has been a contentious issue for all of us. Some of us initially felt there was judicial activism here. They went too far; this should have stayed with the Legislature in addressing education.

Those representatives from New York City are probably jumping up and down: Hey, this is great, we're going to get more money for our schools. And, you know, any time you increase aid to education and invest in our children, it's not a bad thing, it's a good thing.

But it raised a lot of other concerns. As good as it was for a New York

City decision and their schools, we were concerned upstate as to where the money was going to come from. Was it going to come from our school districts to fund New York City? What is the right number where we can be comfortable for everyone?

So I will say in conclusion -- I'll be real short here -- I support this education package because I believe our main mission here is to educate our children. That's the primary job of state legislators: make them the best that they can be.

But both sides of the aisle, whether you're from New York City, whether you're from upstate, none of us should disagree that we need accountability. We need reforms in the schools. Because we're going to make these kinds of investments, we'd better make sure the mechanisms are in place and the quality of teachers are in place and the class sizes are the right order that we're actually helping our children.

So accountability and reform in the system, we should be embracing. And it has to be part of any money package.

This bill provides a way of paying for the investment in further education without exacerbating the taxation system, whether it's income tax, whether it's property tax.

So it maintains shares. It doesn't take the Robin Hood approach that we were concerned with. And it addresses the Court of Appeals' needs. So the bill seems to be reasonable, and it meets our goals.

There's a property tax rebate in here. I've been talking about reforming the property tax system. So there will be some relief to our property taxpayers in this state. However -- however -- we have to seriously look at reforming the property tax system.

School taxes are really getting to be a heavy burden on our constituents in the whole state. Not as much in New York City, but from Westchester up. It's double-digit increases. Families are having to choose between owning their home or approving school budgets and paying school property taxes.

And I believe -- not relevant

today, but coming down the road -- that may be the next constitutional lawsuit, about our flawed real property tax system to pay for education.

Do you know that some localities have 85 percent of their tax roll value off the rolls, that 15 percent of it is shifted to all the homeowners and small businesses? Do you know that one-third of all the land in the State of New York is tax-exempt? And that continually, that big rock, gets shifted to our constituents.

So I ask you to keep that in mind, as we go down this road of education, how we're going to pay for it. And I thank you all for doing your best efforts in trying to get this CFE decision done.

Thank you very much.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Thank

you.

I would like to be able to say that I'm in support of the bill, but I cannot and would not. There are eight days left until the CFE compliance deadline is reached. For the record, the Court of Appeals handed down the CFE decision on June 26, 2003. Thirteen months later, we are no closer to compliance than we were.

I have heard us being applauded for putting $6.22 billion into this plan for New York City. But the questions that need to be answered to me are: How much of this 6.22 includes the $3 billion that can be borrowed by New York City? How much of this is the federal portion that would be allocated to the CFE? And how much is the New York City tax increase? What is going to be their debt?

When you answer these questions, or if you can't answer these questions, then the question has to be where is New York State's portion in this budget. What is New York State's new money that it's going to allocate? And where is the 2004-2005 allocation for this plan?

The courts are not going to accept what we have proposed. Therefore, I will be voting no.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

I want to congratulate Senator Bruno, Senator Saland, and certainly the Governor for so much of the reform language which is in the bill that we are passing today.

Number one, in terms of reform, we've seen, unfortunately, in certain school districts on Long Island, and perhaps in other parts of the state, that money was improperly and illegally spent and it did not go towards educating the children in those districts. And I believe the reform language will help avoid that type of a situation in the future.

My understanding of the court decision is that the court did not say how CFE had to be funded, that it could be the state, it could be the city, it could be a combination of factors in funding that type of -- that decision.

But what's significant to me is under Senator Bruno's leadership, Senator Saland's, the dialogue has changed from just funding the needs of the CFE decision to a recognition that there are high-needs districts on Long Island, that there are high-needs districts upstate, especially in many of the rural communities. And that dialogue has been changed to make sure that, through this legislation, that those needs are taken care of.

But also there is an understanding that there are many school districts throughout this state that year after year after year the residents of those school districts have made major investments in those school districts, are paying high taxes, and they should not be penalized for what they've done generation upon generation; in my home community, my grandfather, my parents and now me, in giving our kids a quality education.

No Robin Hood approach, as Senator Bonacic mentioned. And we should not start diminishing the education in so many of those school districts by taking the money away.

It's a recognition that every school district has particular needs, whether it's high needs, whether it's high taxes. And I believe that this legislation should be supported by all in this chamber and we should get this behind us, pass a budget, take care of the needs of the children of the city of New York but also the children in the entire state of New York.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

This is a very, very emotional issue and one of those issues which drives wedges between upstaters and downstaters, between rural, urban and suburban districts, and has no simple solutions. And I have great respect for those who have worked so diligently trying to come up with some answers in this house.

Sadly, the other chamber has been led by an individual who seems to prefer having a court decision that would perhaps cripple us financially in the state by having a dollar figure imposed that would wreak

havoc, even further havoc on our budget.

And it behooves us to remember that we are here today as a special session called by the Governor of this state, who, recognizing the need for leadership under this issue, brought us back here, presented us with a proposal that would seek to address this situation that we refer to as the CFE case, the Campaign for Fiscal Equity.

People of the City of Syracuse are now contemplating a lawsuit for the city schools in Syracuse, New York, having watched what's happened in New York City and felt that they have been treated differently. They are looking for a solution that would provide the kind of dollars that would drive more assistance into the city schools.

Out in little places like Brookfield, a tiny school district with, unfortunately, some very low test scores, they too would like to see some additional dollars. But they have not felt that they have been part of this discussion in the past.

But today we have in front of us a bill -- even though many of us have not had a

chance to study it in the detail that Senator Saland has, we have a measure in front of us that would be a reasonable first step to provide the kind of equity to the school districts across the state. And it has within it some significant reform and accountability requirements for the New York City school district, which has over and over again demonstrated a lack of accountability and some well-documented cases of actual corruption.

Nobody likes the idea of requiring gambling dollars be raised in order to fund education. I understand how Senator Bruno felt during that first debate on the lottery. I have voted against increased revenue through gambling a number of times in my tenure here. But it is much worse for us to shift that burden on the already beleaguered property tax bases, be they New York City, Syracuse, or little old Brookfield in Madison County.

I therefore am willing to support this measure out of the respect for the Governor, who showed the leadership we needed to bring us back here; out of respect for the process in this chamber, which tries again and

again to find the most equitable ways to help the people in all parts of the state; and most of all out of respect for the children, the future of this state, who now already receive the highest per-capita expenditure of any students in the nation at $11,000 per year and would receive even more and an enhanced level of education if we pass this measure.

I call upon my colleagues to recognize that the leadership of this chamber and the Governor is the only way that we will reach an equitable solution to CFE, and we should not allow the courts to dictate what the Legislature's prerogative.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

If in January you would have said to me that we would have on this floor a proposal that spent almost $10 billion in state aid and almost another billion dollars in real property tax relief, I would have looked at you with a doubtful eye.

