

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 January 29, 2007

11 3:12 p.m.

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13
14 REGULAR SESSION

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18 LT. GOVERNOR DAVID A. PATERSON, President

19 STEVEN M. BOGGESS, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT WINNER: The
3 Senate will come to order.

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

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

9 THE PRESIDENT: The invocation
10 today will be given by the Reverend Peter G.
11 Young, of Mother Theresa Community in Albany.

12 REVEREND YOUNG: Let us pray.

13 We are proud New York elected
14 leaders, as were the Van Buren, Fillmore,
15 Arthur, Cleveland, Theodore and Franklin
16 Roosevelt. And may we continue in the
17 greatness of their dedicated public service to
18 all of our citizens of New York State. May we
19 follow in the rich tradition of the senators
20 that first met in Kingston five days after the
21 Declaration of Independence.

22 O God, You have provided our
23 Senators with outstanding examples to inspire
24 those in this chamber for committed service to
25 all of our citizens.

1 May we again pray for the repose of
2 the soul of Assemblyman, today, John Lavelle.

3 ACTING PRESIDENT WINNER: Reading
4 of the Journal.

5 THE SECRETARY: In Senate,
6 Friday, January 26, the Senate met pursuant to
7 adjournment. The Journal of Thursday,
8 January 25, was read and approved. On motion,
9 Senate adjourned.

10 ACTING PRESIDENT WINNER: Without
11 objection, the Journal stands approved as
12 read.

13 Presentation of petitions.
14 Messages from the Assembly.
15 Messages from the Governor.
16 Reports of standing committees.
17 Reports of select committees.
18 Communications and reports from
19 state officers.

20 Motions and resolutions.
21 Senator Farley.

22 SENATOR FARLEY: Thank you,
23 Mr. President.

24 On behalf of Senator Golden, I move
25 that the following bill be discharged from its

1 respective committee and be recommitted with
2 instructions to strike the enacting clause.
3 That's Senate Number 1289.

4 ACTING PRESIDENT WINNER: So
5 ordered.

6 SENATOR FARLEY: On behalf of
7 Senator Padavan, Mr. President, on page 6 I
8 offer the following amendments to Calendar
9 Number 21, Senate Print 78, and I ask that
10 that bill retain its place on the Third
11 Reading Calendar.

12 ACTING PRESIDENT WINNER: The
13 amendments are received and adopted. The bill
14 will retain its place on the Third Reading
15 Calendar.

16 Senator Skelos.

17 SENATOR SKELOS: Mr. President,
18 there's a Resolution Number 231 at the desk,
19 by Senator Nozzolio. If we could have it read
20 in its entirety and move for its immediate
21 adoption.

22 ACTING PRESIDENT WINNER: The
23 Secretary will read.

24 THE SECRETARY: By Senator
25 Nozzolio, Legislative Resolution Number 231,

1 congratulating the Auburn High School Football
2 Team and Coach Dave Moskov upon the occasion
3 of capturing the 2006 Class AA New York State
4 Championship.

5 "WHEREAS, Excellence and success in
6 competitive sports can be achieved only
7 through strenuous practice, team play and team
8 spirit, nurtured by inspired and dedicated
9 coaching and strategic planning; and

10 "WHEREAS, Athletic competition
11 enhances the moral and physical development of
12 the young people of this state, preparing them
13 for the future by instilling in them the value
14 of teamwork, encouraging a standard of healthy
15 living, imparting a desire for success, and
16 developing a sense of fair play and
17 competition; and

18 "WHEREAS, The 2006 Auburn High
19 School 'Maroons' Football Team captured its
20 first ever New York State Class AA
21 Championship by winning six straight
22 post-season games, including the
23 title-winning, 27-26, dramatic and thrilling
24 overtime upset of defending champions
25 Monroe-Woodbury, in front of an estimated

1 10,000 of their fans at the Carrier Dome in
2 Syracuse; and

3 "WHEREAS, The Maroons were led this
4 season by the New York State Sportswriters
5 Association Class AA Football Player of the
6 Year, running back Quendel Ellison, who
7 finished his three-year career at Auburn with
8 4,427 rushing yards and 45 touchdowns and was
9 named the MVP of the semi-final game; and

10 "WHEREAS, In addition, Auburn's
11 Matt Hoey, who provided the game-winning extra
12 point in the title game, was named first team
13 all-state safety/kicker; Ryan Hutchings and
14 Nick Lepak were named to the first team
15 all-state defensive line; and Darnell Murphy
16 made fourth team all-state defensive back and
17 was the MVP of the state championship and
18 quarter-final games; and

19 "WHEREAS, These outstanding
20 athletic accomplishments generated incredible
21 positive energy and community spirit in
22 Auburn. The community embraced the team in a
23 manner so positive and pure that it will be a
24 lifetime experience for the members of the
25 team; and

1 "WHEREAS, Teamwork, preparation,
2 focus, discipline, and overcoming adversity
3 are among the skills and lessons of Auburn
4 High School's 2006 Championship Football Team
5 that will resonate with the team members
6 throughout their lives and be an important
7 part of who these young men will become in the
8 future. The lessons learned in this
9 championship quest and victory will be part of
10 an Auburn legend; and

11 "WHEREAS, The athletic talent
12 displayed by this team is due in great part to
13 the efforts of Coach Dave Moskov and his staff
14 of assistant coaches -- Matt Moskov, Don
15 Patchett, Mike Pesarchick, Jason Birchard, Dan
16 Pesarchick, John Turcsik, Shawn Solomon, Todd
17 Mulvaney, and Bryant Carnicelli -- skilled and
18 inspirational mentors, respected for their
19 ability to develop potential into excellence;
20 and

21 "WHEREAS, The hallmarks of the 2006
22 Auburn High School Football Team, from the
23 opening game of the season to participation in
24 the championship, were a brotherhood of hard
25 work, dedication, athletic ability, good

1 sportsmanship, honor and scholarship,
2 demonstrating that these team players are
3 second to none; and

4 "WHEREAS, Athletically and
5 academically, the team members have proven
6 themselves to be an unbeatable combination of
7 talents, reflecting favorably on Auburn High
8 School; and

9 "WHEREAS, Coach Dave Moskov and his
10 dedicated staff of assistant coaches, along
11 with Athletic Director Tamela Ray, have done a
12 superb job in guiding, molding and inspiring
13 the team members toward their goals; and

14 "WHEREAS, Sports competition
15 instills the values of teamwork, pride and
16 accomplishment, and the 2006 Auburn High
17 School Football Team's outstanding athletes
18 have clearly made a contribution to the spirit
19 of excellence which is a tradition of Auburn
20 High School; now, therefore, be it

