NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 31, 2005

11:16 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 30, the Senate met pursuant to adjournment. The Journal of Tuesday, March 29, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Libous, on page number 26 I offer the following amendments to Calendar Number 379, Senate Print Number 1820, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar.

THE PRESIDENT: All in favor of adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there are three resolutions at the desk by Senator Morahan. I would ask that the titles be read and move for their immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Morahan, Legislative Resolution Number 1172, honoring Natalie and Mel Harbinger upon the occasion of being named "Members of the Year" by the Montebello Jewish Center on April 3, 2005.

By Senator Morahan, Legislative Resolution Number 1173, honoring Barbara Etelson upon the occasion of being named "Community Service Member of the Year" by the Montebello Jewish Center on April 3, 2005.

And by Senator Morahan, Legislative Resolution Number 1174, congratulating Sister

Fran Gorsuch upon the occasion of being named "Special Honoree" by the Montebello Jewish Center on April 3, 2005.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolutions are adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 270, Senate Budget Bill, Senate Print 551B, an act making appropriations for the support of government: Legislature and Judiciary Budget.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 277, Senate Budget Bill, Senate Print 553E, an act making appropriations for the support of government: Education, Labor and Family Assistance Budget.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 278, Senate Budget Bill, Senate Print 554E, an act making appropriations for the support of government: Health and Mental Hygiene Budget.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 320, by Senator DeFrancisco, Senate Print 42, an act to amend the Real Property Law, in relation to allowing an assignment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 337, by Senator Meier, Senate Print 2323, an act to amend the Penal Law, in relation to the permitting.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 344, by Senator Farley, Senate Print 3142, an act to amend the Penal Law, in relation to increasing the penalty for robbery.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

Excuse me. Excuse me. Ayes, 54. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 395, by the Senate Committee on Rules, Senate Print Number 3667, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 396, by the Senate Committee on Rules, Senate Print 3668, an act to amend the Public Health Law.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 399, by the Senate Committee on Rules, Senate Print 3671, an act to amend the Tax Law and others.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR BRUNO: Madam President, before we take up the controversial calendar, can we ring the bell and alert the members that they ought to be in the chamber to vote on very important issues in their lives and their constituents' lives.

THE PRESIDENT: The Secretary will ring the bell, and the members should take their seats in the chamber.

Senator Skelos.

SENATOR BRUNO: Madam President,

we're at this time going to be calling up Calendar 277, which deals with the educational part, the education part of our budget.

But I just wanted to make an observation and a comment, that today is March 31st. It is the end of our fiscal year. And we have six bills before us, language and appropriation bills, that, when enacted in this house and in the other house, will complete the budget process for the people of New York State. And the discussions that we are continuing to have with the Assembly, with the Executive, with members, will continue.

But, Madam President and colleagues, we fully intend and expect that we're completing the budget process here over these next several hours or whatever amount of time it takes. And each of you are to be commended, in this house and in the other house.

And I don't want to be premature in being congratulatory here in this chamber, but I think it's appropriate because this has been a team effort, it has been a partnership to get us where we are. And where we are is

truly in the best interests of the people of New York State.

So, Madam President, I would ask that 277 be called.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 277, Senate Budget Bill, Senate Print 553E, an act making appropriations for the support of government: Education, Labor and Family Assistance Budget.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR SALAND: Thank you, Madam President.

This bill is the bill which deals with the subject of K-12 education and other education-related funding. And what it does is it provides some $848 million amongst its other provisions -- I will deal with the education portion of this bill -- some $848 million over and above what school districts throughout this state received by

way of funding in their last school fiscal year.

This $848 million is an increase over the $526 million that the Governor proposed in his budget, an increase, obviously, of more than $320 million. And what we do in the course of providing this funding is we restore the expense-based aids that had been cut in the Governor's proposed budget.

Those expense-driven aids dealt primarily with -- the cuts dealt primarily with BOCES aid and with private excess cost aid or special education aid. That restoration means somewhere in the area of about $205 million on school year.

We expanded operating aid, increased it to the tune of some $180 million. That particular form of aid is the aid which is the one which is most sought and most desired by school districts because it provides them the greatest flexibility.

We increased funding for high needs and rural districts to the tune of approximately $355 million. We incorporated

the Governor's SBE pot of $325 million and added some additional $30 million dealing both, again, with high-needs districts and also attempting to address the unique needs of rural districts as well.

We increased the building aid ratio in 207 high-needs districts. Those 207 districts are the districts defined as such by Regents. That includes the City of New York and obviously a host of others. We increased that formula by some 5 percent.

And in addition, we added additional building aid enhancements to the New York City building aid formula in recognition of unique circumstances they have with regard to issues such as demolition and other, more unique types of issues that the city has to deal with when it engages in construction or rehabilitation.

For a number of school districts, somewhere in excess of 200 in our state, there was a problem that was created by a ruling -- by the so-called GASB ruling. And don't ask me what the acronym stands for, but it has to do with the accounting entity that has

oversight over certified public accountants, and they issued a ruling administratively that, on one of those rare occasions, presenting a problem for school districts that at least you could safely say was not of any doing by either the Legislature or the Governor.

But that ruling basically required the booking of payments of pensions in the same school fiscal year. So both the liability as it was incurred to pay the pension and the payment of the pension was required to occur in the same year.

Well, some 200-plus districts were on a system in which the liability would occur, for example, in '04-'05 and then would be paid in '06. Failure to address this issue would have resulted in adverse consequences to those school districts in terms of things such as their bond ratings, their ability to secure financing at more reasonable rates.

What we've done is a blend of what was both the Senate and the Assembly approach to dealing with that issue. We have effectively said that those school districts

that have this problem have the ability to, as a book entry, to book the asset, the ability to offset the liability, by in effect a paper transfer, the ability to draw down on next year's school aid. Which obviously they will not receive until that following year.

That, we believe, resolves the issue. To the extent that it does not resolve the issue for a particular school district, we have given those districts the ability to borrow. And that would require them getting a waiver from the Commissioner of Education to do that.

Many of us heard, from our libraries, concerns about restoration of library funding. This bill restores library funding to the tune of approximately $4.5 million; I think it's something like $4.475 million.

Also, in the Article VII language, there will be provision for a uniform budget revote, and that will occur on the third Tuesday in June, and that will occur effective 2006.

Clearly, this house has always

concerned itself with the priority of education. It's been a priority for certainly this conference, this Majority conference, as long as I've been a member and long before I got here.

What this attempts to do is to balance the needs of providing a quality education and at the same time, as part and parcel of our ability now to close this process down in a timely fashion, also enables school districts, independent school districts that rely on property levies to know exactly where they stand. And these dollars certainly, additional dollars will mitigate the potential tax increases that they might otherwise be faced with.

We begin the process here of enhanced funding for high-needs districts, to the extent that we've incorporated the Governor's SBE money and also enhanced those dollars. And to the extent that there were other provisions that the Governor had in his budget regard with regard to accountability, those issues were not addressed in the agreed-upon budget that we have -- we now have

before us. Those -- many of the provisions were not concurred in.

We believe that this $848 million is certainly one of the richest education packages that the state will ever have the good fortune of enacting or having seen enacted. And certainly it is, I think, a great improvement over what the Governor had offered us.

With that, Madam President, I certainly am prepared to yield if anybody has any questions.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Briefly on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR SCHNEIDERMAN: There is, as Senator Saland indicated, I believe, some -- there are some very good things in this bill.

Unfortunately, this is a situation, and we talked about a few of them yesterday, where I believe that this house is not leading

the way towards a fairer school funding formula.

In fact, it becomes evident after this year's budget process that the obstacle in the state government to a fair funding based on need, to a fair funding that recognizes the needs of our high-needs school districts, the opposition really lies here.

And I'm sorry to say that, because of the problems of distribution of school aid, I'm not going to be able to vote for this bill. I'm particularly sorry because, as Senator Saland mentioned very briefly, but I think it deserves more emphasis, this budget bill represents a breakthrough in terms of capital aid, a really extraordinary accomplishment. And I know this is something -- I've spoken to Assemblyman Sanders, the chair of the Assembly Education Committee, and this has been a commitment that he's made for some time.

It's not just that this increases the building ratio for New York City. New York, as many people know, gets far less reimbursement from the state for building

schools than most parts of the state -- maybe 33, 35 percent, 36 percent. We can say now, after the passing of this bill, that the state will pay for at least half and probably more than half of the capital costs of the city's current five-year plan for schools. That's an extraordinary breakthrough.

It's not just changing the ratio, but it's eliminating these artificial caps that limited the amount a district can get for site acquisition, for materials. That is a huge breakthrough, and I think credit goes to both our education chair and certainly to Assemblyman Sanders, who I know has been fighting for this.

The difficulty I have here comes in the area of operating aid. And I would urge all my colleagues from the City of New York and from other high-needs districts that it has clearly been demonstrated in this process that Governor Pataki, in his proposal for a sound, basic education fund, wanted a distribution formula based on need, wanted to give more money to the high-needs districts as required by the CFE opinion. The Assembly's

resolution was a sound, basic education proposal based on need, consistent with the CFE opinion. The amendments offered by our conference were a sound, basic education proposal to drive more funds to high-needs school districts, including the City of New York.

The only group here that is insisting on maintaining the old share system, which is the obstacle to decent funding for our poorer school districts, is the Majority in this house. That's out in the open now. Even the Governor is no longer sticking with the shares. And I have to credit him for his $325 million sound, basic education fund.

In order to make things come up in the old manner, consistent with the shares that have discriminated against the City of New York and other districts for decades, what this house has insisted on, I'm sorry to say, is redoing the legislative add to essentially make it a low-needs district fund. So that the Governor's good funding formula combines with our additional bad funding formula to produce essentially the same old shares that

are the obstacle to progress on this issue.

This is not something that stonewalling is going to solve. This is not something that further appeals are going to solve. This is something that has to be resolved by people in good faith, recognizing that hundreds of thousands of children getting a lousy education is bad for everyone in this state, even if it's not in your district. If you're just an investment banker totally interested in return on your investment, you should be investing in the schoolchildren of the state. They are our economic future.