If you had said to me that we were going to have on this floor a bill that dealt with multiple years in terms of state aid, I would have again been doubtful, since the process of state aid has been an annualized process. We deal with state aid one year at a time.

But as I have said on this floor before, people -- Senator Saland, Senator Bruno other members -- have been working for the better part of a year -- Senator Hassell-Thompson -- the better part of a year to put this bill on the floor, working with the Governor, working again in a very collective spirit to try and meet the court mandate.

And I think we have done that. We've talked -- had debates that it is not only the money, but the courts talk about and talked about the capital piece, the school buildings that children must learn in, the teachers that teach the students, the class sizes. This legislation deals with that, puts the dollars into dealing with that.

Many of us have spoken about moving

towards using the greater resources, the broad-based taxes of the state, and moving away from the real property taxes. Senator Bonacic talked about that. Well, this proposal does just that. We add, on top of the $2.7 billion that we are spending in STAR monies, another billion dollars. We are, on top of the $15 billion that Senator Bruno talked about, we're adding another $10 billion.

That is a tremendous commitment to education. That's a tremendous commitment and a sea change to the taxpayers of this state in how we pay for those educational services.

We do have just but a few days left to ensure that the Legislature and the Executive come together and enact a plan. And I am sure that today's efforts will help be a catalyst towards bringing the parties together in these last few days, so that we will have not allowed all the time and the effort -- and I will tell you again, a lot of staff time that has gone into this proposal, that will not be left behind.

So, Senator Bruno, Senator Saland,

you really are to be commended for this proposal. It is an enormous proposal with the accountability pieces and the tax pieces, and it all comes together in such a wonderful way.

So I would hope that those individuals who think that this is not the perfect solution, just remember, as Senator Bruno said -- and it needs repeating -- this proposal spends money now. And it means that we could get on with the business of educating those students in the high-needs districts and students across this state now without going through a litigious process and delay the expenditure of this money until a year or two or three or four ahead.

So I ask my colleagues to support this.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: On the bill, Mr. President.

I've read the court decision and many of the reports issued by the Campaign for Fiscal Equity. The court said that we have to provide a sound, basic education. Does this

legislation do that? I don't think so. And I'll tell you, we heard some good things. But there are some things, some major flaws that are lacking. And I don't believe this legislation responds to the mandate of the court.

What is lacking, for one thing, Senator Skelos discussed the problems in a suburban school district of high taxes in high-tax districts. This bill does not provide a regional cost factor, which I think is essential. It obviously costs more to educate a child in the City of New York or in Rockville Centre than it does in upstate New York. It obviously costs more.

Secondly, this legislation does not respond to the issue that it's the needs of the child that we are concerned with. Where a child lives should not determine the kind of education that the child receives. A child born in Syracuse should receive the same kind of education as a child who lives in Montauk or Shelter Island or any of the school districts in New York State.

Thirdly, there is no simplification

of the formula that is so essential. Our current formula has 50 or 60 components and transparency, ability to understand the famous formula, as it's called. That I think should be part of any legislation that we pass.

This is not a statewide bill. I am as concerned about the children in my Senate district as I am about the children upstate. And there are areas of upstate that have children who also are entitled to a sound, basic education. And I don't think this legislation responds to that either.

The New York State Constitution, in Article 11, says that the Legislature shall provide for a system of free common schools wherein all of the children of the state may be educated. It doesn't say that the court-appointed master has this job.

And if New Jersey is any indication, I agree with Senator Bruno, this is going to go on and on and on. And I am willing to bet -- the only bet that I'm willing to undertake is that it's not going to be two or three years. My guess is that it's going to drag on even longer.

And I think that's the sad part of this bill, that the children will continue to receive an inferior education and not receive what the court has mandated as a basic right, the same kind of right that is needed by a child in my district or in anybody else's district.

And for that reason, Mr. President, I think this is a mistake and I will vote no.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

Well, Senator Bruno was right, it was one of his better monologues. He made a very good monologue. Unfortunately, with all due respect to Senator Bruno, he wasn't just wrong once when he voted against the lottery; he's wrong today to support this bill.

This bill doesn't answer the questions that each of you in your statements today imply that it does. There's no funding formulas in this bill. So in fact, when Senator Hoffmann talks about poor Brookfield and Syracuse, I hope Senator Hoffmann knows

that there's no new money for education for Syracuse or poor Brookfield in this bill. And so if she believes they might be going to court, I think she might be right.

Utica apparently filed a lawsuit today. Other areas of the state will continue to file lawsuits as we leave today, because this bill not only will not become law but shouldn't become law, because it doesn't address the problems.

And there was a lot of discussion, and I respect Senator Saland's analysis of the numbers. But what he didn't say in his presentation was the total dollars that this bill offers between now and 2008 and 2009 is technically no more than the dollars that we would have adding to education under our existing plans at a basis of we've been, since George E. Pataki has been governor, growing education funding annually by 7.1 percent.

This bill would increase it to an annual growth rate of about 8 percent, except now we're factoring in federal dollars and local maintenance of effort dollars, particularly heavily laid as a burden on the

City of New York in the increased numbers here.

So we're not increasing education funding in this bill beyond where we would reasonably expect to be by 2009 if we did nothing to address our funding formulas. But in fact, the court's told us that in fact we don't have fair funding formulas, and this bill doesn't even go near the question of funding formulas.

And in fact, Senator Bruno and several other members here talked about that we have an incredibly high average rate of education spending per student in this state -- over $11,500 per year was the number I believe I heard.

The problem with averages is that's what they are. So we have communities in this state that are spending $6,000 per student, and we have communities in this state that are spending over $16,000 per student. That's why you can get to an average of $11,500, or an approximate number therein.

That doesn't address the inequities in education funding throughout this state,

not just for the City of New York but for high-needs areas, as Senator Skelos said, all over the state. We flunk the test for the City of New York in this bill, and we flunk the test for other communities that are high-needs that we are also wrongly, unfairly funding in this legislation, because we don't even address funding formulas.

I would argue there's not one Senator in this house who could actually say what they think this bill will mean in dollars for their school districts between now and 2008-2009.

I heard that the City of New York would get a billion more, but again, they have to match it with another billion of their own maintenance of effort in order to get that billion. And we're again assuming federal dollars that frankly may or may not ever come, depending on, I suppose, who's controlling Congress and the White House over the next four years.

We also mislead ourselves and the public if we don't think through the question of the VLT money. I heard Senator Bruno's

argument about the ethical dilemmas of deciding to support gambling in order to get a win for education. I have that same ethical dilemma about gambling. And I appreciate and recognize his arguments that everyone else is doing it, and so if we are not, at what cost to ourselves in comparison to other states.

I would be more comfortable with my ethical dilemma over expanding gambling if that money actually went to increased funding for education. But this bill doesn't do that. In fact, since we would have been at approximately $19 billion of state money for education by 2008-2009 if we never saw this bill, and we get there with this bill with the assumption of $2 billion of VLT money, what this bill actually does is say, yes, New York State, expand gambling and then take $2 billion of what you otherwise would have been putting into education from your General Fund and supplant that with VLT money.