21 "RESOLVED, That this Legislative
22 Body pause in its deliberations to
23 congratulate the 2006 Auburn High School
24 Football Team, its members -- Michael
25 Fandrich, Ed Charles, Andrew Rotko, Darnell

1 Murphy, Brandon DeBagio, Cruz Johnson, Chris
2 Gomez, John Ravenell, Jeff Richardson, Drew
3 Pappert, Matt Hoey, Ray Richardson, Anthony
4 Adams, Mark Green, Quendel Ellison, Cody
5 Duncan, BJ Simmons, Ryan Button, Dominique
6 Sedlak, Tom Cooper, Colin Parry, Ryan
7 Hutchings, Mark Leonello, Dan Rivera, Mitul
8 Patel, Emmett McNabb, Steve Carroll, Eric
9 Miller, Taylor Rosekrans, Nick Lepak, John
10 Hassan, Matt Vozga, Pat Patterson, Stefan
11 Nguyen, Rob Miller, Brandon Tape, Mark
12 Comstock, Mike Bajanen, and Josh Gleason --
13 and Coach Dave Moskov; his assistant coaches,
14 Matt Moskov, Don Patchett, Mike Pesarchick,
15 Jason Birchard, Dan Pesarchick, John Turcsik,
16 Shawn Solomon, Todd Mulvaney, and Bryant
17 Carnicelli; Athletic Director Tamela Ray;
18 Principal David Roth and Superintendent John
19 Plume on their outstanding season and overall
20 team record; and be it further

21 "RESOLVED, That copies of this
22 resolution, suitably engrossed, be transmitted
23 to the members of the Auburn High School
24 Football Team and to Coach Dave Moskov."

25 ACTING PRESIDENT WINNER: Senator

1 Nozzolio, on the resolution.

2 SENATOR NOZZOLIO: Thank you,
3 Mr. President.

4 Mr. President and my colleagues, I
5 have often stood in this chamber, from this
6 chair, talking about a variety of issues and
7 often even recognizing the accomplishments of
8 great New Yorkers. But nothing has given me
9 more pride and happiness than to stand before
10 you on this great day to congratulate a team
11 that has captured the spirit of the Auburn
12 community and has become, against all odds,
13 the New York State Football Champion Class AA.

14 This headline certainly says it
15 all: "Champions." They are champions in
16 every sense of the word. And to have them
17 come now to this state capital to recognize
18 them for their accomplishment gives us all
19 great pride.

20 It's hard to envision how the
21 coaches and the administration have done such
22 a fantastic job in molding not just
23 championship athletes but championship
24 gentlemen. That's the bottom line in the
25 great educator that our athletic system is,

1 that these gentlemen have been representative
2 of our community, the Auburn community, and
3 have done so with great distinction.

4 My hat's off to the coaching staff
5 and Coach Dave Moskov, the head varsity coach;
6 Matt Moskov, assistant varsity coach; and
7 Donald Patchett, assistant varsity coach.
8 With them, the rest of the coaching staff:
9 Mike Pesarchick, Jason Birchard, and John
10 Turcsik.

11 A great day for the Moskov family,
12 as you heard me mention not one but two of the
13 Moskovs who are part of the coaching staff.
14 My hat's off to Dave. I have a younger
15 brother Matthew, and I don't think I could
16 ever be a coach with him, even though we love
17 each other a great deal. That certainly is a
18 tribute to your great energy and enthusiasm.

19 And I am very pleased to also note
20 that two people very responsible for these
21 great coaches are here today. Mary Lou and
22 Charlie Moskov, who are from Senator Farley's
23 district, are joining us in celebration of
24 this wonderful achievement of the community of
25 Auburn and the Moskov family individually.

1 I'd also like to thank
2 Superintendent of Schools John Plume, David
3 Roth, who's principal of Auburn High School,
4 and already mentioned but should be mentioned
5 again, Tamela Ray, the athletic director and
6 head of physical education at the school.

7 A few years ago John and Tamela and
8 I worked out how to help some young people get
9 involved in sports camps. And that effort,
10 through scholarships, I know has paid off not
11 just in better athletes but in better
12 citizens, and for that I thank you.

13 Also, Mike Stearns has taken time
14 out of his busy schedule as president of the
15 Board of Education to be with us today. Peter
16 Tortorici, who's a county legislator
17 representing the City of Auburn, is also here
18 with us.

19 And that I'm very, very pleased
20 that the community, over 10,000 -- and I think
21 estimates are between 11,000 and 12,000; I
22 think it was more like 15,000 people -- came
23 from Auburn to cheer on the Maroons during the
24 championship game at the Carrier Dome.

25 My only regret is that our team had

1 to beat Monroe-Woodbury, represented by my
2 good friend Senator (Colonel) Bill Larkin.
3 But in the spirit of good sportsmanship, Bill
4 Larkin also is here today to congratulate this
5 great team.

6 And, Bill, your team was certainly
7 a wonderful adversary. It was one of the
8 greatest not just high school games, the state
9 championship final, that I've ever seen, but I
10 daresay one of the most exciting athletic
11 contests I've ever had the honor of
12 witnessing.

13 That this team broke
14 Monroe-Woodbury's 24-game winning streak,
15 something that was again part of the
16 Cinderella story. That teamwork, the spirit
17 of cooperation, not individual accomplishment
18 but team accomplishment was what was the
19 hallmark of this great team.

20 That the game was won by an extra
21 point, by an extra point in overtime, by a
22 kicker who was kicking with a broken arm.
23 What great spirit. Matt Hoey, his kick won
24 the game, but it was the spirit of that team
25 that carried the ball over the uprights for

1 that winning point.

2 Assemblyman Gary Finch is here with
3 us as well. He honored the team earlier in
4 the State Assembly Chamber. And I thank Gary
5 for his continued support.

6 He and I were in the stands
7 together, with Superintendent Plume. We're
8 still hoarse a little bit, even though it was
9 in November. But I cannot say that there has
10 been any team that has brought together a real
11 spirit of the community like the Auburn
12 Maroons' 2006 championship effort. For that,
13 I know we are very, very grateful.

14 I'm also grateful to my colleague
15 Senator Valesky, who also represents part of
16 the Auburn School District, who is a cosponsor
17 of this resolution and helped us in honoring
18 the team.

19 Mr. President, this is one great
20 group of young people. It's wonderful to see
21 you in the chair, Lieutenant Governor, because
22 I know you share this type of spirit that this
23 great group of young people brought to a
24 beautiful city, the city of Auburn.

25 Thank you very much.

1 THE PRESIDENT: Senator Farley,
2 on the resolution.

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

5 I rise to congratulate this
6 magnificent championship team and congratulate
7 Dave Moskov, who not only comes from my
8 district but graduated from Niskayuna High
9 School, along with his brother Matt and a
10 third brother also. I think you went to
11 Albany State and played football for Niskayuna
12 in Albany. But we're so honored at what you
13 have accomplished.