This budget takes a move backwards as far as the Senate's role is concerned in operating aid. I'm sorry to see that. I know that the Assembly has now committed to passing the CFE bill that mandates full funding for all the high-needs districts. I do recognize the fact that they haven't identified the funding source for that, which to many is a problem. But they have expressed a further commitment, as they did in their resolution, to changing once and for all the funding formula that leaves hundreds of thousands of

children behind.

And the fact that the President thought it was enough of a public relations priority to name his education policy "No Child Left Behind" -- without discussing the merits of his particular program -- indicates the depth of feeling on this issue. And yet the Senate today is saying, We're sticking with the shares even if it means leaving hundreds of thousands of children behind. That's wrong.

I wish we had done on operating aid what we did on building aid. In the absence of that, I have to say I'm going to stand with the plans offered by the Assembly resolution, the Governor, and Senator Paterson. I'm going to vote against this bill. And we will revisit this issue later this session, I hope, of fair funding for all of the city's children in New York and for Buffalo, Rochester, Syracuse, Yonkers, other districts around the state. I may not leave out Albany.

Thank you, Madam President.

THE PRESIDENT: Senator Serrano.

SENATOR SERRANO: Thank you,

Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR SERRANO: I'm concerned with the portion of the bill that deals with the funding for the State Council on the Arts.

This house proposed an additional $2 million which unfortunately is not in this bill. So we see ourselves at a cut of 15 percent since the year 2000-2001, which is really moving in the wrong direction when you consider what the arts bring to the state of New York and all of the localities as far as economic development and education.

We need to be fully cognizant all the time of the fact that the state of New York houses the cultural center of the world, and New York needs to -- our funding of the arts need needs to reflect that. The investment in the arts is an investment in our children, it's an investment in education, and it's an investment economically for the growth of our state and for our localities. And I hope that, going forward, the state will do better in its funding of the arts.

Thank you.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you.

This bill deals with a variety of very distinct program areas, and so there is a great deal we can agree or disagree on.

I share my colleague Senator Schneiderman's concerns about our failure to address in almost any way the obligations of the Legislature on CFE and a fair funding formula for the high-needs school districts. And I appreciate his comments on the capital money, but I would argue that I have heard that it's simply $20 million more per year for the high-needs school districts for capital, and that is a drop in the bucket compared to where we need to be in capital funds for schools.

And so I am extraordinarily disappointed that this is where the Legislature ends up on March 31st regarding

education funding and the continuing pattern of decades of failing to address fair funding formulas for the schools in the state of New York.

And that ties me into other mixed feelings about this budget. The good news is we put $4.47 million back in for libraries, which we all know are so important. And the irony is all we have done is brought them back to the funding level they were at in the year 2002-2003, because we have cut them between then and now. So we define it as a victory when we put our libraries back to where they were at a previous point in time, recognizing that was inadequate, and costs continue to grow.

And it ties directly into education and schools, since in fact, at least in New York City, many of our elementary and junior high schools don't have libraries in their schools. There's no room for them, because we don't have enough room in our schools to teach our children. And so the importance of our public libraries being open and available and having the books that they

need becomes even more critical to the education of our children. And so I have to say we have not gone far enough.

And I appreciate the comments of my colleague Senator Serrano when he talked about our failure to increase money for the arts. Because in fact of course that also is an issue of economic generation, but also for the quality of the lives of our people and the education of our children.

And again, one of the differences between the school systems in underserved areas and the rest of the state, my understanding is that in many parts of the state we still have arts education in our schools, we still have certified teachers for arts education in our schools. But if you check with most New York City schools, you will learn that we don't have those programs, we don't have those teachers.

And therefore ensuring that there is some money out there to expand arts programs and to encourage arts institutions to work with school facilities to provide arts education in our schools becomes more and more

critical. So I would argue that we didn't do justice to the arts community or to our children there.

But I'd like to raise issues that haven't been raised yet that concern me the most about this bill, the fact that we still have $1.1 billion in TANF funding floating around out there yet to be dealt with. I recognize the constitutional problems we have, given the Governor's proposals to block-grant this money into a flexible funding for family services program.

But the truth is, with passage of this bill today, we haven't addressed any of the concerns of the endless category of service programs out there for poor families with children that right now are in limbo about what happens with funding. We're talking about daycare programs, we're talking about child welfare, we're talking about after-school programs, we're talking about job training programs for women with children who are living in poverty.

And we face very real concerns with what happens or doesn't happen with this money

at two levels: One, the fact that we're passing budget bills that don't answer those questions within the context of the current TANF money; and, two, the broader context that as we work here in Albany to try to get a budget done on time, our colleagues in Washington have been moving forward with legislation, through both the U.S. House and the U.S. Senate, that would radically reduce monies to the State of New York for these programs over the next five years.

And in fact this week the U.S. House of Representatives passed a budget bill that in fact, if it was implemented, would reduce in $4.5 billion less coming to New York State over the next five years in programs for low-income New Yorkers. The House bill cuts funds to the State of New York ten times more than the U.S. Senate Bill.

And so we have the short-term complication of how are we resolving the TANF block-grant question in the context of this year's budget, but we have the longer-term issue of the federal government continually attempting and perhaps being successful in

drying up the funding that we have been fighting over how we distribute here in New York and yet may not have that money to even deal with these programs.

And that is a critical concern for every one of our districts, because there is no district, there is no county that does not find themselves in a situation where they are underfunded for their social services and their human services.

And in fact, within this bill, because of confusion over the block grant and TANF, we've actually cut about $26 million in aid to localities out of the Office of Children and Family Services, where I believe, when this was agreed upon, we thought that that $26 million would somehow be rolled into the TANF flexible funding block grant debate.

But since that debate is off the table for the moment, and yet we've still cut $26 million out of aid to localities -- we talk a lot in this house about the concerns around health care and the costs at the local level. But we should not be silent on the fact that this Legislature continues, year in

and year out, to go along with proposals by the Governor to reduce aid to localities to fund the administrative costs of these programs.

And we need the programs, and we need our counties to be able to afford to run them. And we keep shifting more and more of the costs of those onto the backs of our counties. I know the City of New York thinks that under the flexible funding agreement -- that may or may not ever go anywhere right now -- that they would be about $150 million short compared to the previous year.

And so because of our failure to address what we need to in education funding, our failure to address the questions on social services and human services, our failure to go far enough in protecting other key programs such as libraries and the arts -- I suppose the one thing in this budget no one has mentioned, because people seem to be relatively happy with it at the moment, is the restorations we made for the CUNY and SUNY system.

So again, I am pleased with certain

parts in this budget. I am pleased that we did not do more damage to higher ed. But again, we didn't move them forward, we just kept -- basically, we protected the programs for the most vulnerable students, particularly TAP.

We have to do better, and so I'll be voting no on this budget.

Thank you, Madam President.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Madam President, if I may, I would like to direct my remarks to the statement by my colleague Senator Serrano.

I had a discussion with Senator Serrano, and we in the conference committee on higher ed, where the culture and arts grants are discussed and handled, had an increase of $2 million for the New York State Council on the Arts. And despite the best efforts of our chairman, the chairman of the Higher Education Committee, Kenneth LaValle, and his cochairman from the Assembly side, Assemblyman Ron Canestrari -- and other people on the committee, both Democrat and Republican,

Minority and Majority, including the ranking Minority member on the Senate side, Senator Stavisky -- had lobbied very extensively for an increase of $2 million for the New York State Council on the Arts, and that was to be an amount that was matched by the Assembly. And if a lesser amount was to be appropriated, it was to be also matched by the Assembly.

Unfortunately, as I say, despite the best efforts of Democrat and Republican Assembly members of that particular committee, and Senate members, the Assembly leadership chose not to match that amount.

At the same time, we have not given up for the future to try to increase those amounts. I fully share Senator Serrano's thoughts and remarks following up on his efforts in the City Council as chair of culture and tourism, that the New York State Council on the Arts should indeed receive additional funding for their very laudatory efforts and projects.

And unfortunately, the decrease of what would have been $4 million will be reflected in many, many worthwhile endeavors

across the state. But hopefully -- this is, after all, a compromise budget, and it is something that had to be agreed by both houses and the Executive. And despite the efforts of all concerned in our house and on the Executive side, that amount was not matched.

And we're hopeful in the future that we can increase those amounts at least to the extent of the $2 million, which would be matched and come to a total of $4 million.

So I plan to vote aye. I think it's the best that could be obtained under the circumstances. But we have not -- we will continue our best efforts to get increased funding for the New York State Council on the Arts.

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

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes. The comments that I have on this bill really apply to all of the bills that we will be voting on today as far as the budget is concerned.

You know, there's been some criticism by some of various parts of this bill, and there will be criticism of other bills. But as a practical matter, none of these bills are totally acceptable to any of us. But the important thing is that we reached a reasonable compromise in order to get a budget that is a good budget in a timely fashion.

So I certainly understand some of the criticism; I have my own concerns. But as a practical matter, we're doing what the Constitution tells us to do in a timely manner, and that should apply to each one of these bills that we are going to be voting on today.

I vote aye.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Please recognize

Senator Sabini.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Thank you, Madam President. To explain my vote.

I am voting in the affirmative on this. While I concur with many others who have spoken earlier that the funding formulas still are not right for the City of New York, this is an agreed-upon bill. And I wish we would have seen more harder bargaining on the other side of the building on behalf of New York City's schoolchildren.

However, on the whole, the aid to the city -- which has been unfair up until now -- on school construction is modified in the city's favor. I think that's important. As someone who chaired the committee that constructed schools when I was on the City Council, I know that the money is just not there for the city right now. And we still have needs. My district is still among the most overcrowded in the state.

And also I want to note the fact that a piece of legislation that was carried by Assemblyman Klein in the Assembly for a

long time, and by myself in this body, will in effect be funded to give scholarships, $29 million, to a number of different programs, including World Trade Center victims. But the bill we carried was for sons and daughters of Flight 587 victims in the particularly hard-hit Dominican-American community, where the need for assistance in higher education is very important. And that's in this bill.

So on the whole, while I don't think that it goes far enough, I'm going to support the bill and vote in the affirmative.