So to go down the road that for, I think, many of us is an ethical dilemma of expanding gambling, to actually see no new dollars for education but actually a

replacement of gambling dollars for other General Fund dollars, I think raises a very different question than the way it was presented to us on the floor.

In fact, I would argue that I could be more comfortable with VLT money being factored into education money if we had some kind of expanded maintenance-of-effort concept for the tax dollars, that you can't decrease what your otherwise normal, natural growth rate in education dollars would be if you have revenue from gambling. The revenue from gambling would actually have to be above and beyond what your normal, expected, natural growth rate of education dollars would be. But that's not in this bill.

So not only are we not actually putting more money into education with this bill, we're technically cutting ourselves a $2 billion break at the expense of expanding gambling in the State of New York. Which, as Senator Padavan has pointed out over and over on the floor of this house, has very high costs in its own right to make the decision to expand gambling.

So to make that decision and to allow that to happen when we in fact get no dollar win for education I think should give us all pause.

Senator Bonacic made some very interesting points. And I often agree with Senator Bonacic. I will just clarify, there is no tax rebate in this bill. I believe that's another bill we're going to address later on today. And I'm opposed to that bill, so I'll address that later. But that was not part of this bill.

But he did talk about the problems of the fact that our taxes are so high and yet we don't collect taxes. And it's been an issue of his, for as long I've been in the Senate, that we don't have property taxes on a significant portion of the land of the state. And he argues that that transfers costs to other property owners when some property owners don't pay taxes and therefore others have to pay more.

Well, I would argue he is right, but it's a much bigger problem than he's describing. And it in fact goes to the crux

of the question Senator Bruno raised: how are we going to pay for this?

Well, we have billions of dollars of tax expenditures in our state budget every year we never look at, we never evaluate, we never analyze. We have over $20 billion per year of tax expenditures, meaning people who get special exemptions from not paying their taxes or get tax credits or get tax rebates. And that's not even counting your property tax concerns, Senator Bonacic.

But if we want to pay for education and we prioritize it as high as I think everyone here in this room would argue we do, that we make it our number-one priority, then we would be obligated to be asking the question why are we giving away another $20 billion a year from the budget by not collecting taxes from subspecialty populations in the State of New York, special interests, special industries.

Maybe some of those tax credits and exemptions are valuable and justified and worth it and even a higher priority in their own right than education. But surely

$20 billion of them are not. Surely $20 billion of tax expenditures are not higher priorities to the State of New York than fair funding for education, for our schools. But we did not address it at all since the CFE lawsuit even went to court, better yet got resolved by the courts and we were ordered to do something.

In addition, we don't do anything because we don't have new funding formulas here to try to equalize the funding formulas and address the concerns of the court. Which is why my colleagues Senator Hassell-Thompson and Senator Stavisky are right, the courts will not accept this. We don't meet the standard of what they told us we need to be doing to address this.

And, finally, Senator Skelos and I believe someone else mentioned that at least this bill, even if it doesn't put new money into education, even if it doesn't have funding formulas, even if it gives us more gambling, at least we avoid the Robin Hood problem of taking away from some districts and giving to others.

Well, I would argue we have a Robin Hood problem in this state. And we have a Robin Hood problem when it comes to the City of New York and in fact Long Island, where both of those areas give significantly more to the State of New York than they get back from the State of New York.

And in fact, New York City is the basis for the CFE lawsuit, so we have underfunded our New York City school system for decades, at the same time as New York City has been the Robin Hood, moving revenue from the City of New York to the State of New York.

Mayor Bloomberg commissioned a study that was released two weeks ago, "Balance of Revenue and Expenditure Among New York State Regions: Analyzing the fiscal years '97-'98 through 2000-2001." It didn't get a lot of press attention. So I just want to reference that this study found that New York City, on average per year, sends between $7 billion and $11 billion more to the State of New York than the City of New York gets back.

New York City is the Robin Hood to

the rest of the state of New York. And yet we're still trying to fight for even a reasonable discussion about what education funding formulas ought to be this late in the game. We clearly are not accomplishing the intentions of the court or the people in this bill, since we don't provide additional money beyond basically what normal growth rates that would naturally happen each year would get us to by 2008-2009.

We do expand gambling. We don't address the problems of the rest of the underserved communities in this state. And I appreciate several legislators raising that point. You should be raising that point. I would argue there's no State Senator here that doesn't have some underserved community or some underserved school district in their area. Please don't have the illusion your problem is solved by this bill. No one's problems are resolved by this bill.

We need to go back to the table -- no disrespect to all the work that was put into this by so many people over the last year, as Senator LaValle said. But we didn't

pass the test. If we were students, we would be getting an "F" for this assignment. We need to go back, improve our grades, and meet our obligations to the people of the entire State of New York.

I hope that everyone will vote no on this bill today.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: Whew. It's been a long haul. Thank you, Mr. President.

You know, we've been at this for about an hour and ten minutes now. And the one thing that bothers me is I hear from the other side "New York City, New York City" and then, all of a sudden, in a twinkle of their eye, they talk about "Oh, the rest of the state."

Senator Hassell-Thompson said, you know, "I can't vote for this, this started in 2003." I disagree with you. It really started in 2001 for us, when the Governor authorized the casinos and the VLTs in October 2001. And trying to get an agreement

here, maybe everybody ought to read the New York Times today, and the Times Union, that talks about the uncomfortable position we put ourself in.

We're talking about money. Forget all of the rest of this. This is about money. Your commissioner in the city, Mr. Klein, came up and said "We need $30 billion." I came back from a conference last weekend, and they said what bowl glass he's looking at, $30 billion for New York City. If we gave 30 billion, they'd be at Bruno's door pounding on it saying, "We want 10 more."

We talk about the children. We're not worried about the children, not in my opinion, from the debate I'm hearing here. We're worried about money into New York City.

The Majority Leader has worked on this for many, many months. Saland's worked untirelessly. Our staffs have. We need to stop petty-footing around with ourselves and trying to make ourself look good back home.

And what we ought to be doing is talking about how do we divert this money directly to the schools. It's there. There's

a five-year plan. You know, I don't know about the rest of you, but when I go out and shop and I want to buy something, there's a problem. If I don't have it here, I can't buy it.

And we talk about we don't want the VLTs, we don't want the VLTs. You tell me where you're going to get the money for this. The people in my district are taxed out of their wits. We're going to lose seniors. But yet we talk about accountability in this bill, which is a very, very important issue. I don't hear anybody talking about we have to do a little bit better on accountability.

Now, we have needs. Right? I didn't hear anybody over there say how you're going to pay for those needs. Nobody. I wanted to ask Senator Krueger, but she's gone. But she -- oh, there, she's -- she moved. I'll catch her later.

(Laughter.)

SENATOR LARKIN: But the point here is, why do we make a fool of ourselves?

I heard someone here say that your side of the aisle is going to vote no, party

vote no. Well, you know what? I'll go to your districts, I'll go to your district and I'll hold the bill up and say: You see this? This would have fixed your school district, it would have paid for your teachers, it would have taken care of your administration, but your Senator and your Assembly member said no.