14 Let me just say something. Your
15 mom and dad are right over here, Charlie and
16 Mary Lou, who have been dear, dear friends of
17 mine and made it possible for me to get
18 elected so many times.

19 But let me just say something about
20 this team. It's outstanding. My wife,
21 Sharon, was born and raised in Auburn and was
22 very excited about this. And if there's any
23 Irish-Americans up there on that team, you're
24 probably related to my wife, because she's
25 related to everybody in Auburn of that ilk.

1 But we're delighted and
2 congratulate you all. This is a magnificent
3 win. It's a credit to you. And it's truly
4 something when you're the state champion and,
5 as Senator Nozzolio said, in such an exciting
6 way to break a streak that you did. That
7 really takes some accomplishment, and Auburn
8 should be very proud of what you have done.

9 And I know that we here in the
10 Senate are very proud of this fine group of
11 young men; we wish you well. Congratulations.

12 THE PRESIDENT: Senator Valesky.

13 SENATOR VALESKY: Thank you,
14 Mr. President.

15 Senator Nozzolio and I are
16 certainly honored to have the opportunity to
17 represent the young people who are here with
18 us, the champions, the Class AA State Football
19 Champions, the Auburn Maroons.

20 And Senator Nozzolio talked about
21 that exciting championship game that actually
22 culminated the end of a six-game winning
23 streak in post-season. And it is certainly
24 the stuff of which movies are made.

25 Their presence in the playoff

1 itself was certainly about dreams and hopes
2 and aspirations, because throughout the
3 regular season it was very unclear as to
4 whether they were going to make the playoffs.
5 And it tells us here in this chamber and
6 around the state that when you get a second
7 chance, you make the most of it.

8 And the Auburn Maroons got that
9 second chance, and they never looked back --
10 game after game, for six consecutive games,
11 leading to that 27-26 victory in the Carrier
12 Dome and the state championship. They were
13 able to do what so many high-schoolers across
14 the state of New York worked for so hard, but
15 obviously there can be only one champion.

16 And it's remarkable, the following
17 several weeks -- and it continues to go on --
18 the community spirit that followed that team
19 throughout the course of the season into the
20 playoffs and continues to this day, bringing
21 the community together.

22 And I know that our young people
23 here today were playing on that football field
24 and doing the things that their coaches and
25 their parents had taught them to do. Little

1 did they know how they would bring a community
2 together, and that's exactly what has
3 happened.

4 So for the first time in the
5 history of Auburn football, they are state
6 champions. But I know that while they are
7 graduating a handful of seniors, many of them
8 will be back next year on the gridiron and
9 perhaps -- just perhaps, Senator Nozzolio --
10 may be back in this chamber next year as well.

11 So, Mr. President, if you would
12 certainly convey your congratulations as well.
13 I thank Senator Nozzolio, Assemblyman Finch,
14 and, most importantly, congratulate the
15 members of the Auburn Maroons football team,
16 their coaches, their parents, and the entire
17 community on a job well done.

18 THE PRESIDENT: The question is
19 on the resolution. All in favor please
20 indicate by saying aye.

21 (Response of "Aye.")

22 THE PRESIDENT: There is no
23 question.

24 Senator Larkin.

25 SENATOR LARKIN: Thank you,

1 Mr. President.

2 You know, to the winning football
3 team, congratulations. Not just from our
4 sports department, but from our community,
5 many of them. I didn't go because I couldn't,
6 but I saw the film. You folks played a great
7 game. You were well-coached. You were
8 disciplined, as Coach Pat said.

9 The discipline, the excitement, and
10 the tension was great. When you lose, and you
11 lose by one point, that's heartbreaking.
12 Also, you broke their back. They won
13 24 straight games, and that is something in
14 this state.

15 But as our quarterback,
16 Mr. Sullivan, said, you know, it gave us the
17 strength to look at next year. They did it
18 two years in a row to go to the Dome. People
19 will never forget it. Neither will you.

20 You'll go back and start, in
21 another month or two, conditioning and all
22 those other things that are essential to be a
23 great team. But your coaches -- and, you
24 know, sometimes you ought to just step back,
25 as I told our guys last year, and think about

1 your parents. Some of them made sacrifices,
2 running to jobs, running to a game, running to
3 a practice, meeting you here, meeting you
4 there, and always being there to give you that
5 moral support. They encouraged you.

6 Your coaches. For what they went
7 through this year, it's a wonder they don't
8 have stress, heart, or something else failure
9 because of the pressure put on to make you
10 understand that you had the ingredients to be
11 the number-one team in the state of New York.
12 And you produced that.

13 And on behalf of the
14 Monroe-Woodbury community, I say
15 congratulations. We will be like Leo Derocher
16 used to always say: "Wait till next year."

17 Thank you.

18 THE PRESIDENT: Thank you,
19 Senator Larkin.

20 Does any other Senator wish to
21 speak on the resolution?

22 That being the case, the question
23 arises on the resolution. All those in favor
24 please indicate by saying aye.

25 (Response of "Aye.")

1 THE PRESIDENT: Those opposed,
2 nay.

3 (No response.)

4 THE PRESIDENT: The resolution
5 carries.

6 To the state champions, the Auburn
7 High School Maroons, our warmest
8 congratulations. Dave Moskov and all of the
9 members of the team who won 24 straight games
10 who now have this great winning streak and
11 have become state champions.

12 We here in the Senate, on behalf of
13 the Majority Leader, Senator Bruno, not only
14 admire you but strive to try to maintain the
15 same excellence right here in our
16 deliberations as you exhibited on the football
17 field.

18 Congratulations, and on behalf also
19 of Senator Nozzolio, who sponsored this
20 resolution, and Senator Valesky, who
21 cosponsored it. For Senator Farley and
22 Senator Larkin's words, they just echo the
23 feelings of all of us Senators and all of us
24 who are here today as we pay honor to your
25 great achievement.

1 Congratulations.

2 (Extended applause.)

3 THE PRESIDENT: The chair
4 recognizes Senator Skelos.

5 SENATOR SKELOS: Mr. President,
6 there is a resolution at the desk by Senator
7 Sampson. Could we have the title read and
8 move for its immediate adoption.

9 THE PRESIDENT: The Secretary
10 will read.

11 THE SECRETARY: By Senator
12 Sampson, Legislative Resolution Number 233,
13 mourning the death of Carlos Lezama, founder
14 and President Emeritus of the West Indian
15 American Day Carnival.

16 THE PRESIDENT: The question is
17 on the resolution. All those in favor please
18 indicate so by saying aye.

19 (Response of "Aye.")