Thank you.

THE PRESIDENT: You will be so recorded as voting in the affirmative.

Senator Saland, to explain your vote.

SENATOR SALAND: Thank you, Madam President. To explain my vote.

Certainly everybody is aware that in the aftermath of the Court of Appeals decision in June of '03 dealing with CFE, there is an even greater concern with regard to the needs of not only New York City but

other high-needs districts. Clearly, to date, we've been unable to secure any type of negotiated agreement.

However, I think it's important to note that there was nothing in that court decision or any other court decision that says that we have to limit funding to any particular school district or any other type of school district.

And the fallacy in the eyes of many is rarely will you find districts that are uniformly wealthy. And in many instances, you will not have districts that are necessarily uniformly poor.

Using my district, for example, perhaps one of the wealthiest communities in my district is a community that has wealth because it has many people who don't necessarily live full-time in my area, who live in these marvelous estates, who don't have children in the school system.

The people -- the mere mortals who live in the community really suffer under enormous tax burdens simply because the district is viewed as wealthy. And were they

to be treated consistently, as they generally are, as a wealthy district, it's an enormous burden for them to overcome.

There's nothing wrong nor has there been anything said in any court decision that you can't raise all of the ships. What we have done in the context of this, as I mentioned before on this budget bill, is to say, yes, we adopt the Governor's SBE proposal to deal with high-needs districts; we enhance that proposal to the tune of somewhere in the area of an additional nearly 10 percent; we enhance the capital side by providing additional building aid to high-needs school districts.

There is no lack of recognition of dealing with issues pertaining to high-needs school districts. There may be issues of quantum, but certainly not issues of dealing with the needs of high-needs school districts.

I vote in the affirmative, Madam President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Thank you, Madam President. To explain my vote.

I agree with what Senator Saland said if you consider that in the entire state every child is entitled to the same sound, basic education that the children in New York City are entitled to.

And that unfortunately is lacking, I think, in this bill. We do not have a statewide formula based upon the needs of each individual school district and the children who go to school in that school district.

Secondly, I too am disappointed with the lack of an increase for the State Council on the Arts. I think each one of us has a cultural institution in our district which benefits from appropriations from the State Council on the Arts. I certainly have them in my district, and I regret that unfortunately -- and I served on that conference committee -- that we did not increase the appropriation by the $2 million or the $4 million amount.

And lastly, I am delighted that this bill does not include a tuition increase for the students at CUNY and SUNY. We did increase the base aid to cover the cost of --

to cover the increases by about -- I don't mean base aid, I'm sorry -- operating aid, 5.9 percent for the students at CUNY and a similar amount, I understand, for SUNY.

And because of that fact and the fact that it is an improvement over previous years, I vote aye.

THE PRESIDENT: You will be so recorded as voting in the affirmative, as will Senator Saland.

Senator Brown.

SENATOR BROWN: Thank you, Madam President. To explain my vote.

I also have some concerns about this bill, as other members have expressed. But I too am going to be voting in the affirmative.

One of the concerns that I have is with respect to the school aid formula. And this conference had advocated a school aid formula that more mirrored what the CFE advocates were looking for in terms of school aid. And under that formula, the high-needs school district that I represent in Buffalo would have fared even better than it is going

to fare under what we have agreed to in the budget.

I am pleased, though, that the district in Buffalo is going to receive a 7.5 percent increase, or almost an additional $30 million, so that is good news for our school district. Buffalo is looking at a funding gap this year of about $30 million. So this additional aid, even though it is not as much as I would have liked to have seen, and even though this conference would have advocated more money, it will be enough money to close the gap in Buffalo.

I also am very pleased at the work that every member of the Senate has done in terms of pushing aggressively this year for an on-time state budget. When I was elected and came into the Senate in 2001, I was a fierce advocate for on-time budgets and have advocated for an on-time budget every year since I've been in the Legislature, which is five years now. And certainly want to congratulate all of my colleagues in the Senate for all of your hard work in making sure that we do have an on-time budget this

year for the first time in 21 years.

I vote in the affirmative, Madam President. Thank you.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Madam President. To explain my vote.

Clearly the education issue is probably one of the paramount things that are of interest to the people of the City of New York and obviously the state. I just rise very briefly to add my voice to the chorus that you've heard from many colleagues on my side of the aisle with regards to the CFE decision and adequate funding for schools in the City of New York.

As one who represents a district where you can walk into a classroom and literally see 40 or 50 students in one room, you can see some desks that are basically, I would just say, in conditions that one should not be sitting in, where some don't have adequate books, where even the physical plant

is in dire need of repair, it just makes it very difficult for us to, while being appreciative of this particular budget bill, and it coming somewhat on time -- there is still a great deal of need in the City of New York. And we cannot rest and will not be able to rest until adequate funding for the City of New York schools are there.

There are a number of advocates who are continually calling our office, who are continually asking us to please make sure adequate funding is there. And it is just very difficult, while we are voting on this package -- $840 million or $830 million, while it sound likes a decent number, clearly is woefully short of what the City of New York needs. The fact that there's no money in there for capital improvements is pretty horrendous.

And while we are going to be supporting this bill and while I do support this bill -- there are some good things in here, obviously around the tuition increase, no tuition increase. Obviously from a more parochial standpoint, I know Senator Padavan

is also appreciative of the fact that there is the $3 million in there for the Queensborough Community College for the Holocaust Center, which is something that we hope the Governor will not veto this year.

There are some things in there that while we can appreciate the dedication and the thoughtful process that went into putting this package together, we must be on record indicating that it is not adequate enough for the City of New York, which also means it's not adequate for the high-need districts around the state as well as some of the larger cities around the state.

I will be voting aye, but I do want my colleagues to understand that we have much work that still needs to be done in this regard.

Thank you.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator.

Senator Parker.

SENATOR PARKER: Yes, Madam President, to explain my vote.

THE PRESIDENT: You may proceed to explain your vote.

SENATOR PARKER: I really appreciate that we're on the verge of getting a budget on time this year. I think it's a great thing. I think that all of the work that people around the state, the advocates and the citizens did, around reform of this legislative body, has really made a difference, and I'm excited to see that.

But I am still disappointed about some of the outcomes that we're still getting. And I'm voting no today on this bill because it does not deal with much of the issues that we need in terms of education generally, but particularly the CFE matter.

For us to pass a budget once again in the face of a court ruling that has ordered us to act in a certain way, and for us to continue to act like that court order doesn't exist, that it's not relevant, that it's not germane, I think is criminal.

And I think that we owe the 1.1 million schoolchildren who are going to school in New York City right now, as we

speak, we owe them an opportunity to get a sound, basic education. And right now, by passing this bill, we are denying them that and we're telling them that they are not worth every other child in this state. And that is wrong.

I think we have an opportunity to not just do something here good for New York City but to deal with all of the high-needs districts throughout the state. And this is not the first time I've said this. I said it last year when we had this debate as well. We have an opportunity to help every single high-needs district in the state, from Buffalo to Brooklyn, but we refuse to do it.

And so for that reason I'm voting nay.

ACTING PRESIDENT MEIER: Senator Parker will be recorded in the negative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, very briefly, Mr. President, I just would like to, on a particular area of this budget that we're passing today, say a word of gratitude,

especially to Senator Farley, and of course all of the members of his committee and the people on that panel who saw fit to support the libraries in our state.

Certainly each time that I'm in one of the branch libraries in my district or in the central library in Brooklyn and I see hundreds of young people there utilizing the library and all of its offerings to them, I am reminded how much it is a cultural, educational institution that we should be supporting.

I am very happy that my colleagues saw the wisdom to keep the cultural, the libraries and the cultural institutions as part of the education system, because indeed they are. And I thank my colleagues for the vision to maintain a level of support that will allow these institutions to continue to support the main education of young people by being there to give them an opportunity to have a hands-on experience in every single way.

So I'll be voting yes on this budget, for that and many other reasons.

ACTING PRESIDENT MEIER: Senator Montgomery will be recorded in the affirmative.

Senator Bonacic, to explain his vote.

SENATOR BONACIC: Thank you, Mr. President.

First of all, I would like to congratulate Senator Bruno, Speaker Sheldon Silver and our Governor, who worked very hard to get us all to this point.

I want to thank my colleagues here, because we always fight about the amount of money in education, pushing that number higher and higher. And then we get involved with our regional politics in the distribution problem -- how much should go to the city, how much should go upstate.

I want to tell you something. I represent the Catskills and the Hudson Valley, and I care as much about the children in New York City as I do in my district when it comes to excellence in education and whether they're getting the proper education, whether they're being challenged so they can compete

when they get out of school.

So I support the money allocation because we pushed it up. But I will ask you this question. Will we monitor, every one of us, the excellence in education for our children as we keep pumping money into these school districts? Keep in mind, now, we give more per pupil than any state in the country. And when we make that kind of money commitment, we should ask and demand accountability that our students are at the top in excellence in education, from Buffalo to Syracuse, to my district, to every district in New York City.

And I would ask each of us to monitor the excellence in education after you've won the battle, collectively, on raising the money commitment.

So I support this budget. I support the education amount for our children. But I still think we all have a lot of work to do to improve the efficiency, the accountability in raising the excellence of education for all of the children of the State of New York, and I ask that we monitor that

always.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Bonacic will be recorded in the affirmative.

Senator Little, to explain her vote.

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

Today, as we are concluding our budget votes, we tend to look at the words "allocation" and "appropriation" for the money that we are designating for certain departments in our state budget.

I tend to look at our money for education not as an appropriation or an allocation, but as an investment, because I think it's the most important investment that we can make in New York State with the money that we are dealing with.

Helping our schools address the needs that they have throughout New York State, in all the varying sizes and varying problems, is truly important. Today our schools have health insurance increases, they have pension cost increases, as well as the

many demands put upon them by the State Education Department.

I represent 53 school districts in the State of New York. Considering there are only 750 school districts, that's quite a share. Some, a couple, are dealing with expanded growth, but most of my school districts are dealing with a reduction and declining enrollment. And yet the expenses for class of 12 are pretty much the same as for a class of 22 or 25 or 30.