That's a shame. What you've done to the children of the state of New York here is said politics is more important than addressing the issue. The issue is, how do we pay for this?

And I hear people talk about the court, the court. I'm not a lawyer, but I had a couple of constitutional lawyers look at it. And what did they say? They said a quality education. It didn't say $5 billion, $10 billion, $15 billion. It said a quality education. Whatever it costs. But that's not what we're talking about over here. We're talking over here is money, money, money.

You know, politics, I was told a long time ago, is the art of compromise -- not compromise to failure, but compromise to come up with a product that represents the needs of

our people. What we're doing here today is destroying the credibility, if we have any left.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Mr. President, I -- after listening to this debate and at the end of this week, I think that what we should engage in for the future is a new program called "responsibility in government." If you're a Court of Appeals, you can't ask questions without providing some kind of answers. You can't say fund basic, sound education but actually give no road map as to what would be constitutional. I mean, if you're going to weigh in, you might as well weigh in all the way.

In addition to which, if you're going to vote against the plan that's coming before this Legislature to meet the needs of the court case, then you got to have your own plan. You got to come up with your own numbers. You got to come up with a way to fund it.

Because what's happening here,

we're in an echo chamber. They have thrown out all these mandates, the court. We have responded, but there's nothing coming back. You can't have a compromise, you can't have an agreement that way.

And we get nothing from the other side, just platitudes. We'll fund it some way; something will come up. But, you know, we don't really have a number, we don't really have a way to fund it. Oh, and by the way, we're going to ask for more.

That's not responsible at all. And lest we think it's the voters who are at risk because of our seats, it's not. It's the children, not just of New York City but of the state of New York. They're the pawns in this.

I know it's politically difficult to put your name to a measure, to take a stand, to say, yes, I believe in this number because it at least -- it may not be the perfect solution, but it is a solution. I know that that's hard to do. Because in this business, it's not what you come up with as a solution, it's the mistakes you make along the way that your opponents can take and throw at

you, that the editorial boards can say you're wrong about. That's how we do business in this state, and it's wrong.

This is a movement, this plan is a movement in the direction of solving the problem. If you don't like the bill, we need your answer. Because it's not a political thing, it is a responsible thing. How would you pay for it? How many years would it be? What's your total number? Give us those answers.

Because if you don't, then join with us, do this measure with us, because at least it's the start of a dialogue. And that's what we've been missing so much in this state this year.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Parker.

SENATOR PARKER: Mr. President, on the bill.

I'm very interested in having this dialogue, as Senator Balboni has invited us to be engaged in. However, if we're going to have dialogue, it must be premised on proper,

accurate history. So we begin, you know, in the beginning. We can talk about how much money we spend overall, we can talk about, you know, where money is being spent upstate and Long Island and New York City. But the reality is New York City schools for a long time have been underfunded.

And when it was brought to members of the Legislature, when it was brought to the Governor -- to several governors, not just the current governor -- they were unwilling to change it.

So here as we stand in this extraordinary session and we start to applaud the Governor for finally coming up with a bill, the Governor could have taken care of this for a long time ago without us having to go to court, without us having to call an extraordinary session in 2003 [sic], in July, when he could have taken care of this, technically, the first year he came into office.

He could have settled the lawsuit and said, You know what, we don't need to go forward with the lawsuit that was actually

being engaged then. And we could have, you know, fixed the formula, given more money to New York City, given more money to other school districts that needed it.

And in fact, in the first year of Governor Pataki's administration, he actually cut education. I mean, you know, I wasn't here, but -- you know, I wasn't here in the Legislature, but I was working in government then. And if you go back, you'll see.

And as a matter of fact, we have a governor who's been one of the most anti-education governors in the history of this state. And in fact, last year we stood together overturning 119 vetoes exactly because the governor was going to zero out universal prekindergarten. Anybody forget that? It was just last year. I mean, so I'm not overly impressed that finally he's saying that we need to do this, you know, in July of 2003.

We're here because we had to go to court and say we're not getting enough. We had to win. And then, even after we won, the Governor didn't say, you know what, my bad --

let me take care of this right now. I over -- you know, I must not have seen it, I must not have looked at it correctly. You know, let me deal with this right now, because this is important for all of the children of New York City, and the children of New York City deserve no less of an education than any other child in the state of New York.

But instead, he spent another $11 million, appealed the case -- appealed the case. When Judge Lerner decided the case, he says, and the Governor agreed with him, that all we are bound to provide in the State of New York is an eighth-grade education. I wonder if the Governor has anybody on his staff with only an eighth-grade education. I wonder if any of us would, you know, as we're going through resumes, say, "Oh, only an eighth-grade education? You know, that's good enough." Maybe just on the budget staff.

But when we look at the history of this problem, this didn't just start now. We've tried every angle not to have a judicial solution but a legislative solution or an exclusive solution to this problem. So then,

after finally it goes to the Court of Appeals and CFE wins, now all of a sudden it's like, you know, okay, you're forced into doing it.

And my colleagues who stand up here day after day and talk about law and order, who talk about following the laws of the State of New York, the same folks that sit in committee meetings and talk about how we in fact need to raise penalties in order to, you know, have people apply to the laws, are now telling me when the court gives an order, a mandate, that in fact we shouldn't follow that mandate in terms of dealing with this before July 30th, but instead we should come up with gimmicks and schemes.

And I think that what's before us now is a gimmick and a scheme. It's insincere. It doesn't deal with what the court decision asked us to deal with, which was to add more money.

And to be quite honest with you, I am not satisfied -- and let me be on the record, I am not satisfied with simply dealing with the issues of the children of the State of New York. That in fact I agree with you,

there are high-needs districts all over the state, in Buffalo, in Rochester, in Syracuse, in Binghamton, in Yonkers, out in Long Island, both in Suffolk and in Nassau. And we in fact ought to be talking about how do we in fact add more money to all of those school districts. And I think we're going to have that dialogue.

And when we're talking about a $100 billion budget, the issue is not really where you get the money from. Everybody's saying, well, where do we get the money. The money is in the $100 billion. We have the third largest budget in the country -- the federal government's budget, the state of California, and the state of New York. Out of a $100 billion budget, you're telling me you can't find another, you know, billion dollars, $2 billion, in $100 billion?

So just in case people were confused about whether there's a plan -- because I've heard some of my colleagues get up and say, Well, where are the numbers, where's the plan, and where's the money going to come from? -- this conference put together

a plan before April 1st that would have dealt with CFE, that would have added another close to a billion dollars -- another billion dollars for education this year, and at the same time spent no more money than the Governor had proposed.

And not only did we put it forward in the context of a plan, but we actually put legislation on this floor in the form of an amendment that my colleagues voted down. So not only was there a plan that detailed where the money was going to come from, but we put it forward in legislation, we called it for a vote, and we were told that that plan wasn't good enough. And that was a real plan.

So if people want to -- you know, if anybody is interested in getting a copy of the plan, I'm sure that Senator Paterson has a few lying around, we'll get some copies made and we'll distribute it again so that we can re-see it, you know, and revisit that plan and maybe, you know, we can come up with a real vote.