20 THE PRESIDENT: All opposed, nay.

21 (No response.)

22 THE PRESIDENT: The resolution is
23 adopted.

24 Senator Skelos.

25 SENATOR SKELOS: Mr. President,

1 if we could go to the noncontroversial reading
2 of the calendar.

3 THE PRESIDENT: The Secretary
4 will read.

5 THE SECRETARY: Calendar Number
6 14, by Senator Bruno, Senate Print Number 2,
7 an act to amend the State Finance Law.

8 SENATOR DUANE: Lay it aside,
9 please.

10 THE PRESIDENT: The bill is laid
11 aside.

12 THE SECRETARY: Calendar Number
13 15, by Senator Bruno, Senate Print Number 3,
14 concurrent resolution of the Senate and
15 Assembly proposing amendments to Article 7 of
16 the Constitution.

17 THE PRESIDENT: On the
18 resolution, all those in favor please indicate
19 by saying aye.

20 (Response of "Aye.")

21 THE PRESIDENT: All those
22 opposed.

23 (No response.)

24 THE PRESIDENT: One-nothing. It
25 carries.

1 The Secretary will call the roll on
2 the resolution.

3 (The Secretary called the roll.)

4 THE PRESIDENT: Senator Duane, to
5 explain his vote.

6 SENATOR DUANE: Thank you,
7 Mr. President.

8 I just want to remind all of my
9 colleagues that this resolution has passed
10 this house unanimously in the past.

11 Thank you, Mr. President.

12 THE PRESIDENT: Senator Duane
13 will be recorded in the affirmative.

14 Announce the results.

15 THE SECRETARY: Ayes, 55.

16 THE PRESIDENT: The resolution is
17 adopted.

18 THE SECRETARY: Calendar Number
19 26, by Senator Larkin, Senate Print 201, an
20 act to amend the Civil Practice Law and Rules,
21 in relation to authorizing.

22 THE PRESIDENT: Last section.

23 THE WITNESS: Section 2. This
24 act shall take effect immediately.

25 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 55.

3 THE PRESIDENT: The bill is
4 passed.

5 THE SECRETARY: Calendar Number
6 30, by Senator Maziarz, Senate Print 253, an
7 act to amend the Penal Law, in relation to
8 killing or injuring a police animal.

9 THE PRESIDENT: The Secretary
10 will read the last section.

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

14 THE PRESIDENT: Call the roll.
15 (The Secretary called the roll.)

16 THE PRESIDENT: Results.

17 THE SECRETARY: Ayes, 54. Nays,
18 1. Senator Montgomery recorded in the
19 negative.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 33, by Senator Golden, Senate Print 454, an
24 act to amend the Criminal Procedure Law, in
25 relation to eliminating.

1 THE PRESIDENT: Last section.
2 THE SECRETARY: Section 2. This
3 act shall take effect immediately.
4 THE PRESIDENT: Call the roll.
5 (The Secretary called the roll.)
6 THE SECRETARY: Ayes, 55. Nays,
7 1. Senator Montgomery recorded in the
8 negative.
9 THE PRESIDENT: The bill is
10 passed.
11 THE SECRETARY: Calendar Number
12 34, by Senator Saland, Senate Print 748, an
13 act to amend the Penal Law, in relation to
14 disseminating.
15 THE PRESIDENT: Read the last
16 section.
17 THE SECRETARY: Section 2. This
18 act shall take effect immediately.
19 THE PRESIDENT: Call the roll.
20 (The Secretary called the roll.)
21 THE PRESIDENT: Senator Saland,
22 to explain his vote.
23 SENATOR SALAND: Thank you,
24 Mr. President, to explain my vote.
25 Mr. President, this bill is a bill

1 which is intended to deal with a situation
2 under the existing law with respect to
3 dissemination of indecent materials to
4 children.

5 We believe that the law as it
6 currently stands adequately handles the
7 distinction that some have attempted to make
8 between images -- i.e., pictures, things that
9 can be forwarded across an Internet to a
10 child -- and words, or mere words.

11 In the society in which we live,
12 the use of computers is not merely increasing
13 but certainly over a period of time you could
14 say has been burgeoning. And with this
15 increasing use, there are far more numbers of
16 crimes involving computers and children, and
17 there are pedophiles who troll the Internet,
18 attempting to lure children into their web.

19 This bill makes it perfectly clear
20 that regardless of whether those pedophiles,
21 those sexual predators who seek to lure these
22 children into their web, as I said before, and
23 seek to engage them in the most heinous of
24 crimes, that it's perfectly clear that there
25 is no distinction between words and images.

1 And while we do not believe that
2 that distinction necessarily exists, there is
3 a case currently on appeal in the Court of
4 Appeals in which that very question is before
5 the court. The case will not be heard for a
6 matter of months, will not be decided probably
7 for two to three months thereafter. So during
8 the pendency of that particular case, we think
9 it's critically important to resolve that
10 issue to the satisfaction of everybody by
11 passing this legislation.

12 I'm told that the version of this
13 bill which is identical, carried by
14 Assemblywoman Paulin, is currently on the
15 Codes agenda and will be coming out in the
16 Assembly as well.

17 Thank you, Mr. President. I very
18 much am in support of this bill and certainly
19 would reasonably hope and expect that all of
20 my colleagues would be as well.

21 THE PRESIDENT: The chair regards
22 that as an explanation.

23 Read the last section.

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

1 THE PRESIDENT: Call the roll.

2 (The Secretary called the roll.)

3 THE PRESIDENT: Results.

4 THE SECRETARY: Ayes, 55. Nays,

5 1. Senator Duane recorded in the negative.

6 THE PRESIDENT: The bill is
7 passed.

8 Senator Bruno, that completes the
9 noncontroversial calendar.

10 SENATOR BRUNO: Mr. President,
11 can we at this time have the reading of the
12 controversial calendar.

13 THE PRESIDENT: The Secretary
14 will ring the bells.

15 We will now read the controversial
16 calendar, give the members a moment to
17 reassemble.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 14, by Senator Bruno, Senate Print Number 2,
21 an act to amend the State Finance Law, in
22 relation to submission of budget bills.

23 THE PRESIDENT: Senator Krueger.

24 SENATOR LIZ KRUEGER: Thank you,
25 Mr. President.

1 I believe there's an amendment --
2 I'd like to waive explanation of the bill, if
3 that's all right with my colleagues. But I
4 would like to recognize an amendment at the
5 desk, waive reading of the amendment, and be
6 heard on my amendment on this bill.