Therefore, additional investment and funds for these schools is truly important. And I thank everyone for their contributions, for their working together to come up with a budget that is fair and equitable in New York State, and I thank you.

I vote in the affirmative. Thank you.

ACTING PRESIDENT MEIER: Senator Little will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 277 are

Senators Duane, L. Krueger, Parker and Schneiderman.

Ayes, 57. Nays, 4.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 278.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 278.

THE SECRETARY: In relation to Calendar Number 278, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 554C and substitute it for the identical Senate Bill Number 554E, Third Reading Calendar 278.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 278, Assembly Budget Bill, Assembly Print Number 554C, an act making appropriations for the support of government: Transportation, Economic Development and Environmental Conservation Budget.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Hannon, an explanation has been requested of Calendar 278.

SENATOR HANNON: Thank you, Mr. President.

What we have before us is, in major part, the health appropriation bill. Later on today we will be dealing with the Article VII language bill.

This is the measure which incorporates the collective actions in regard to the Executive proposal concerning hospitals, nursing homes, home health care, managed care, Family Health Plus, HCRA, public health, aging, substance abuse, alcoholism, and the related appropriate actions concerning the funds and the subfunds and the revenue funds therein.

ACTING PRESIDENT MEIER: The Secretary will sound the bells.

Senator Montgomery, I'm sorry. Senator Montgomery, you're recognized.

SENATOR MONTGOMERY: Yes, Mr.

President, just very briefly.

I would be remiss if I did not express my frustration that we do not have enough funding in this budget for school-based health clinics.

We should be absolutely ashamed as a state that we have abandoned our young people in terms of their health care needs, health and mental health, in their schools where they are, mostly. And it could be done so efficiently and so effectively and serve the needs of our young people. We have high rates of suicide among our young people, especially upstate. We have high rates of HIV infection occurring in young people in this state. We have no access to mental health crisis intervention services for them in their schools or, in most instances, nor in their communities.

So it really is -- we have left out our young people, especially early teens, high school and middle school young people.

So while I know that there is funding, and certainly appreciate that Senator Hannon has been supportive of this -- but we

just have not seen fit to invest in the health care needs and mental health needs of our young people through those centers, school-based health clinics that could serve them where they are, both in the rural areas of this state as well as in the urban areas, all of our children. It doesn't have any income test required or associated with it. It is all children, all young people in this state need access to school-based health clinics.

And I certainly hope that some time in the very near future we're going to see fit to add this kind of funding so that we create, as part of our health delivery system, a means of providing health and mental health services to our young people.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hannon.

SENATOR HANNON: I would just say that, with the other house, we have tried to have an appropriate level of funding for this. We have moved monies into the school-based health centers to replace monies otherwise not

available through the TANF funds. And we believe there has been an appropriate level to maintain where we've been in previous years.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will sound the bells.

Members are asked to return to the chamber for a vote.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, will you please call up Calendar Number 270.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 270.

THE SECRETARY: Calendar Number 270, Senate Budget Bill, Senate Print 551B, an

act making appropriations for the support of government: Legislature and Judiciary Budget.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR JOHNSON: This bill is the legislative budget, and judiciary, for the year, total of $208 million.

We concur with the Judiciary Committee's request, with the following modifications: Reduced without prejudice, nonpersonal service and maintenance undistributed by $10 million, and general state charges by $17.3 million, to cover the Executive's request to allow quarterly reimbursement to the Office of Court Administration from the Indigent Legal Services Fund up to $6.25 million per quarter.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

This is the legislature and judiciary appropriation language bill. It is improved from the Senate one-house bill that came before us a few weeks ago, because that

bill contained a $30 million cut to the judiciary. This bill only contains a $10 million cut to the judiciary.

I think that that is unfortunate. Those of us who actually practice in the courts and are familiar with the extraordinary overburdening in many jurisdictions, particularly in poorer communities, have to look with great sadness on a bill that for such -- deals really so disrespectfully with another branch of government.

I think that we should be expanding the funding of the judiciary. I think that having equal access to justice requires them to have adequate funding. And I think it is extraordinarily irresponsible of us to be cutting their budget at all, although it is certainly a tribute to the conference process and our colleagues in the Assembly, I guess, that it's gone from a $30 million cut in the first draft of the Senate bill to a $10 million cut here.

But I do think it's unfortunate as a matter of public policy and is something I hope we will reverse in the days and weeks to

come.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. The $10 million deduction or reduction in the judiciary budget has been fully explained to the Chief Administrative Judge and the Chief Judge of the Court of Appeals. They have indicated they can easily absorb that budget. They have indicated that it is not going to cause a problem with them with respect to the performance of the duties of the judiciary.

There are some who believe that the judiciary could use some streamlining in view of the fact that there is a huge bureaucracy that has developed, I know at least in my lifetime, called the Office of Court Administration, that doesn't deal with justice at the grassroots effort but that needs some type of streamlining.

So that, I believe, explains why there was a compromise of $10 million. It was something the judiciary could deal with and deal with effectively without hurting the

local administration of justice or any of the administration of justice. And also it took into account some of the concerns of some members of both houses, I believe, as well as the Governor.

ACTING PRESIDENT MEIER: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Mr. President.

It is true that the -- I guess what Senator DeFrancisco has indicated in terms of being able to absorb the $10 million. Obviously Judge Lippman and Judge Kaye have indicated they have that ability to do so without basically hurting services.

However, what I would hope is that it's not the beginning of a practice, that as we see fit to give them a $10 million decrease in their support services dollars that they need, that we don't look to the year 2007-2008 and begin to say: Well, we can continue to do this.

While we did change it from $30 million to $10 million, I hope we don't go forward talking about we still owe another

$10 million for the next two years.

More importantly, it does have an impact indirectly on some of the poorer neighborhoods, as you will find Family Courts in many of our neighborhoods are bursting at the seams. And it would be hopeful that we'll make sure that the judiciary budget stays in place, if not increased. I truly believe the judges need an increase in salary, but I guess we'll save that for another time.

But I do want to rise just to indicate that I hope this is not the beginning of a practice to have some onslaught on the judicial budget in the State of New York.

Thank you.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will sound the bells.

Members are asked to return to the chamber for a vote.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Schneiderman recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 395, by the Senate Committee on Rules, Senate Print Number 3667, an act to amend the Labor Law and others.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Can we have some order in the chamber.

Senator Johnson.

SENATOR JOHNSON: Mr. President, this is the language bill which goes along with the bill that's been explained previously by Senator Saland, the Education, Labor and Family Assistance Budget for the 2005-2006 state fiscal year.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will sound the bells.

Members should return to the chamber for a vote.

Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Those recorded in the negative are Senators L. Krueger and Schneiderman.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 396, by the Senate Committee on Rules, Senate Print Number 3668, an act to amend the Public Health Law and others.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Mr. President,

this is the provisions of the law for changes necessary to be implemented in order to put in place the 2005-2006 health and mental health budget.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I want to thank Senator Johnson for that explanation. It's satisfactory to us.

(Laughter.)

ACTING PRESIDENT MEIER: Well, thank you for being satisfied, Senator Montgomery.

Senator Winner.

SENATOR WINNER: Thank you, Mr. President.

I want to rise in support of this measure, particularly as it relates to some of the provisions that are designed to help our local governments in dealing with the Medicaid crisis.

I want to commend Senator Hannon and Senator Bruno for recognizing the difficulty that our counties are in with respect to meeting these Medicaid obligations.

And this provision contains a long-sought-after cap on local government expenditures for Medicaid as well as other measures that will reduce some of the local governments' concerns that have caused double-digit property tax increases, not only in my district but throughout most of upstate New York and Long Island.

These tax increases are related directly to the ever-burgeoning costs of Medicaid. And this provision speaks out very directly and forcefully to curtailing those levels of expenditures. And I'm very pleased to support it, because now trying to get the Medicaid burden under control will be something that is within sight and will provide for some more confidence in the Medicaid system throughout New York.

Certainly the provisions of this bill involving the cap, the preferred drug list, the efforts at more disease management control and other measures of cost containment will provide the relief to the counties and relief to the State of New York as we try to go forward to tame the Medicaid burden that

we're all facing.

This burden, at $44 billion or $45 billion and growing, is consuming an ever, ever increasing percentage of all of our resources that are then crowding out the provision of support for many other programs that we all hold near and dear.

So therefore, Mr. President, I thank you for the opportunity to speak on this pleasure and look forward to working in the future with a lot more efforts to bring Medicaid under control and provide for relief for our local counties.

Thank you. I vote aye.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Thank you, Mr. Chairman.

The efforts of the health budget conference committee were wonderful, a true bipartisan effort to sort out what has become a chief cost center in the State of New York, not only for us but for the counties. And not only the State of New York; the discussion is not only in our chamber here but, I'm sure, in

senate and assembly chambers all across the country as to how do we move forward in consideration of the spiraling costs of health care.

We have made a very good start here today. There's a lot more work to be done. The phrase "cost containment," the phrase "reform, restructure," will be on this floor for the next ten years, I would bet, before we get to a point where we're all comfortable with what costs are in relation to what the traffic will bear in terms of our taxpayers in New York State.

Whether they're business taxes or whether they're the property taxes, Senator Winner has pointed out they're going to be relieved with this cap. Or whether it's sales tax -- which my home county, Erie County, absolutely refused to move on sales tax to support the cost of Medicaid. So I think if you have been reading the press, you know what the circumstances are there.

So, thankfully, we have begun a very long road. And I'm hopeful that as this legislative session proceeds, there will be

full debate in both houses of the Legislature on what we need to do by way of restructure so that we can get on with providing services for people who need the services but not spending more money than we can afford to spend.

Thank you, and I will be voting aye.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will sound the bells.

Members should return to their seats for a vote.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Bonacic, to explain his vote.

SENATOR BONACIC: Yes. First of all, I'd like to thank Senator Hannon and Senator Meier for their work on Medicaid reform and cost containment.

And many of the speakers standing up talked about how it was going to help property tax owners where the savings with the cap would be passed on to the counties. I would suggest to you that if we're concerned with the taxpayers, and I know we all are, now that the budget is behind us we have a bigger problem with the rising school taxes, especially on Long Island, all of the Hudson Valley, coming up.