But certainly that plan added enough money that we could deal with this

issue over time. This is not a matter of just taking care of New York, this is a matter of what we all care about. It is a quality education for every single child in this state.

And in fact, if we don't in fact care about that, then we'll continue to come up with schemes and plans that are change without difference and continue to have, you know, a lot of rhetoric without any real -- without any real decision-making.

I'm really not trying to assign blame. I'm not interested in assigning blame or saying, you know, who's responsible for it. We're here at this point now. Let's create a legislative -- we have, you know, roughly eight or nine days left before the courts come in. Let's commit to stay here and deal with this, pass a bill that really adds money. And we can talk about where the money goes. We can discuss about the school districts that need to get it.

I think, you know, when you start talking about adding an additional billion dollars to a budget, there's room to share.

And so let's talk about what Binghamton needs, let's talk about what Yonkers needs, let's talk about what they need in Suffolk and Nassau, let's talk about what they need in Buffalo.

But let's decide that we're going to help children of the state of New York, that we're not going to just continue to come up with proposals that we know are not going to pass, with one-house bills that no one is going to consider. And let's just really give a real fair-handed approach and a sincere attempt to resolve our differences on this issue.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

We've heard a lot here today. And I think it's important that we take a hard look at some of the background information that led us to this.

When I came into this chamber in 1995 in a special election, there was a $5 billion deficit, $5 billion deficit

inherited by the Pataki administration from the prior administration. That had to be dealt with. It took us a couple of years to get out from under that deficit.

By 1997 -- and if you look at the record, the facts are clear. Since 1997, this Legislature, led by this house and this Majority, led by Senator Bruno, and the Governor, have added record increases in aid to education. Record increases in aid to education for every district in the State of New York. Fifty percent of that money went to the City of New York. That's fact. You can look it up.

So we have been addressing problems created by prior administrations. Again, I'm not trying to point fingers. The facts are clear. Go look them up. Go look them up.

But what we have now, through CFE and the lawsuits that are coming, there are lawsuits on Long Island in the works, there are lawsuits upstate in the works, some being filed -- is the balkanization of the state of New York.

That is a mistake when it comes to

education. That's a mistake when it comes to anything. We should never, never pick one part of the state and their interests against another part of this state. We are elected here to represent, yes, our districts, but we are elected here to represent all of the constituents, all of the people of the State of New York, and we have to think like that.

This bill thinks like that. This bill is a statewide approach. It is not limited to any one area. It provides and it affords accountability. It gives support to at-risk and high-needs districts throughout the state -- yes, including the City of New York. Yes, including Long Island.

That was not the court decision. If this case goes to the courts, the courts will only look at the City of New York. And that bill will be paid for by the rest of the state. That's the way it will be.

There is a maintenance of effort in this legislation. The city will be required to step up to the plate and add money to education. I taught in the City of New York for twenty years. I understand their

problems. I've been in their schools. I know the issues. I also served on a Long Island school board. I know suburban issues. I understand their problems too.

You can't rob from Peter to pay Paul. We have to take a statewide approach. This bill does that. We changed the dynamic in this state and in the conversation about this. Senator Skelos pointed that out once before. The conversation shifted from just the city to all high-risk and high-needs districts in the state. That's where it should be. We should be looking about the education of all of our children, all of our children, not just one area, not just one segment. And we should be looking at a way to pay for it.

The Assembly measure is a statewide measure as well, but it doesn't pay for it. There is no funding mechanism there, and that's a mistake. There has to be a funding mechanism.

VLTs, I don't like them. I don't like gambling to pay for education. I don't think that's the way to go. But you show me

an alternative. Show me an alternative. The Assembly's approach, the economy will grow. The economy will grow, and we'll pay for it out of increased revenues. It's as if they never heard of the business cycle. We've just come out of a recession, for heaven's sakes. We want to go back into one?

You can't keep adding on costs without paying for it. We need to have a funding system. This bill approaches that. Is it perfection? No. I don't know of any bill, and I've passed a few in this house, that have become law that are perfect. Nothing is perfect. Only the Almighty can do that. I don't pretend to be that.

But I do believe we need to take this approach and move ahead in a positive direction, pass a budget for all the citizens of this state, and let's go forward and do the people's business. This bill is a good step in that direction. It deserves to be passed.

Senator Bruno is to be congratulated. Senator Saland, who has done yeoman's work with his people, congratulations. Let's move forward. I

intend to vote aye, and I urge all my colleagues to do the same.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I certainly can identify with Senator Marcellino's "Show me the money."

I want to also join my colleagues in thanking the staff and Senator Bruno's, the Majority Leader's staff for their work on this legislation. And as I look through the memo, the sponsor's memo, I see that our legislation -- I tried to read as much as I could, but the memo sort of makes it concise and readable to me -- that there is a lot in this legislation that I certainly can feel that I'm appreciative that the staff has taken so much time to deal with, especially around the whole question of accountability.

They have tried to talk about what do we do with poor-performing schools, what do we do to improve schools, what happens when schools are not improved. And that speaks to the children. I think that's what we want to

keep in front of us and we should be concerned about. The bill deals with educational and fiscal accountability, and I think that's good.

I see that the bill also has a whole section where we are changing the structure of some of the local school boards. For instance, I believe the bill gives the mayor of Albany a seat on the local school board here in Albany. I don't know if the -- I have not heard from people in Albany that that's what they want, but it's in the bill. They should know that. There's mayoral appointments being added to school boards in Buffalo and Rochester and Syracuse. Maybe that's what they want; I don't know. But it certainly is in the bill. And it goes on and on.

The bill talks about a requirement for the Governor and the leaders to receive a report annually on the financial and fiscal operations of the local school districts. I think that's good. We need to know what happens. There needs to be fiscal accountability in every school district. And

it goes on and on.

It also creates, interestingly enough, something that is referred to as a "National Board for Professional Teaching Standards certification achievement grants." What that is, I have no idea. But this is a little more program, another little program, and some more money. We're giving it to teachers, granted. But we -- I don't know how those decisions get made which teachers.

We also set up a New York State Teacher of the Year Award fund, and that's $10,000 for the most outstanding teacher in the state for that year. Sounds to me like a political program. But that's in here, so be it.

And the bill also deals with teacher certification and standards and that sort of thing.

So I appreciate all of that. That's what we need to be talking about. I believe that some of this is an answer to what the Board of Regents has been requesting and requiring and trying to do to improve schools in our state for some years. So it's now been

codified in this legislation. And to some extent, we're very happy.

But the problem is, I think, that the court case came out of what we refer to as the Campaign for Fiscal Equity. Which means that in order to bring equity to every student in our district as it relates to education funding, we have to change the formula. We must do what the court has ordered us to do. The court did not order us to do all of this without and unless we also change the way that we fund education in the State of New York. It has finally been declared that it is inequitable and unconstitutional.