7 THE PRESIDENT: The amendment is
8 waived.

9 Senator Krueger, on the amendment.

10 SENATOR LIZ KRUEGER: Thank you,
11 Mr. President.

12 This bill is broken into five
13 parts, and my amendment today is an attempt to
14 improve on Sections 1, 2, and 3.

15 Of course, this bill was written
16 pre the three-way agreement on budget reform
17 that this house already proudly passed and
18 that the Governor has already signed into law.
19 So I will just start off by stating this bill
20 somewhat is a little bit duplicative of some
21 of the things we can already say we did and
22 passed into law.

23 But Sections 1, 2, and 3 of this
24 bill address breaking out broad, lump-sum
25 economic development grants and other monies

1 in the budget for itemization and review and
2 approval by the Senate.

3 My amendment, which I like to think
4 of as a friendly amendment, would ensure that
5 we make this retroactive to previous
6 appropriations of previous budget years that
7 are technically sitting in various funds
8 throughout the budget and are reappropriated
9 every year.

10 And as we move forward with the
11 goal of transparency and being able to itemize
12 out and see how we are spending the people's
13 money, I think we should include all the
14 monies and reappropriations as well.

15 So in this amendment, I would
16 adjust the bill such that economic development
17 capital programs totaling over \$3.1 billion,
18 which have been appropriated between 1997 and
19 through today, which were included in the
20 budget or budget cleanup bills but have yet
21 necessarily to be spent, would be included in
22 this bill.

23 These capital spending programs are
24 subject within memorandums of understanding
25 between the Executive, the Senate Majority,

1 the Assembly Majority, and include such
2 programs as funds invested in Community
3 Enhancement Facilities Assistance Programs,
4 CEFAP; the Strategic Investment Program, SIP;
5 Community Capital Assistance Program, CCAP;
6 and the Empire Opportunity Fund, EOF.

7 Currently no transparency yet
8 exists for these programs, which have created
9 a situation where capital programs that have
10 been approved through previous years' budgets,
11 with billions of dollars in monies
12 appropriated, have been voted on by the
13 Legislature even though the legislators have
14 often been unable to explain for what purpose
15 these sums were or are to be used. And these
16 monies have not yet been spent.

17 These details are particularly
18 important, since almost all these funds have
19 been administered by off-budget,
20 quasi-governmental corporations and
21 authorities such as the Empire State
22 Development Corporation, the Dormitory
23 Authority, et cetera.

24 In essence, these capital programs
25 have functioned as slush funds, created with

1 no accountability or documentation. In fact,
2 it's almost impossible, even if you were to
3 ask the Comptroller's office, to track how
4 these monies have been spent, whether they've
5 been spent, or where they were spent. It is
6 almost impossible for the Comptroller's office
7 to ever get you that information until years
8 after the monies are spent and the projects
9 are, quote, unquote, complete.

10 There's no opportunity for public
11 scrutiny. And that is, in fact, the point I
12 believe of this bill, to increase public
13 scrutiny and transparency. So this amendment
14 would require that any single grant provided
15 to a recipient pursuant to a memorandum of
16 understanding or any segregation of lump-sum
17 appropriations greater than \$250,000 contained
18 in the state budget would require a second
19 passage by each house of the Legislature.

20 Thank you, Mr. President.

21 The amendment also includes a
22 requirement that any single grant provided to
23 a recipient pursuant to a memorandum of
24 understanding or any segregation of lump-sum
25 appropriation less than 250,000 that does not

1 specify the project being funded, the
2 selection criteria and the parties involved in
3 the selection process, and the amount of the
4 appropriation, must be posted on the Senate
5 and the Assembly websites.

6 So a further review for
7 expenditures greater than \$250,000 by the
8 Legislature, and a more detailed explanation
9 made available to the public for expenditures
10 less than \$250,000.

11 Again, in my amendment to the bill,
12 it would also require that information be
13 posted no less than 30 days prior to the
14 release of the funds to the appropriate state
15 agency.

16 The amendment would also require
17 all information related to MOUs or lump sum
18 capital appropriations be made to the public
19 through the state's Freedom of Information
20 Law, and the information must contain details
21 regarding the program or project being funded,
22 how it was selected to receive funding, the
23 parties involved in the selection process, and
24 the dollar amount of the appropriation.

25 This bill is about transparency and

1 open government. And I would like to share
2 with my colleagues my belief that my amendment
3 would expand on the transparency to cover
4 everything. And if that's our goal, that's
5 how we should move forward, covering all the
6 items in the budget, including billions of
7 dollars of taxpayers' money that have been
8 allocated in previous years but are
9 technically still waiting to be spent.

10 Thank you, Mr. President.

11 THE PRESIDENT: Thank you,
12 Senator.

13 On the amendment, all those in
14 agreement with the amendment please indicate
15 so by raising your hands, so that the
16 Secretary may acknowledge you.

17 THE SECRETARY: Those recorded in
18 agreement are Senators Breslin, Diaz, Dilan,
19 Duane, Gonzalez, Hassell-Thompson, Huntley,
20 Klein, L. Krueger, Montgomery, Onorato,
21 Oppenheimer, Parker, Perkins, Sabini, Sampson,
22 Schneiderman, Serrano, Smith, Stachowski,
23 Stavisky, Stewart-Cousins, Thompson and
24 Valesky.

25 THE PRESIDENT: For the purpose

1 of the amendment, there is no agreement.

2 The Senate will now deliberate on
3 the bill and recognize Senator Bruno.

4 SENATOR BRUNO: Thank you,
5 Mr. President and colleagues.

6 Senator Krueger, I was listening
7 with great interest to your explanation of
8 this proposed amendment. Understand that your
9 support in passing the itemization bill that's
10 before us makes all of that totally
11 unnecessary. All of it.

12 Why? Because we are talking about,
13 and this is important, itemizing every single
14 dollar of taxpayer money that is spent in the
15 budget process. You don't have to FOIL
16 anything. You don't have to disclose
17 anything. If it's going to be budgeted, it
18 will be line-itemed in the budget. That is
19 complete and total itemization.

20 Now, we advocated for this when we
21 did the budget reform bill with the Governor
22 and with the Speaker. And we as colleagues
23 were proud to partner with Governor Spitzer
24 and Speaker Silver.

25 And we have a bill in budget reform

1 that we've worked on in this house for twenty
2 years that is extremely meaningful in moving
3 the process forward, but it does not line-item
4 every dollar in the budget. We want the
5 Executive to line-item every dollar, just as
6 the Legislature does. We want the Judiciary
7 to line-item every dollar in their
8 multi-billion-dollar public expenditure. We
9 want the agencies to line-item. We want the
10 authorities to line-item.

11 Now, there isn't anyone, I would
12 think, that can argue with that conceptually.
13 If you're going to be open and public with the
14 taxpayers' money, well, then, let's do it all.
15 That's what this itemization bill is about.