And I think if we are serious of alleviating the burden, we should be concentrating on school taxes in two areas. One, we should be thinking of reforming tax exempts. There's billions of dollars being lost by abusers that are abusing the tax system and avoiding property tax, passing it on to families that are struggling to keep up the payment of the taxes and their mortgage to save their house.

The other thing that we should be thinking about -- and I don't have the answer yet -- and that is we should find an alternate way of financing public education other than the demand on property taxes.

We will be having legislative hearings throughout the state of New York. I welcome your input, your wisdom in shaping that. And we can now have three months to four months that we're here, we're not distracted by the budget, and we can now work on policy, legislation. And alleviating school taxes should be one of our top priorities.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Bonacic will be recorded in the affirmative.

Senator Skelos, to explain his vote.

SENATOR SKELOS: To explain my vote.

I'm going to support this legislation. And I want to congratulate you and Senator Hannon for the fine work that you have done on this whole issue of Medicaid.

There's more to be done at this point, though. The cap is very positive for our counties, but the counties now do have a responsibility -- two responsibilities, in my opinion.

Number one, to watch utilization. So that if they turn their back on their responsibilities as gatekeepers, the cost of their program, our program, is going to be shifted to the state, and we'll see a burden put on the taxpayers of the state that we will not be able to fund other programs.

The second challenge to the counties, now, with this burden being alleviated, there is absolutely no reason for them to raise property taxes. I can speak for my county, and I think we can speak for most counties: with this accomplishment of the cap, there will be no reason for them to raise county real property taxes.

One other open problem is fraud. And I believe the Senate, we will be addressing the issue of fraud, which, as many of us know, can reach 10, 15, 20 percent of the Medicaid program. And if we put that in perspective, a $50 billion program, if just 10 percent is fraud, we're talking about $5 billion, which is a lot of money.

So I congratulate both Senator Hannon, you, Senator Meier, for the great work

that you've done. But again, there is a lot more to do in terms of cost containment and the elimination of fraud within the Medicaid program.

ACTING PRESIDENT MEIER: Senator Skelos will be recorded in the affirmative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I would like to just respond to a couple of things that have just been said.

While I certainly am very appreciative that the county share, the county property tax will not really be escalating that much, hopefully, in the future, because the main driving force was the Medicaid -- but I would like to pick up on what my colleagues said about the property tax, which is the largest -- the largest piece of our property tax, which is the funding of our schools.

And I think we will have to be looking at some point in the future, and I would like it to be sooner rather than later, to alternative mechanisms for funding schools. We know that the county property tax is maybe

20 percent of all the taxes we pay on property. We know that schools are somewhere between 55 and 65 percent of what we pay in our property tax.

I think we have seen or heard anecdotally so many people that have moved away from our areas because they can no longer afford the property tax and then they feel, you know, very negatively about our schools and about passing budgets. And it becomes more and more difficult each year.

I think that a more progressive tax, such as the personal income tax, should be looked at closely and perhaps in some way phased in over the next decade so that it shares part of this burden of paying for our school systems.

The property tax in many of our counties is simply overburdened, and you really can't do very much more with that. Yet we don't want to deprive our schools. And therefore I think the more progressive tax, which is, of course, the personal income tax, is the one that we should be looking at. And perhaps just starting with 5 percent of the

cost being personal income tax and just moving it higher as we go along.

It's something that I think we should be talking about. I think for the future of our state and of our children we really have to discuss this.

I'll be voting yes on this bill.

ACTING PRESIDENT MEIER: Senator Oppenheimer will be recorded in the affirmative.

Senator Fuschillo, to explain his vote.

SENATOR FUSCHILLO: Thank you, Mr. President.

I will vote in the affirmative. But, just briefly, I want to just congratulate you and Senator Hannon on the fine work that you have done on the task force and the recommendations that have finally been implemented.

But there's an opportunity here, and it's been stated on this floor, that for the county executives that have been crying for this, to give it back now.

Now, my colleague Senator Winner

got up and explained how the property taxes have increased. I think some county executives have used that as an excuse. In one of my counties, the Medicaid expenditure is less than 10 percent of the budget, and he cries that the sales tax is eating it all up. It's not. The sales tax in Nassau County raises nearly a billion dollars. Medicaid expenditures are about $250 million.

When you equate that to the real property taxes -- and Senator Balboni has demonstrated this day after day back home -- it's less than 1 percent of the real property taxes.

So where's the relief? I wish we had a measure tied into this that we should call publicly on our county executives to provide a CPR program, County Property/Tax Relief program. Give it back to the taxpayers. Provide them with real meaningful relief.

We're spending millions and tens of millions of dollars on this Medicaid relief program. We should now be calling on them to give it directly back to the taxpayers.

I vote aye.

ACTING PRESIDENT MEIER: Senator Fuschillo will be recorded in the affirmative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: I would like to add my voice to my colleagues'. Senator Skelos and Senator Fuschillo have said it very eloquently. I do believe it's time for the counties to take a look at cost containment, make sure that they maintain the fact that, when we take over the cap, that the benefits of taking over the cap on the state are not lost to the taxpayers.

The taxpayers of the counties must get some relief at this point in time, and it's up to the county executives to hold the line and to make sure that these taxes are not raised. In fact, if they are cut, it would be all to the good.

With respect to the property tax shift maybe to an income tax, Senator Oppenheimer, I would suggest be careful what you ask for. The income tax is not the fairest tax. It may be progressive, but it's

also a tax that lands very heavily on the middle class. The rich, the very wealthy can hide money. Foundations, other tax-exempt tax shelters and a whole bunch of mechanisms can be used by these people, whereas the middle class does not have these capabilities. If we don't watch it, they will pay an inordinate percentage of that tax.

So while it's something we could look at, we should study it very carefully. Because otherwise we could be buying into an even more unfair system. So I suggest we take care.

In fact, the STAR program is the beginnings of a shift from the property tax to the income tax. We're doing that now. Let's not go jumping willy-nilly into something that would be even worse without very good study and extensive study on this particular issue. It's not as good as it sounds.

I vote aye, sir.

ACTING PRESIDENT MEIER: Senator Marcellino will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 399, by the Senate Committee on Rules, Senate Print Number 3671, an act to amend the Tax Law.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR JOHNSON: Mr. President, this bill enacts into law major components of the legislation relating to taxes and revenues which are necessary to implement the state's fiscal plan for the 2005-2006 fiscal year.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Mr. President, on the bill and on the budget.

Back on February 20th of 1990, John Bonacic and I were elected to the New York State Assembly. Back then, this is the way we did the budgets: Three men in a room would

work, white smoke would appear, mammoth documents would appear on the desks as unintelligible as Egyptian hieroglyphics, we'd get a couple of hours at best to review them, we'd vote in the dead of the night. And it was always late.

This year we have a budget negotiated in public by the members of the Legislature, then led by five men in a very public room. It's been on our desks for three days. We have debated it in the light of day, and it is before the end of the fiscal year. What a difference.

But this year's budget that was decided by the conference committees leads us to a discussion as to how could this situation have persisted for so long. We always look back on that. How could it be 20 years without a budget on time? I found an answer which I would like to proffer to you in a book that I just completed by Paul Grondahl. It's called I Rose Like a Rocket, and it's about the time that Theodore Roosevelt spent in Albany.

And in 1887, they had so much

confusion and chaos they couldn't even decide on who the Speaker should be. For several months, they did nothing in Albany. And you know why? Because of the diversity, the geopolitical challenges of the state, and the economic differences. Sound familiar? That's where we are today. The same exact issues, but exacerbated.

So we have reached a consensus today because of who we are. And let me be clear on this. We're here today now, at this time, not because of certain self-serving, disingenuous local politicians or editorial boards or so-called reform groups. We are here today because of people: people in this institution, the staffs who have worked so incredibly hard, both in this chamber and the other chamber and on the second floor, and the advocates who have been roaming the halls for months.

And we are here today because of the people in this body, who for the last ten years at least have said that an on-time budget is the priority for the state. This year we got partners.

But let's also be clear about something else. This cannot be the end. This must be the beginning. The people we represent, who have really been the people who have moved this process, desire a good budget and an on-time budget, and they deserve no less. And we can do it. With all the diversity and all the challenges, we can get together.

And, you know, it's been a tough couple of years for this Legislature as a whole. We've been denigrated in the press. I'm here to say you know what, this isn't our crowning achievement. This is our job. But I'm proud to be a member of this Legislature, working together, moving forward. That's what it's about.

I'm going to vote aye on this one. Thank you.

ACTING PRESIDENT MEIER: Senator Diaz.

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

This is my third year in this chamber. I'm here in part thanks to my

colleague Senator Connor. And I will always be grateful to Senator Connor for helping me become an elected official in this body as a state senator.

But when I came here three years ago, I came on under new leadership, a minority leader named David Paterson. And I have been here for three years. And since I got here, I've overheard people saying, The budget is never on time. They're always criticizing us.

And yesterday, yesterday I read in the Daily News a quote made by a state senator, my colleague Eric Senator Schneiderman. In that quote he said that everybody -- more or less, he said that we're all trying to get the glory for passing a budget on time. And if I recall right, in that quote he also said: My colleagues, don't think, my colleagues, that this will make them golden boys.

Well, when I came here three years ago, as I said before, I came under the leadership of Senator Paterson. In that first year, in that first year, Senator Paterson was

able to join together with Senator Bruno and for the first time in many, many years, we got together and we had a unanimous Senate voting to override the Governor's veto. That first year of Senator Paterson's leadership.

In the second year of Senator Paterson's leadership, my second year of me being here, there was another override. Last year, Senator Paterson obtained three more members to our conference.

And this year, under Senator Paterson's leadership, and Senator Bruno, we are passing a budget on time for the first time in 20 years. And Senator Balboni just said that this time we did it not three men locked in a room, but publicly, that everybody could see.

So, my colleagues, referring to the quote of Senator Schneiderman in the Daily News, if all those achievements under Senator Paterson and Senator Bruno in the last three years doesn't make Senator Paterson a golden boy -- well, let me tell you, to me, Senator Paterson is a golden boy in the last three years I have been here.