So what we've done is we've tried to talk about every other aspect of education, except we haven't dealt with what the judge and the court clearly decided for the State of New York. We are unconstitutional in the way that we fund our schools. So as long as we continue and put a little more money on top of a little more money, or put a little more money on top of less money, or put money here and take it away from there, as it looks like we're doing now with the VLTs, we do it with

the lottery -- everybody wants to know from me, my constituents, Where is the lottery money? And what I tell them is it's there, but whatever is there, that same amount has been taken away to use for something else. So it adds up sum zero.

So we're just playing the same game that we always play. We are not really and truly addressing the court decision with this legislation. We are simply talking about every other thing that comes to mind. We all agree on these things, for the most part. But what we can't agree on, because it's painful, but we must do it because that's what the court has ordered us to do, Mr. President, is that we must change the way that we fund education in the State of New York.

It is inequitable. And as long as it is based on property tax payments, where wealthy districts spend more money and districts that are not wealthy all over the state -- rural, urban, wherever they are -- if they are not able to fund their districts based on the lack of a property tax base which allows them to do that, we are

unconstitutional in the way that we fund education.

So while I agree with a lot that's in this bill, it certainly is not the answer to the CFE, Campaign for Fiscal Equity ruling by the courts. And I will be voting no on this bill.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, since the day that the CFE decision was announced, I have walked around with my attache case with a copy of the decision, which I have read some six or seven times. And let me assure anybody who believes that the court ruled that the funding formula is unconstitutional, that you are absolutely, totally 100 percent incorrect. Nowhere, noplace, nohow did the Court of Appeals say that the funding formulas were unconstitutional.

Now, during the course of the Senate finance hearings, the executive director of the Campaign for Fiscal Equity

said the very same thing. He said the court ruled it unconstitutional. And he and I engaged in a little bit of a colloquy and dialogue, and as a result of that he acknowledged or admitted that the trial court said it was unconstitutional, but the Court of Appeals -- and both he and I are lawyers -- did not.

In fact, the Court of Appeals said they may be cumbersome, they may not be transparent enough, but they didn't say it was unconstitutional. All the Court of Appeals said was -- and it's a rather large "all" -- the state has failed to abide by its constitutional obligation to provide a sound, basic education. Words you won't find in the State Constitution, words that were given us by a prior Court of Appeals in the Levittown decision of some twenty-plus years ago. Nowhere, nohow, noplace. That's it. Period, the end.

I heard some talk a bit earlier about the fact that in a $100 billion budget, it would be relatively easy to find $1 billion or $2 billion. Let's try and be honest. That

$100 billion isn't all state money. Thirty-five or so billion of it is federal money. We have no control over that. How much of that money is off-budget, another 15 to 20? There's $42 billion left.

Of that $42 billion, we're already spending $29 billion for education and Medicaid. Now, is there anybody here who's proposing on that side of the aisle to find a billion or two in Medicaid? I don't think so.

That leaves another $12 billion or $13 billion, perhaps. Find me $2 billion worth of cuts in that $12 billion or $13 billion, and then we'll be able to talk. Talk about rhetoric.

Now, the bottom line is the court dealt and dealt only with the City of New York. If in fact Senator Bruno and this conference did not advance a bill some four or five weeks ago, we'd still be shooting at each other with press releases.

The Assembly is not interested in resolving this issue. They want to keep the issue. It behooves them to keep the issue.

We are keenly interested in

resolving the issue and desperately looking for partners with whom we can deal with the issue.

The Court of Appeals doesn't care where the money comes from. They were pretty plain about that. They were clear about it. So to say that somehow or other or imply that somehow or other the City of New York should not be putting up any money is ludicrous. The court specifically said the city is a creature of the state. Work it out with the city. It's your problem. If you say they're not paying enough, you fix it, State.

And that's what we're doing here. We are requiring a maintenance of effort. A rather modest maintenance of effort for a city that's currently spending $5.5 billion to $6 billion for education. We're saying an average of maybe $200 million more a year over the course of the next five years, some 3 to 4 percent increase. When the state is talking in this bill, we're talking about providing some increase in excess of a billion dollars a year. We think that's a modest contribution that they could make.

You know, I'm astounded by some of the math. I heard something earlier to the effect that there is no new money for education. Now, granted, this is not an appropriation bill. And I'm not going to go into the same debate that we went into last time. This is a language bill.

This language bill has a commitment which is the only kind of commitment we can make. I don't care what the resolution is, I don't care which bill it is, I don't care if it's a three-way, I don't care if it's a one-way, I don't care if it's a two-way. One legislature cannot bind a subsequent legislature. You can put language into law, and it's always got to be subject to an appropriation.

And what we are saying here is in this bill we are committed to sustain a commitment to $19.7 billion, five years out. Subject to an appropriation. Nobody can predict the vagaries of the economy. Nobody can predict what will happen over the course of this next five years. We have established a template that we hope to be able to

accomplish.

And as part and parcel of that, we say there's going to be $2 billion for SBE, sound, basic education monies. Now, those sound, basic education monies, as I mentioned earlier, combined with all of the other revenues that would be focused on the city, would result in the city exceeding by some 300 percent the money identified by the Zarb Commission as being their resource gap. Zarb said 1.9.

Now, according to my math -- and again, I will acknowledge that this is not an appropriation bill. But it is a language bill. And the numbers will follow, assuming we can come to an agreement -- we're talking $2 billion in SBE money, building upon the present state aid.

Again, the Court of Appeals did not -- underscore, did not, did not, did not -- say that the formulas were unconstitutional. What it said was: Fix it. Fix not the formulas. You do that, that's okay. Fix the problem of providing the opportunity for a sound, basic education to

children in the City of New York, to schools in the City of New York. $2 billion for that, $2.5 billion in additional aid.

We provide, on top of that, some $688 million in what we've termed regional aid, regionalization. And these aren't dollars that anybody is going to find anywhere, these aren't dollars that you'll find referred to in last year's budget as being projected as the commitment for the state for this year. These are new dollars. Regardless of what phoney math you use, these are proposed to be new dollars.

Lastly, when the court spoke about the problems of New York City, it spoke in terms of instrumentalities of learning. And among those instrumentalities of learning certainly they talked about the woeful state of buildings in the City of New York.

The City of New York needs authority if it wants to bond more. We give them that authority, $2.8 billion worth of authority. That's in addition to the Mayor's proposal, I guess for some $13 billion over five years for his capital improvement plan.

And while the city will borrow that money if this in fact becomes part of any three-way -- if in fact there is a three-way -- by way of building aid, the state will provide its share, some $1.4 billion, to the city.

So the city is a big winner. The rest of the state is a big winner. High-needs districts everywhere, whether it be based on sparsity, whether it be based on poverty, whatever measure you use -- English proficiency -- those districts are targeted and will be targeted. Those are the definitions that will be used.

Is it perfect? Nothing in this life is perfect. No one has ever voted for a bill that was perfect. Does it respond to the Court of Appeals? It certainly does, in every single way. It provides the opportunity for the sound, basic education by way of funding. It provides for accountability.

There will be yet another accountability measure that we will probably entertain before whenever this session or any other session that we may subsequently return

to will in fact conclude. The accountability is absolutely critical. Spending the money without providing the accountability is a vain and wasteful gesture.