16 We're going to companion this with
17 second passage of the resolution on the
18 budget. We all gave first passage two years
19 ago. Second passage this afternoon takes the
20 resolution to the voters in November.

21 What does that do? It puts the 212
22 legislators back in the budget process from
23 the get-go. As you know, with the court
24 decision they sort of brought us out of the
25 budget process initially. That resolution

1 will bring us back into it as an equal branch
2 of government. We are one of the three
3 branches of government.

4 So, Mr. President, I would
5 appreciate the support of our colleagues for
6 itemization. So if you are for full
7 disclosure of every dollar that you vote to
8 spend on behalf of the taxpayers of this
9 state, then you will be supportive of the
10 itemization concept presented in this bill.

11 Thank you, Mr. President.

12 THE PRESIDENT: Senator
13 Stachowski.

14 SENATOR STACHOWSKI: Mr.
15 President, I would like to know if Senator
16 Bruno would yield for one question.

17 THE PRESIDENT: Senator Bruno.

18 SENATOR BRUNO: Yes,
19 Mr. President. If it's an easy question.

20 SENATOR STACHOWSKI: It's an easy
21 question, Senator. And I didn't want to stand
22 up while you were speaking, because I wanted
23 you to finish.

24 But in the bill you have a section
25 that takes away the oversight of the PACB.

1 And everything is line-itemed, so it really
2 wouldn't make any difference if there's a
3 little more oversight.

4 And when we're talking about the
5 large numbers that we have, then the question
6 is then if they're not overseeing things, are
7 they still going to be in existence? Because
8 I know they play a useful purpose, especially
9 in refinancing certain items, et cetera, when
10 economic conditions dictate it.

11 So my question is, why would we
12 take out that oversight and, two, will they
13 still have a purpose?

14 SENATOR BRUNO: Thank you very
15 much for that observation. This does
16 eliminate the PACB. And it does it because it
17 would truly be unnecessary conceptually.

18 The PACB went in in the '70s to
19 create oversight and double scrutiny of public
20 money. And at that time it served a purpose
21 because the State and the City were under
22 great stress.

23 But if you think of the process, we
24 budget presently in lumps in capital, as we
25 did last year. And then many of those lumps,

1 when they become specific, must go before the
2 PACB. And the PACB must act unanimously with
3 three votes -- one by the Executive, one by
4 the Senate, and one by the Assembly.

5 One dissenter, one doesn't show up,
6 the budgeted item that we all passed doesn't
7 become reality.

8 And again, it served a purpose; it
9 doesn't serve a purpose anymore.

10 And especially if you have every
11 dollar outlined, as this legislation would
12 call for, well, then, you're voting on that
13 specifically. It would be extremely redundant
14 to bring it back before the PACB and, after we
15 all agree, for me or the Speaker or the
16 Governor to say, "That 20 million isn't
17 moving. The other billion or half a billion
18 can move, but that isn't going to move." One
19 person. Not 212, one.

20 So what we're saying is let's
21 empower the Legislature with what we're doing,
22 because the PACB just doesn't serve a purpose.
23 I've discussed this with the Governor. I
24 thought that we had some agreement, but I
25 won't speak for him because I think they may

1 be approaching it in a different way. And I
2 guess that will be remaining to be seen.

3 But thank you for reminding me that
4 is in this legislation and for those reasons.

5 Thank you.

6 THE PRESIDENT: Senator
7 Montgomery.

8 SENATOR MONTGOMERY: Yes,
9 Mr. President. I certainly appreciate the
10 fact that the Majority Leader has given us
11 legislation where he attempts to create more
12 oversight and more in-depth oversight.

13 But I note that on the other hand,
14 one of the projects in fact that was recently
15 voted on by the PACB was in my district. It's
16 the Atlantic Yards project. And yes, the
17 Atlantic Yards project was part of a lump, I
18 believe, but it was lined out. We knew that
19 it was for the project and how much,
20 100 million from us; another 140 or so million
21 from the city and what have you.

22 But we did not know, as was
23 promised to the community, that it was going
24 to cost \$100,000 to rent the stadium, the
25 arena. And we did not know that the tickets

1 would go up to over \$900 per seat in that
2 arena. So a number of people -- and we also
3 assumed that there were going to be jobs,
4 which we now find there are not going to be.

5 So that kind of information is
6 never in a form where we, the Legislature, can
7 actually see and require that that project
8 present to us those details, but the PACB can.

9 And so, Mr. President, I am going
10 to oppose this, because we're not talking
11 about small projects. These are huge capital
12 projects, and much of this capital outlay is
13 backed up by the good faith credit of the
14 State of New York. And I think we should make
15 every single effort to make sure that at every
16 point we scrutinize these projects very, very
17 carefully.

18 And I'm happy -- even though I do
19 not appreciate the vote that the PACB took on
20 Atlantic Yards, I still feel a level of
21 comfort that they are there. And if they
22 wanted to, they could have done much more
23 scrutiny on this project and perhaps the vote
24 would have been different in this case.

25 So I am going to oppose this simply

1 because -- not because I don't want to support
2 what the Majority Leader is trying to do, but
3 I do think that we should not be eliminating
4 this level of scrutiny of these projects that
5 cost ultimately the State of New York hundreds
6 of billions of dollars.

7 So I'm voting no, Mr. President.
8 Thank you.

9 THE PRESIDENT: Senator
10 Marcellino.

11 SENATOR MARCELLINO: Thank you,
12 Mr. President. I appreciate permission to
13 speak.

14 Senator Bruno, thank you for
15 bringing this very fine bill to the floor. It
16 is timely. It is important in the concept of
17 the Legislature being accountable and that the
18 Legislature -- both houses being equal
19 partners with the Governor in this state in
20 producing a budget.

21 It is very difficult to go back to
22 your constituents after a budget is passed and
23 then have a group of three individuals say no,
24 where one person can simply say no to what the
25 Legislature has passed. How do you explain

1 that in your district? Well, X didn't think
2 it was a good idea, even though both houses
3 passed the bill and both houses said it was
4 okay.

5 Here we have a piece of legislation
6 that not only lines out what we want, what the
7 Legislature wants to spend, but in every way
8 what the Governor also wants to spend. That's
9 new. That's different.

10 The public can now see, in total
11 and complete openness, what we are doing here.
12 All they have to do is punch a few buttons on
13 a computer and bring up the budget and
14 everything is there, everything is in front of
15 them, everything is open. And if they want to
16 ask you a question, they can, and they would.

17 Under the prior issue, there was no
18 way to argue, there was no way to point that
19 out, there was no way for the general public
20 to find anything out. Now, under this piece
21 of legislation, we are empowering the public
22 to hold their government accountable. I don't
23 know what we could do more as far as openness.