So you need a golden boy to take credit for what we have done? There's a golden boy.

And I'm voting yes. Thank you.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise on this very happy occasion to say that we will be having an on-time budget. I was here for a number of years, as a few of my colleagues, where we passed on-time budgets. We used to stop the clock occasionally because we were running a little bit over.

But, you know, I was pleased to see a brand-new process where the Minority in both houses also participated in open forums.

And let me just pay tribute to our Majority Leader on this side of the aisle, who kept us informed the entire way and in my judgment was the moving force to get an on-time budget. He was relentless in that pursuit, as was our conference almost unanimously.

As somebody that chaired a conference committee, I found in the other house every single member of our conference committee, on both sides of the political spectrum, were committed to an on-time budget.

And it can happen. And of course the big thing that we have to do is make sure it happens next year when all of you good people are running for reelection. Because we've started an on-time situation, and I think we've got the things in place. We have to do more.

But my congratulations to my colleagues, but a particular congratulations should go to the Majority Leader of this house because he was really the major force in pushing this, in pushing everybody towards getting a budget, possibly because those of us in the Capital District feel the heat of a late budget as badly as anybody in the state.

Thank you, Mr. President, and congratulations to all my colleagues.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. On

this side of the aisle we may not have a golden boy, but we certainly have a very distinguished silver-haired man -- who anyone who knows the process fully has understood for the last several years that the mediator between the respective parties in the budget process has always been Joe Bruno.

And I think what Senator Farley said is right on the money. In order to make this happen, there has to be somebody that's a mediator. Not just someone who's willing to stick on a specific philosophical point, but an individual who's able to get people together.

And he was good enough to have the minority leaders of each house participate this year. And that made things happen, I think, as well, the fact that everyone participated.

So we don't have our golden boy, but we have the silver-haired distinguished gentleman that has moved this body and this process more than anyone else has, at least in my time in the New York State.

Thank you.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

Before we complete our assignment, as it's been described, to finish our work on the budget, this revenue bill is the bill we should be spending an enormous amount of time talking about. And that we did not in the conference process.

But I was delighted to hear so many of my colleagues today already talk about their interest in dealing with tax policy. Senator Bonacic, who raised his concerns about property taxes and paying for schools. The issues raised about the relationship between what we did in Medicaid and what the tax rate at the county level might be. The point of Senator Marcellino that be careful when you assume a progressive tax is in fact that, when you look at the loopholes that certain individuals can take.

And that starts me off again with delight that having a budget done on time, maybe we will actually this year attempt to

bite into the extraordinarily complex set of issues that is New York State tax policy and our failure to address so many of these issues.

Our fight, as always, in the budget is where do we get the money and how do we prioritize spending it. But to be honest, we don't look at where we get the money very often. And in fact, in this house for many years we have not done the job we ought to to evaluate New York State tax policy, what its equity is, what its progressive versus regressive outcomes are, what the relationship is between what we decide to do at the state level and what our localities can and cannot do.

What was not said here today, but we all know is true, one of the reasons that our counties are so aggravated and the people in our counties are so aggravated about their property tax rates is because it's one of the only taxes they control at home. We control tax policy here in Albany. And frankly, we don't do our homework on it.

So when I evaluate this budget, and

I've spoken several times in this week about it, I evaluate both what we don't have money for and then how we're spending that money. But this is the only opportunity, I think, in the context of the tax and revenue bill to raise, again, some very serious questions about the money we don't collect in taxes and what that outcome is for individuals in our districts and also for businesses.

Because in fact what we consistently do in New York State tax policy is to favor large corporations, large multinational and multistate corporations over small businesses, despite the fact that small businesses are in fact the creators of the greatest number of jobs in New York State.

And so when you look at our tax expenditure reports, you can add up that we give in this year's budget $465 million in special depreciation, exemptions and credits, primarily to large corporations. And we should ask the question, what if that money was available for education instead? What if that money was available for transportation without having to do as much borrowing as we

have approved earlier this week for transportation?

And that budget includes $2.15 billion for corporate franchise exclusions of interest, dividends, capital gains from subsidiary capital. Again, primarily large corporations. Small businesses can't take advantage of those expenditures and loopholes.

Or the fact that while we have changed Empire Zones -- and I will get to that in a little bit -- we project in the expenditure budget $437 million in exemptions and tax credits for businesses in Empire Zones.

So it's both the questions of Empire Zones and how we oversee them and how we're going to decide what happens in the future through this bill, but also the lost revenue to the State of New York, money that is not available for education, is not available for transportation, is not available for health care or social services because we have made -- I question whether a conscious decision, but we have made the decision to

exempt certain subsidiary types of businesses from paying taxes.

And again, and I've used these examples, but I want to highlight them, if I buy a gold ring or a gold necklace or silver earrings in the state of New York, I pay sales tax. If I buy the raw bullion of gold or silver or coins, I don't pay sales tax. And that means the State of New York loses, according to this budget, $108 million a year in tax revenue.

What would you do with $108 million more? We might disagree about it, but what's the justification?

And we exempt the cable television industry from $140 million in sales tax and $80 million in corporate tax reductions for cable TV. There's always the question in business about what kind of taxes drive a company away from a state or locality. But cable TV? Can you ignore the New York market, simply say: We don't like the taxes, we won't do cable television in the state of New York? I think not.

And I personally like having cable

television. It lets me watch Bravo and watch the reruns of "West Wing." And yet I wonder why that's a tax-free option.

And we're continuing to underwrite historic barns. And maybe that's a terrific use of taxpayer dollars, but again I will ask, $75 million in tax exemptions for historic barns, is that a priority in the tax policy of your communities and your counties?

And we don't decouple from federal tax policy on a variety of issues that we should be asking hard questions about. And so I'm very glad that Senator Marcellino raised that question about personal income tax versus other types of taxation, because he's right. Wealthier New Yorkers figure out how to avoid taxation because they've got more money to protect and they've got accountants.

So this year in our tax budget we will lose, because we haven't decoupled from federal policy, we'll lose $749 million because of our rules around capital gains at death. And that's for wealthy New Yorkers.

And we will lose $483 million in revenue from the exclusion of interest on life

insurance and annuities. And it's only high-income New Yorkers who are in fact choosing to make investment decisions to reduce their taxes through annuities. And in fact, that number has grown, has over doubled between 1998 and 2005 as loss of revenue to the State of New York because people do make financial decisions as individuals based on where they can avoid taxes.

But again, who's able to do that? And does it skew the tax base for the State of New York?

And we're making more mistakes this year in this budget, rather than sitting down and answering some of the questions I've raised that were decisions made in previous years' budgets. Why are we passing a single sales factor tax credit this year? It is estimated that this will be a tax cut of $130 million when fully implemented. But if you do the research from other states that have passed this type of law, the assumption actually is it will cost us far more.

And there's reports, huge numbers of reports coming out for states that have

implemented single sales tax factors. And some of the points that they make, very powerfully, is that while it decreases the taxes for large multistate and multinational corporations, it actually increases taxes on small business in relationship and in competition.

And the states that have passed these taxes are wondering about why they've done this and whether they should continue them. A report that just came out this month talks about the issue of the single sales tax factor in the Intel Corporation in several southwestern and western states. And their conclusion is that in fact the single sales factor changes did not increase, for corporations -- even though they're the ones who lobbied to have it in all these states, it did not increase the amount they invested in single sales factor states versus states without this tax exemption. And in fact, they disproportionately continued to invest in non-SSF states.

And that it did not increase jobs and in fact appears to have reduced jobs,

because there's no direct association with this tax and an obligation of the company to increase jobs, a test we should always use in tax policy.

And so, again, why would we pass a new tax exemption for large corporations worth $130 million when there's not one person in this chamber who would say that everything they thought was a priority for the State of New York or their constituents got into this budget?

And why are we passing an expansion of the CAPCO program, another questionable, at best, model for tax exemptions, a model that allows insurance companies to invest in venture capital and reduce their taxes?

Private companies should choose to invest in venture capital. That's the market. Why should the State of New York choose to subsidize, through tax policy, certain types of businesses' ability to have surplus cash and invest it in venture capital? We don't get a win out of this; we lose tax dollars.

And there have been studies done around the country about the fact that CAPCOs

usually go unnoticed but rarely have proved to be effective in any way.

And on the Empire Zones, it's a dilemma, because I think we all recognize that the way we've been running Empire Zones has not worked. And there are some improvements in the agreement that has been made to increase oversight on Empire Zones and to require reporting and to, in theory, have the authority to throw companies out of their Empire Zone agreements if they fail to meet new tests we will place on them.

Except it doesn't change the fact that the research does not prove that the enormous amount of money we're losing through Empire Zones is not in fact increasing the number of jobs being created.

And ironically, if you look at the details Empire Zone to Empire Zone, what we have done in the state of New York is make our towns and our villages and our counties and our cities all compete with each other to see who can have a race to the bottom of claims they've got the lower tax package than the town next to them or figure out a way to get

the zone lines moved.

And that in fact at the end of the day there's not evidence that we're really increasing jobs, we're just moving the people around the map of the state of New York, so that a job that might have been in Senator Meier's district last week would move into Senator Libous's district this week. But that doesn't increase the number of jobs.

We are losing huge amounts of tax revenue. And I don't believe it is smart for regional planning or for local planning that we have trapped our localities in this scenario.

So while I will say that the Empire Zone proposals this year are significantly better than what we have had up until today, I am not convinced that this will lead us down the road of a more successful model. I am convinced this will extend these programs until the year 2015. And again, who's doing the homework? Who's asking the questions? Who's even evaluating the reports that are coming in?

Again, my theme is an attempt to

argue that we have to do a serious job of evaluating tax policy in the state of New York. We have to remember that our budget is not just the budget we talk about as revenue and expenses, but also the tax expenditure budget that comes out each year, that every year grows and grows and grows by the billions. And I don't believe either house of this Legislature is doing our homework or asking the right questions.

And when we go home and we say to our constituents we got a budget done on time, it was full of compromises, we're happy about some things, we're not happy about others, the fundamental question is was it the best budget we could do.