So, my colleagues, this bill, in my opinion, is a bill that works. It's a bill certainly that this side of the aisle should have no problem in supporting. It's a bill, absent some of the political sentiment, the other side of the aisle shouldn't have a problem supporting.

Nobody is keen on VLTs. Nobody wants to use that as a source. But the bottom line -- again, absent an alternative -- that's the only game in town.

And that's what is provided for in this bill for the sound, basic education money. Not for the $2.5 billion in new money, not for the $688 million in regionalization money. For the sound, basic education money.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Lachman, just a minute.

Senator Onorato, why do you rise?

SENATOR ONORATO: I was

wondering, Mr. President, if the Senator would yield for a question.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR ONORATO: Senator, you made mention -- everybody in this chamber so far has been making mention about the monies that are going to be forthcoming from the video lottery terminals. I think we passed the video lottery terminals in 1999.

And that first year that we passed it, we anticipated approximately $2 billion worth of lottery money from the video lottery terminal money, plus another half a billion dollars from the federal government, which was not forthcoming. We had no video lottery terminals in place at that particular time, yet it was built into our budget.

We still do not have lottery terminals down at Aqueduct or Yonkers Raceway, which was probably the most lucrative locations in the entire state of New York. They're not online now, and we have doubts as

to when they will actually come online.

Where are we going to get the money when these lottery terminals do not come online and do not produce the amount of money that we're anticipating?

SENATOR SALAND: Let me remind you of the lottery fund guarantee from the General Fund. The lottery fund guarantee, which at least three or four times in the past 10 to 15 years the state has backfilled money when projections for lottery proceeds have not attained the level that we anticipated.

As you know, when we do our budget, we anticipate a certain amount from lottery proceeds. If we don't attain that level, the State General Fund is responsible to provide those dollars. Once you make that SBE commitment, once that is in law, that mechanism effectively is going to control and ensure that if the level of revenue -- and again, let me say, Senator, I take no joy in using VLTs as a basis for providing these revenues. But if you don't attain that revenue, then the lottery guarantee will have to kick in.

SENATOR ONORATO: Mr. President, through you, will you yield to another question?

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR ONORATO: Based upon your current answer, prior to this you asked Senator Parker or everybody on this side where will we get the money to provide the -- because nobody has given any answer as to where the money is coming from. Which is another issue.

Now, you just stated that based on the projections that were not forthcoming, we did not get the money -- where did we wind up getting that money from?

SENATOR SALAND: Let me suggest to you that it's vastly different to talk about skimming off $1 billion or $2 billion than finding perhaps 200, 300, or $400 million to make up a shortfall. There's a vast

difference.

SENATOR ONORATO: But that was not the case. We were talking about $2 billion in budget deficits, $1.7 from the video lottery terminals in 1999 and a half a billion dollars from the federal government which was not forthcoming. So that was a $2.2 billion built-in deficit.

Where, with some smoke and mirrors, did we find that $2 billion during a time --

SENATOR SALAND: I don't -- I don't understand your question. I don't understand your question.

What I'm saying is there's a lottery guarantee. What I'm saying is, and I think we can both agree, that regardless of how much money VLTs will spin off, they will spin off money.

The Governor says they will spin off minimally $2 billion when fully engaged, effective. If they spin off 1.5 or 1.7, the shortfall is either 500 or 300 in the example I gave you. That's vastly different than having to find $1 billion or $2 billion, as was suggested earlier.

SENATOR ONORATO: Again, through you, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR ONORATO: Perhaps we're not communicating correctly.

I already stated that in 1999 we did produce a $2.5 billion deficit in that budget. How did we make up that $2.5 billion shortfall?

SENATOR SALAND: Was that $2.5 billion --

SENATOR ONORATO: $2.5 billion, not million.

SENATOR SALAND: Was that in the lottery?

SENATOR ONORATO: $1.7 of it was, video lottery terminals.

SENATOR SALAND: $1.7 billion?

SENATOR ONORATO: $1.7 billion was video lottery terminal money, and a half a

billion dollars from the federal government in additional aid which was not forthcoming, because they informed us way ahead of time that we were not going to receive it.

SENATOR SALAND: I think you're using an example of a full year for a year which was not fully implemented. I don't believe that that 1.7 reflected that '99 year.

SENATOR ONORATO: Okay. Forget about it.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yes, I rise in opposition to this bill. But I want to commend Senator Saland for the time that he and the Majority Leader spent working on the bill.

About 11:00 a.m. today, the Minority conference met and we received for the first time an outline of the Governor's request. An outline, not the total legislation.

I discovered an hour later when the debate had commenced and people were speaking, that a Republican colleague of mine stood up

and said: I haven't had time to read the entire bill. I haven't had time to read the bill, but I know that Senator Saland and Senator Bruno have read the bill, have worked on the bill, and I take their word for this.

What kind of Legislature is this if we are voting or being forced to vote on a bill that only two or three or four people have been able to read? There's no transparency here. There is no honesty of endeavor.

Now, I'm saying this at the same time that I'm saying I don't like either members, the Majority or Minority, saying we are becoming balkanized, we don't think of the entire state. We are not thinking of the children in different areas of the state, we are not thinking of different areas, we are only thinking of what concerns our political needs.

Ladies and gentlemen, this is a political body. Nothing can get through this body unless we have a political process. And the political process is the reflection of the needs of our districts and the concerns that

we have as well as our political philosophy.

I mean, Winston Churchill once said this is the worst form of government except all the other alternatives. Hooray for Winston Churchill. Down with all the other alternatives.

What we have here is a need for dialogue. This is a one-house bill. If we're truly to dialogue and come up with a compromise, which we must come up with, then it must be done together with the other house of the State Legislature. Rather than going back into our districts and telling our people that we helped them by voting this way or that way, when we voted no way, because there is no bill.

Now, there are different interpretations of what was recommended by the Court of Appeals. The Court of Appeals would never have entered anything dealing with the State Legislature, especially in the area of education, unless they found an egregious error, an egregious mistake. They found there was an egregious mistake here.

The Campaign for Fiscal Equity had

said $10 billion will resolve the issue. The New York State Board of Regents said anywheres between $6 billion to $7.5 billion would resolve the issue. The Zarb Commission appointed by the Governor said anywheres between $2 billion and $3.5 billion would resolve the issue.

We haven't been able, as legislators, to fully, to fully develop their positions and try to work out a compromise as legislators. We have allowed the body to come under the control of the few rather than the many and rather than all of us.

In closing, I would say that I do not in any way, I do not in any way denigrate the position of any person in this chamber. We all want to improve the education of our children. We all are against a Yugoslavian balkanization of this state. We all want to dialogue, but sometimes we don't dialogue completely with those who have to dialogue.

A lot more has to be done to correct this legislation before we have an adequate bill. Unfortunately, we have to wait until August 2nd at the earliest for that to

be done.

Thank you.

ACTING PRESIDENT MEIER: Senator Krueger.

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

I need to respond to the question that was asked by many of my colleagues, which, while they were much more eloquent, basically comes down to "show me the money," how would we pay for this.