24 I do not like some group with an
25 acronym, and no one knows what they are or no

1 one knows who they are, and they who don't
2 have to answer to anyone, that they can stop
3 the will of this Legislature. I find that
4 absolutely against the democratic principles
5 we stand for here and the good government
6 principles we stand for here.

7 So once again, Senator Bruno, thank
8 you for this bill. This is a good one. We're
9 going to move forward on this issue. I hope
10 the other house picks it up and passes it as
11 well. This is an imperative. We need this
12 kind of legislation.

13 I want to be able to go back to my
14 constituents and say, If you want to know
15 what's in the budget, all you have to do is
16 pull up the budget, we can show you how, and
17 there it is. You can make your own decisions,
18 you don't have to worry about anybody else
19 translating it for you, it's there.

20 This bill does that. We should
21 encourage more of this. Thank you again. I
22 intend to vote aye. I urge everybody here to
23 vote aye on this particular piece of
24 legislation. And then, once it's done,
25 contact the other house and get them to pick

1 it up as well.

2 Thank you.

3 THE PRESIDENT: Thank you,
4 Senator Marcellino.

5 The chair recognizes Senator
6 Stewart-Cousins.

7 SENATOR STEWART-COUSINS: Thank
8 you, Mr. President.

9 I believe there's an amendment at
10 the desk, and I ask that the reading of the
11 amendment be waived and that I be heard on the
12 amendment.

13 THE PRESIDENT: Reading of the
14 amendment is waived.

15 Senator Stewart-Cousins, on the
16 amendment.

17 SENATOR STEWART-COUSINS: Thank
18 you, Mr. President.

19 Once again I rise to speak on the
20 member item issue. And certainly we have
21 begun, I think, a wonderful process in terms
22 of becoming more transparent and really
23 letting the taxpayers, our constituents, know
24 what member items and what budgeted items
25 New York State intends to pay for.

1 What my amendment would do, I
2 think -- and again, if it's already being
3 done, then I certainly don't want to advance
4 the amendment. But what I would like to see
5 is, once we have the line-item member items,
6 that whether or not the Senator remains in
7 office the item continues to stand.

8 I listened to the Auburn Maroons
9 and the success stories. And think of all the
10 community-based organizations, all of the
11 municipalities who are depending on member
12 items, depending upon the word of their
13 Senator saying that, Oh, yes, absolutely,
14 you'll have your transportation so that you
15 can win those games.

16 And then, for whatever reason, the
17 year is out, the member item's been promised,
18 the team has played, the games have been won,
19 the budget spent, and suddenly, because the
20 member is no longer a Senator, the member item
21 is on hold.

22 So what my amendment would say is
23 that the work that is being done in the
24 communities deserves our support. No one
25 would want to see our Auburn Maroons without

1 because Senator Nozzolio or Senator Valesky
2 for some reason -- hopefully good -- could not
3 continue during the next season. Their games,
4 their commitment deserves to be continued.

5 So I would hope that my colleagues
6 would join me as we illuminate, as we are
7 transparent, as we rededicate ourselves to our
8 constituencies, that when we put something in
9 the budget and it's a line item, it's approved
10 and passed, that it be -- as long as,
11 obviously, things are legal, that it be
12 honored regardless of whether the member
13 continues.

14 Thank you.

15 THE PRESIDENT: All those in
16 agreement with the amendment please indicate
17 by raising your hands.

18 THE SECRETARY: Those recorded in
19 agreement are Senators Breslin, Diaz, Dilan,
20 Duane, Gonzalez, Hassell-Thompson, Huntley,
21 Klein, L. Krueger, Montgomery, Onorato,
22 Oppenheimer, Parker, Perkins, Sabini, Sampson,
23 Savino, Schneiderman, Serrano, Smith,
24 Stachowski, Stavisky, Stewart-Cousins,
25 Thompson and Valesky.

1 THE PRESIDENT: The amendment is
2 not agreed to.

3 On the original bill sponsored by
4 Senator Bruno, the chair recognizes Senator
5 Liz Krueger.

6 SENATOR LIZ KRUEGER: Thank you,
7 Mr. President. To speak on the bill.

8 In my amendment before I was
9 referencing Sections 1, 2, and 3 of the bill,
10 and now I'd like to talk to you about
11 Section 4, the doing away with the PACB as was
12 described by Senator Bruno.

13 And I have a quandary here, because
14 he makes the argument -- and I accept the
15 argument -- that if all the dollars are laid
16 out in the budget and everything is
17 transparent, then why do you need a PACB?

18 And I was thinking, Well, part of
19 the reason is because public authorities still
20 operate out there quasi-independently of the
21 Legislature, with not nearly enough oversight
22 or accountability, and most of the projects
23 we're talking about end up being very large
24 capital projects.

25 And the question is not just is

1 there X amount of money in the budget, yes or
2 no, and what amount. And yes, Senator
3 Marcellino is correct, in a scenario where
4 everyone could look that up on a computer, you
5 could see the line and the dollar amount.

6 But I would argue, from the
7 perspective of our communities, major capital
8 projects that the state is investing in are
9 much more than just a question of how much
10 money being paid to who. They are questions
11 of what will be the impact of that project on
12 a community. Will there be a combination of
13 state and local and federal dollars, and how
14 will those get played out?

15 If it's a public authority, very
16 often we're looking at the question of land
17 use and possibly eminent domain and the powers
18 that public authorities have to use eminent
19 domain. And I, for one, think we should have
20 more oversight and more discussion before we
21 use that power of government. And that so
22 often ties in with large capital items in our
23 budget.

24 There's also a question of bond
25 financing. So the dollar amount that the

1 state might put into their budget is just a
2 piece of the total financing. But without a
3 PACB -- although I'd argue we have a flawed
4 one and we should improve upon it, not do away
5 with it. But without that process, when will
6 there ever be discussion and oversight and
7 evaluation of all of the pieces?

8 And the fact is the state does bond
9 out large amounts of money that we are legally
10 or morally obligated for through public
11 authority and large capital projects. And
12 then we have public authorities such as IDAs
13 that don't even come under the oversight of
14 the Comptroller's office too often, better yet
15 our ability to take a look at them. And they
16 may be giving out tax exemptions in addition
17 to bond financing, in addition to land use
18 decisions, in addition to eminent domain
19 questions.

20 And even if I was to make the
21 argument, which I suppose would be the
22 alternative, Fine, you don't need a PACB if
23 you do away with all public authorities and
24 everything comes before us here in the
25 Legislature, not just the budget line item,

1 but all those other questions that right now
2 we defer responsibility to public authorities,
3 we could have the choice: No public
4 authorities, we'll do it all, or a better,
5 improved, more careful PACB that includes all
6 public authorities that has a greater number
7 of people participating, a greater number of
8 votes.