And unless we're prepared to really evaluate and analyze how we're spending our money and how we're raising and who we're exempting from having to pay their fair share of taxes in the state of New York, we can't sincerely say that we passed the best budget we could.

So I will vote against this bill, because I think it goes down the wrong road on

single sales factor, on CAPCO. And while I give 50 percent points for the Empire Zone efforts, I don't believe at the end of the day it will meet the needs of the state.

And again, I hope that now that our budget, in theory, will be done today, tomorrow, soon, that the members who got up today to speak about their own recognition of tax policy problems in their own communities and their own counties, or on fundamental issues such as education and health care, will be willing to take a serious look and spend a healthy amount of time evaluating the New York State tax code and where we ought to be going in the 21st century.

Because maybe this tax code worked in the 20th century, but it will not solve our problems for the 21st century. And today we've increased some of them with this bill.

Thank you, Mr. President. I'll vote no.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Mr. President and my colleagues, I'd like to of course

extend my congratulations to Senator Joseph Bruno -- and of course David Paterson, who worked with him in this house -- for his initiative in getting a resolution of the late budget problem by helping initiate public TV sessions with the Governor and the other house, sitting together; for putting together the conference committee process, which we used last year to try to get a budget reform bill which this house passed, that one house passed.

I want to thank Senator Neil Breslin, my ranking Minority member on the Senate Finance Committee, for his help in helping to expedite this process.

And of course I can't say enough about the Senate staff. Mary Louise Mallick and her staff, day and night working. We have all sorts of trying to work this out, trying to that out, give us another draft. This has been going on for quite a period of time, as you know, and they eventually put it all together.

We've even had the cooperation of the other house this year, which of course

helped to make this all possible.

So we have a -- some people say, I always wanted an on-time budget. Well, I think everyone in here can say the same thing, because we've all wanted an on-time budget. We never could get around to the formula that would magically put it all together.

But I think this year we've accomplished it, collectively. So we can thank ourselves, thank the leadership, thank the Governor that he played a role in this as well.

And if this budget is the final budget, it's done as much as we can do for the people that we represent, economically but also timely, which we never could get the formula together to have it timely and the right budget. We always had to delay until we got what we needed to take home. I think everybody's got what they need to represent their people adequately.

So let's all congratulate each other, and thank you all for your support.

ACTING PRESIDENT MEIER: Senator Robach.

SENATOR ROBACH: Yes, Mr. President. On the bill.

I rise to support this and the entire budget package. First and foremost, it's been said before, but I think it's critically important, for the first time in 20 years we are getting this budget done. And to many people, not only in this room but in our districts, that is an important thing. It has come to symbolize the gridlock and the lack of compromise that's gone on for far too long for a myriad of reasons.

And I want to say that oftentimes we don't need political rhetoric to get a budget done, we really need more compromise and statesmanlike men and women striking compromise to get it done. And I think this has happened this year, and I applaud everyone.

Interestingly enough, I found something that I was reading that my father had said to a reporter some twenty years ago when his frustration started with the late budget, who I followed into the Assembly. And he said to the reporter, he said: "You know,

without compromise, the only way I know how to do a budget is if I could provide more and better services for less money."

Well, we know that's not going to occur. So this year what allowed us, without the ability to do that, the impossible, what allowed this to happen was compromise.

And I would say that this budget, while not perfect, really meets the needs of New Yorkers in education, higher education, health care, roads, bridges, public safety and other things. And that is good. It is good for a number of ways. And what allowed us to get to those good compromises was utilization of the conference committees.

So while I want to applaud everyone in every house, both leaders here and even in the other house, I want to say it is a great day that this year's process resulted in a reasonable budget that meets the needs of New Yorkers. But I would concur with my colleague Senator Balboni, while our work is done on the budget, on the process it is not done yet.

The measures that were passed in

this house, in a bipartisan measure, to utilize conference committees as though normal operating procedure for doing a budget, accepting the Comptroller's revenue estimate -- and I would even go one step further. I think the bill on a contingency budget, very, very important.

If we can now take this timely budget process and get the other house to act on those measures that we have already passed in this house, this will not become the exception for the rule getting the budget done on time, striking reasonable compromise -- it will become the rule. And we should make it the rule. That's what our constituents want. I know that's what I want. And I believe that that's what most of the people in this chamber want. And hopefully we will continue down this road.

But let me say not only will I vote for this portion of the budget, the whole thing. And in all sincerity, I say thank you to the people who were smart enough, in response to their constituents, to publicly be engaged, the everyday members of these

conference committees, and strike compromises to merge timeliness and content to get this budget done.

I thank all my colleagues and vote in the affirmative.

ACTING PRESIDENT MEIER: Senator Sabini.

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

I think there is some merit and congratulations to be given that we have achieved a work product at this point in time. It's been referred to in past years that a long time ago they used to stop the clock. I wasn't eager to see whether or not the Majority Leader had the power, as he had said he would get us out in daylight, to stop the sun. That would really be impressive if he could do that.

But I do want to say one thing and take exception to an earlier speaker. Before we spread all the praise that we should on staff and the leadership of the two houses -- and to some extent to the Governor, for becoming engaged toward the end -- but before

we hurt ourselves from patting ourselves on the back, I want to take exception to something that was said earlier.

I don't believe that this process happened because we were all imbued with this new sense of responsibility. So I do want to thank the editorial boards and the civic groups, who don't have a vested financial interest in us getting our job done, for forcing us to do our job on time.

I'll take you back to last year when, after April 1st, we were here two days out of the next 17. We're going to be here after April 1st whether or not we pass this budget, and that's a good thing, because that's what we're supposed to do.

But if anyone thinks that all this happened without public pressure, without a targeted Assembly race in Nassau County, without people losing their seats here, think about this. Twenty-one years went by, people were born and have now graduated college in that period of time, during the time we didn't have on-time budgets. There were members of this body and of the Assembly that came into

the body, became committee chairs, and have left since then.

The last time we had an on-time budget, the Islanders were a decent hockey team and won Stanley Cups. Now the NHL doesn't even play.

So things have changed a lot in 21 years. And if you believe that this just happened because we're all imbued with this sense of honor all of a sudden, we're not only kidding ourselves, you know, I guess there's a bridge in Senator Connor's district we could sell you if you believe that.

I don't believe that. I believe that the attention that was given to the process up here was long overdue. We all felt it. Many of us knew it all along. And the fact that we're actually doing what we're supposed to be doing is a good thing, but let's not kid ourselves. We're doing it because people have held our feet to the fire collectively. And I congratulate those people for doing that. And if they were not part of the process, I don't believe this would be happening today.

I'm going to be voting in the affirmative.

ACTING PRESIDENT MEIER: Senator Nozzolio.

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

Mr. President and my colleagues, what we are doing today is not simply enacting a budget on time, but we are restoring integrity in the budget process and, in so doing, restoring accountability in budget-making for our taxpayers.

Our taxpayers deserve this type of government, a government that runs its budget process in an efficient manner, in an on-time manner, in an open manner, in a bipartisan manner.

Each and every one of those who participated in making this budget can be proud of their efforts. But we have more to do. We need to ensure that, in law, these steps are taken and taken each and every year.

What we are doing here is not an end, it's a beginning, a beginning to launch a reform of the budget process, a beginning to

continue to fight for not simply an on-time budget but a budget that achieves reform of the welfare system and attacks welfare fraud, a welfare fraud across this state that costs the taxpayers billions of dollars.

Make government more effective and efficient, but, most importantly, make government more accountable to the people it is designed to serve.

Mr. President, I'm supporting this measure and, in doing so, I think taking a giant step towards achieving the accountability that our taxpayers deserve.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: I just wanted to second -- thank you, Mr. President. I just wanted to second what Senator Johnson said, that there are so much people, particularly staff, that have really put themselves out in this process. And half of them are sleepwalking still because they haven't had sleep in many weeks.

But particularly to the leader of this house, and to my leaders, I want to thank

them.

And I want to say that I think I can speak for Senator Montgomery and myself that there is probably nobody that is happier than she and me, and pleased with this process. And I will tell you why.

We both got elected in 1984. That was the last year there was an on-time budget. Many people have been telling us that it is because of she and me that we have not had an on-time budget in the last 20 years. So as we are now in our 21st year, we are very proud to say we have at last accomplished the right thing, done the right thing by our citizens. And fortunately, the leadership of this house and the other house have helped us a great deal.

So thank you very much. I'm voting yes on this bill.

ACTING PRESIDENT MEIER: Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's an amendment at the desk. I ask that the reading of the amendment be waived and ask to be heard on the amendment.

ACTING PRESIDENT MEIER: The amendment is at the desk, the reading is waived, and you're recognized for the purpose of explaining the amendment.

SENATOR KLEIN: Thank you, Mr. President.

This amendment provides for the distribution of 11 percent from the video lottery terminals, otherwise known as VLTs, at racetracks to support education in the municipalities which host these racetracks.

Several weeks ago I rose and spoke in favor of the VLT proposal we had. While at the same time I don't think the only source of revenue to fund our schoolkids should be gambling, it clearly is a very quick and needed infusion of cash.

I also believe, and I said at that time, I have Yonkers Raceway within my Senate district, which also is in need of cash and presently in tremendous disrepair.

There doesn't often come a time where we can help several different groups by advocating one specific proposal. But this is certainly the case, because the money that we

would gain from VLTs would not only help the tracks that are hosting these racinos around the state but will also help education throughout the state and would also help the racing industry. So we're actually able to use these monies, I think, for very, very important purposes.

I'd like to take it one step further. I think that the racetracks which actually host the VLTs should also get a larger share. You know, when we think about it for a moment -- and I can certainly speak for an example of Yonkers Raceway. Hopefully this is going to take off and it's going to generate a lot of money for the state. I'm hopeful it's going to bring 40,000 to 42,000 people to Yonkers Raceway, like there used to be years and years ago.

That requires more police service, that requires more sanitation, that requires better roads and access to and from the track. So clearly the City of Yonkers in this case is going to have to shoulder some of the burden.