And so I referenced earlier in my comments that we have a tax expenditure budget that we don't look at. Senator Parker talked about we have a $100 billion budget. Senator Saland very correctly explained where those dollars go now.

But what I'm saying is we have money that we're not collecting that we should be, because what we need it for, education, are higher priorities.

So if we required an affiliated business to file as a single taxpayer in New York State, as many other states do, we'd raise another $450 million that could go to

our top priority, education.

If we defined as taxable certain untaxed components of a corporate taxpayer's income taxes headquartered in New York State and adopt the federal definition of business income, we could raise another $310 million for education.

We spend about $400 million a year on the Empire Zone programs, another issue we have not dealt with this year, even though they're sunsetting. But even conservatively, with reforms to the Empire Zone program, we could save another $75 million to go into education.

If we expanded the Bottle Bill, as many people in both houses have proposed, we could raise another $170 million in unclaimed deposits. Which is more important, the objections of the bottling industry or the need for our children to have an education in this state?

Why are we letting the Governor put $250 million more into, quote, unquote, undefined economic development seed money in this budget this year if we don't have money

for education, assuming we ever get to the Executive Budget again?

Why do we have a sales tax exemption of $100 million a year for bullion traders, precious metals? I know that they're very happy not to pay sales tax, but is that a higher priority than education? It's not for me.

Why do we allow $100 million a year in corporate tax exemptions for renovation of historic barns? I like historic barns. Is that more important than education, the hundred million we don't collect because we give corporations tax exemptions for renovations of barns? I don't think that rises to the level of education for me.

Why do we have a brownfields bill that I voted for and then have recently learned had loopholes in it such that, with all due respect, the New York Times seems to be able to get $170 million in tax exemptions defining a piece of midtown Manhattan that has been used perpetually and has never been left open, for deductions from their taxes through our brownfields legislation?

Why don't we ask questions about why our state authorities are investing in venture capital models? Is that more important to us than education?

Why don't we look at our tax expenditure budget and ask a question? We do know that we don't collect $735 million a year because we give a tax exemption to used-car salesmen for the trade-in allowances on cars that will be resold.

When we passed that law in 1965, it was a couple of million dollars a year. It's $735 million a year we're not collecting for education. There might be good arguments for tax exemptions for a trade-in allowance on used cars, but I think we've got to ask the question when I'm being told we don't have money for education.

And why and how will we justify, if we take up the bill that we're scheduled to later on today, to pass another $900 million to $990 million in tax cuts in the STAR program? I ask the same question that my colleagues have been asking of us. How are we going to explain paying for that? What won't

we spend money on in the New York State budget next year if we pass that, if we lose another $900 to $990 million?

If we were prepared to have serious debate and discussion about how we collect our money and how we spend it, we would in fact have the answer for how to put the money that we need into our schools, not just in New York City but throughout the State of New York.

That's just looking through the tax expenditure budget briefly during this debate. There are, as I said, over $20 billion of tax expenditures, credits and exemptions. We refuse to even discuss them or entertain the concept that some of those monies would be better spent on education for the future of New York State than how we're spending them now.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson, to close for the Minority.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

We've talked much. But one of the things that I think that we have failed to

recognize is that the response that many of my colleagues on this side of the aisle today have been talking about is the response to the Appellate Division's letter, when in actuality we have a proposal from CFE in the original court order.

And what that proposal does is it creates the formula -- and this is partly for the benefit of many of my colleagues who say that the courts created a mandate without telling us how to do it. Well, I've always heard in these chambers that we don't want the courts telling us how to do it, because that would mean that they would be doing our jobs for us.

But what the plan does say is that there is a formula and that formula is predicated on needs. And those needs are driven with the dollar amounts applicable to the high-needs schools.

We have failed to use the plan as the basis for how we would proceed. And therefore, it is just -- in my quick closing remarks, I have to say that I continue not to be impressed by what has been proposed today.

Because if the Senate passes this bill, there will be no new resources, and it fails to address the problems that really face the high-needs districts, the school districts across this state. This measure provides no details on the funding formula and no spending plan for the coming 2004-2005 school year. It only requires that the state spend $19.7 billion on educational aid in 2008-2009.

However, assuming, as we've said, that there is just a normal school growth, continuing that 7 percent, as has been historical -- and which a lot of my colleagues have taken credit for in this administration -- the state will spend $19 billion on school aid in 2008-2009 if we do nothing. If we increase it to 8 percent, it will then be $19.7 billion.

But this plan only maintains the status quo. The high-needs districts that have been underfunded for years will continue, Senator Marcellino, to be underfunded. And they will continue to be shortchanged. The problem that they face will only be exacerbated, and the quality of education that

we all say we want for all the children of the State of New York will continue to deteriorate.

Further, this plan relies on unpromised and unlikely increases in federal aid. And it also imposes new debt and increases in taxes on residents of the City of New York. And while you may say that New York City, New York City, New York City -- New York City proposed the CFE plan. And it does not surprise me that other cities across this state are recognizing that we have been underfunding the children of the state of New York and that we have set a precedent, and now it has come home to roost.

The court has declared that educational funding is the constitutional responsibility of the state. This bill gives no new money on behalf of New York State to the children of its state, and yet it claims this is a historic day. I beg to differ.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 37. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR HASSELL-THOMPSON: Party vote in the negative.

ACTING PRESIDENT MEIER: Party vote in the negative.

SENATOR SKELOS: Party vote in the affirmative.

ACTING PRESIDENT MEIER: Party vote in the affirmative, with exception.

THE SECRETARY: Ayes, 33. Nays, 22. Party vote with exception.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you please take up Resolution Number 5, have it read in its entirety, and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read Resolution Number 5.

THE SECRETARY: By Senator Bruno, Extraordinary Session Senate Resolution Number 5, appointing a committee to inform the

Governor that the Senate has completed business and is ready to adjourn.

"RESOLVED, That a committee of two be appointed to inform the Governor that the Senate has completed its business and is ready to adjourn.

"The Temporary President appointed as such committee Senators Wright and Montgomery."

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Resolution Number 6, have it read in its entirety, and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read Resolution Number 6.

THE SECRETARY: By Senator Bruno, Extraordinary Session Senate Resolution Number 6, appointing a committee to inform the Assembly that the Senate has completed its business and is ready to adjourn.

"RESOLVED, That a committee of two be appointed to inform the Assembly that the Senate has completed its business and is ready to adjourn.

"The Temporary President appointed as such committee Senators Marcellino and Sabini.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time could we have the title read on Concurrent Resolution Number 7.

ACTING PRESIDENT MEIER: The Secretary will read the title of Concurrent Resolution Number 7.

THE SECRETARY: The Assembly sent for concurrence Assembly Concurrent Resolution Number 2. Senator Bruno moved to substitute Senate Concurrent Resolution Number 7 for Assembly Concurrent Resolution Number 2.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: "Concurrent Resolution of the Senate and Assembly relative to the adjournment of the Extraordinary Session of the Legislature sine die."

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

The Extraordinary Session is

adjourned sine die.

(Whereupon, at 1:20 p.m., the Senate adjourned.)