And I think in turn not only Yonkers Raceway but the seven tracks around

the State of New York should be able to share specifically in the amount of money that's generated by the VLTs. And I think they deserve to get a portion, and that money should be specifically earmarked for education.

You know, since I got elected three months ago I heard a lot about Yonkers. And Yonkers, unfortunately, is facing very, very difficult fiscal times. And what's happening right now is the kids are suffering. You know, they're talking about laying off teachers, closing schools -- nothing that would certainly benefit the youngsters of Yonkers.

I think it's incumbent upon us as leaders in this legislative body to generate a quick infusion of cash for that education system. You know, we can talk about school aid formulas, we can talk about bringing a CFE-like decision on behalf of the schoolkids of Yonkers. But I think the time has come to figure out a way that we can get some money to Yonkers now.

So I urge my colleagues to support

this amendment.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: On the amendment.

I'd like to point out that it's interesting the Minority is offering an amendment that would allocate 11 percent of the money raised by VLTs to all of the -- to the school districts that have -- or to the districts that host the racetracks in the state. I think that's a good idea. Seems to be a bit inconsistent with some of Senator Schneiderman's earlier comments, but it's a good idea.

I'm glad to see that you are willing to take money away from a lot of your school districts to give to school districts like the City of Yonkers. And I thank you for that.

I would say that if you are serious about this proposal and it's not just a political charade that we're in, as some might suggest, that you go across the hall of the Capitol, talk to the Assembly, and get them on board. Get them on board my bill and my

proposal that we have been pursuing very actively that would bring a substantial amount of money back to the host communities.

I agree conceptually with this proposal, glad that we're moving forward on an on-time budget, and would not do anything on the floor of this house today that would put in danger of that on-time budget, certainly with a proposal that the Assembly has already dismissed.

But glad that if you are in fact serious, glad to work with you to have your continued cooperation and acknowledgement of the problems that the City of Yonkers has, and glad to take money that might be going to other school districts across the state and give it to the City of Yonkers.

Thank you for raising that issue today.

ACTING PRESIDENT MEIER: Senator Skelos.

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

I just would like to point out we've heard a lot of comments today about an

on-time budget. And we will have an on-time budget today.

But I should point out to those who would support this hostile amendment that, under the rules of the Senate, a successful nonsponsor motion to amend the bill shall cause the bill to be recommitted to the committee of origin for further study for a minimum of ten days.

So my assumption is that anybody that would support this amendment are saying they do not want an on-time budget because we could not bring this up for another 10 days.

So I follow up what Senator Spano said, this is nothing but a political charade.

ACTING PRESIDENT MEIER: On the amendment, those Senators in agreement please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Sampson, Schneiderman, Serrano, Stachowski and Stavisky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Senator Schneiderman, to close for the Minority.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I will speak very briefly.

This revenue bill, which concludes -- I think everyone, including critics, will say that this was an extraordinary process this year. It led to many breakthroughs, both in process and I think it's fair to say in substance.

But I have to come back to a comment that Senator Balboni made when he opened the closings, as it were, that passing a budget on time and debating openly and trying to get the best budget we can is just our job, and echo Senator Robach, who said, you know, this is just the beginning, we have a lot more work to do.

I respectfully submit that the most delightful thing that has happened today is that a debate broke out on the Senate floor about tax policy for the first time since I've been here. Senator Bonacic started it up.

I would note, my colleagues, that there's a gap in our system of conference committees that we should address. There is no conference committee that deals with tax policy. There is no public debate about whether we should continue on the path the state has been on for the past decade of becoming more and more regressive as we seek new revenues from sales taxes, from fees.

Passing this bill increases title applications for mobile homes from $25 to $125. Can't get much more regressive than that.

Whether we should continue on that path or whether we should, as Senator Bonacic pointed out, look for new ways, rely more on the income tax. As Senator Krueger said, plug the massive loopholes that have led fiscal experts to describe our state tax code as Swiss cheese.

Senator Marcellino pointed out that some rich people seek to hide their incomes. It's our job to close loopholes and make it harder.

We're never going to get

everything, but I tell you, ladies and gentlemen, one of the other unfortunate things that this bill does is that it allows a temporary increase in the personal income tax on our wealthiest taxpayers to expire, and that's costing the state $3 billion. So obviously some wealthy taxpayers haven't succeeded in hiding all of their money.

I would suggest that an open debate over whether or not we should have a more progressive tax system, an open debate over whether we should close the corporate loopholes that Senator Paterson proposed last year and proposed this year that would generate hundreds of millions of dollars by simply adopting corporate tax laws that are applicable in other states.

That's the debate we should have. And I would suggest that if we go back through this process next year, a conference committee to actually debate tax and revenue policy would be appropriate.

So I don't like some of the things in this particular piece of legislation, and for the same reasons as Senator Krueger

articulated in detail. And I have my concerns with the continued reliance on more regressive forms of revenue generation from regressive taxes like the property tax, to gambling. I have a problem with our economic development programs that don't generate jobs, don't produce and give us the return on our investment we should seek.

But I think it's time to open that debate up. This year we are coming up with ideas -- and they're embodied in some of these budget bills -- that have just never been tried before. We have to address the issue of revenue. We have to address the issue of taxation.

We are just starting here today, we're just starting here today on what I hope will be a new process. If we just stop after this and go back to the same old gridlock, we haven't done our job.

But I'm sure that's not going to happen. I'm sure that's not going to happen. Now, now, now. If I lose my way, I have to start all over again.

(Laughter.)

SENATOR SCHNEIDERMAN: So I think that the issue of taxation has been raised here. I look forward to debating it. I look forward to taking up Senator Bonacic's bill. I look forward to dealing with issues that were raised by Senator Klein's amendment. Let's not stop here. Let's get the issue of taxes on the table with everything else when we reconvene.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Debate is closed, then.

The Secretary will ring the bells.

Members are asked to come to the chamber.

Senator Bruno.

SENATOR BRUNO: Are you calling members back into the chamber to make sure everyone's here to vote on this very important bill?

ACTING PRESIDENT MEIER: Yes, we are, Senator Bruno.

SENATOR BRUNO: You know, we're hearing, while we're waiting to close debate here, suggestions, thoughts, observations,

what can be criticisms. And anyone here can do that.

Fact of the matter is, we're completing a budget process here for the first time in 21 years. And we are finishing this budget process presently at about ten minutes to 2:00. Would have been twenty of 2:00 if people were shorter, but they weren't.

(Laughter.)

SENATOR BRUNO: But whatever. Whatever works. Okay?

But the fact of the matter is that we are still talking with the Executive, talking with the Assembly, because there are some issues that while we are acting on them, that are still open for debate, negotiation, and potential compromise. So that everyone in government, with the Executive, with the Assembly, with the Senate, has as much input to this open, public process as is required, necessary, or anyone wants.

So while we close this formal part of what we have agreed on, we have a completed budget, a balanced budget, contrary to some of the observations that may be made. This

budget will total presently, as it stands, in the neighborhood of $105 billion.

And there are some issues that have been laid aside that are not critical to having a complete, balanced budget. We're going to be in session until the middle of June, and we're going to be governing. And when this process completes, we're going to be doing other appropriations, we're going to be doing supplementals, we're going to be governing.

So that's the process that we're all elected to, and that's what you are part of. So while you can take a look and say this glass is 9/10 full or it's 1/10 empty, that's, you know, your selection. Fact of the matter is, we are here, we got this done, we got it done while the sun is shining, and that's a credit to everybody in the process.

It's also a credit to everyone that we continue the process, with the Executive, to refine and improve any part of anything that we have done and any part of anything that we haven't done.

Keep talking about some of the HCRA

that was set aside. We'll get that done. We can do it today, we can do it Monday, we can do it attitude. We'll get it done. EPA? We'll get it done. Today or next week or the week after. Okay?

SENATOR PATERSON: Okay.

SENATOR BRUNO: Mr. President -- okay? Did I hear okay?

(Laughter.)

SENATOR BRUNO: Okay, thank you.

Mr. President, do we have people here prepared to vote on this last of the budget bills?

ACTING PRESIDENT MEIER: It appears the members are in their seats, Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President. I would suggest we move to the roll call.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 399 are Senators Duane, L. Krueger, Parker, Savino and Schneiderman.

Ayes, 56. Nays, 5.

ACTING PRESIDENT MEIER: Senator Bruno, the bill and, therefore, a budget for the State of New York is passed.

(Extended applause.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, given some of the discussions that are going on, I'm going to suggest that we recess until, say, 3:00 and ask for an immediate meeting of the Majority conference in the conference room and at that time determine where, if anywhere, we are with some of the other business that we might want to take up, and either take it up or, sometime by 4:00 or 4:30, be adjourned.

That's the intent, that's the plan, and hopefully that's the way it all goes.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I don't know what to do with myself.

(Laughter.)

SENATOR PATERSON: We will call a conference of the Minority at 2:45. In the interim, we'll take all the Majority's suggestions that are being discussed.

But in all seriousness, Mr. President, I'd just like to add to what Senator Bruno said, that in this year I really got the impression that the change in our process -- the leader said the other day that this was a process that was done almost entirely openly. There are always conversations that will be somewhat confidential.

But in the end, I think everybody leaves this room, staff and members and observers, knowing that when we tried this process that it went a lot smoother, that we worked together a lot better and that the spirit of cooperation was a lot greater than any of us expected. And I was just very proud to work among all of you during this period.

So we will, with Senator Gonzalez's

permission, have a Minority conference at 2:45.

And in the interim, Mr. President, if any of the Majority members would like to get up and suggest what I do with myself, I'm all ears.

(Laughter.)

ACTING PRESIDENT MEIER: Immediate Majority conference; Minority conference at 2:45 p.m.

The Senate will stand in recess until 3:00 p.m.

(Whereupon, the Senate stood at ease at 1:56 p.m.)

(Whereupon, the Senate reconvened at 3:01 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, is there any further business to come before the Senate?

ACTING PRESIDENT MEIER: There is no further business, Senator.

SENATOR SKELOS: There being no further business, I move we adjourn until

Monday, April 4th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, April 4th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 3:02 p.m., the Senate adjourned.)