9 I share Senator Bruno's concern
10 that if it's just three people and one doesn't
11 show up, you can stop something for an
12 extended period of time. We can improve upon
13 the role of the Public Authority Control
14 Board. We should bring the Comptroller's
15 office into a role in the Public Authorities
16 Control Board, because we're talking about
17 huge amounts of the public's funds -- not just
18 state budget, but bonds and tax exemptions.

19 And I honestly don't think we have
20 the time or the expertise here in the
21 Legislature to spend the amount of time we
22 should to do due diligence for all of these
23 large capital projects throughout the state.

24 And so even though I've had my
25 frustrations with the current PACB -- I have

1 agreed with them on some of the decisions
2 they've made that affect my district; I've
3 disagreed with them on others -- I would argue
4 that the answer is not to do away with the
5 Public Authority Control Board, it is to
6 reconstitute it to cover more things, be more
7 functioning and responsive, not just have
8 three people making the decisions.

9 And so while I agree with some of
10 the bill, and I think my amendment and Senator
11 Stewart-Cousins' amendment earlier would have
12 improved on Sections 1, 2, and 3 on the bill,
13 I have such a problem with Section 4 being in
14 this bill and doing away with the PACB and its
15 responsibilities that I will be voting no
16 because of Section 4.

17 Thank you, Mr. President.

18 THE PRESIDENT: Are there any
19 other Senators that desire to speak on this
20 bill?

21 Then the debate is closed.

22 The Secretary will ring the bell.

23 The Secretary will read the last
24 section.

25 THE SECRETARY: Section 6. This

1 act shall take effect immediately.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE PRESIDENT: Senator

5 Montgomery, to explain her vote.

6 SENATOR MONTGOMERY: Yes,

7 Mr. President, to explain my vote.

8 I certainly -- in the words of one
9 of our great presidents who said about another
10 controversial issue, affirmative action, "Mend
11 it, don't end it," and I think that's the
12 message that I would like to portray here.

13 I think we should look for reform.
14 I like some of the proposals that my colleague
15 Senator Krueger put forth. I think it makes
16 sense. We need to have discussion about it.
17 But certainly as it relates to this size
18 layout of state dollars, taxpayers' funding in
19 the billions of dollars every single year, we
20 should have a higher level of scrutiny.

21 We should be amending this,
22 perhaps, but certainly not ending it. So I'm
23 going to vote no on this.

24 THE PRESIDENT: Senator

25 Montgomery will be recorded in the negative.

1 Senator Stachowski, to explain his
2 vote.

3 SENATOR STACHOWSKI: Mr.
4 President, I rise to explain my vote.

5 Although I agree with most of the
6 bill, and I think it's a great step forward in
7 any kind of reform or continuation of reform
8 discussion with the Assembly, I think that as
9 long as there's public authorities there
10 should be some sort of form of PACB.

11 Whether we adjust that form not to
12 deal with certain line-itemed projects is one
13 thing. But to totally eliminate it, as long
14 as there's public authorities with the ability
15 to bond and spend money, I think we should
16 still have some sort of oversight unit that
17 would guarantee the taxpayers' money and make
18 at least for some public discussion, as people
19 know how to get ahold of members of one house
20 or the other who would then get to their
21 member.

22 And even the Minority members,
23 although they don't have a vote on that
24 particular board, they can discuss and talk
25 about any issue that comes before it during

1 the meeting. And having served in that
2 position, I know that occasionally things are
3 pulled off the floor for a vote after a good
4 discussion and points of concern with a
5 certain project.

6 So even though I feel so strongly
7 about that, I think that since this is just a
8 positioning point, and for the most part I'm
9 in support of a lot of things in this bill, I
10 will vote yes.

11 Thank you.

12 THE PRESIDENT: Senator
13 Stachowski will be recorded in the
14 affirmative.

15 Before we go further, we'd like a
16 little order in the house. The chair had
17 trouble hearing Senator Stachowski.

18 Senator Schneiderman, to explain
19 his vote.

20 SENATOR SCHNEIDERMAN: Thank you,
21 Mr. President.

22 I am really voting no for the same
23 reasons that Senator Stachowski raised,
24 although he is voting yes. I think that the
25 budget process has so many items in it,

1 thousands of items. And if we go through this
2 process, one of the unintended consequences of
3 what I think is a noble effort to provide more
4 transparency is that the budget will be so
5 unwieldy it will be even harder for us to give
6 individual attention to major items of
7 appropriation.

8 And I think some check on the
9 public authorities is still required. And I
10 can say, as one someone who has challenged
11 public authorities in court over
12 appropriations that we felt were not being
13 spent properly, the record developed by the
14 PACB can be quite important.

15 So I think it is an essential
16 element of our checks and balances, and it
17 shouldn't be dismissed so lightly. This idea
18 of having a line item for everything in the
19 budget is a good idea, but it has to be
20 approached realistically. We're not going to
21 get to hold a full hearing on every item in
22 the budget. And I would urge my colleagues to
23 consider the unintended consequences of their
24 actions.

25 For that reason, I'm going to be

1 voting no, Mr. President.

2 THE PRESIDENT: Senator
3 Schneiderman will be recorded in the negative.

4 Senator Hassell-Thompson, to
5 explain her vote.

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

8 I too will be voting no. And I
9 would like to be sure that it is not construed
10 as believing that I am not in agreement with
11 transparency, because that would be absurd.

12 But I am concerned also, as many of
13 my colleagues have stated, is that oversight,
14 which is something that we continue to talk
15 about in these chambers in terms of how we
16 allocate funds and dollars without any
17 monitoring or oversight.

18 So anything that eliminates
19 oversight of significant amounts of dollars in
20 this budget I think would be a disaster and
21 certainly something that I could not support.

22 THE PRESIDENT: Senator
23 Hassell-Thompson will be recorded in the
24 negative.

25 The Secretary will announce the

1 results.

2 Senator Perkins, would you like to
3 explain your vote?

4 SENATOR PERKINS: Yes, I'd like
5 to explain my vote. Thank you so much.

6 THE PRESIDENT: Senator Perkins,
7 to explain his vote.

8 SENATOR PERKINS: I want to
9 associate myself with all those who voted no
10 in terms of especially the democratizing of
11 the PACB as opposed to eliminating it. It
12 seems to me that it has a great value in the
13 process that we're trying to develop in terms
14 of transparency and accountability,
15 particularly on significant projects.

16 And so I would prefer to see us
17 move in a direction of making it more
18 transparent, making it more accountable,
19 making it more useful and available to our
20 communities.

21 And so I want to join those who
22 vote negative with regard to this S2, even as
23 I am very strongly in support of all efforts
24 to be more transparent and to be more
25 accountable and would want to commend the

1 Majority Leader for moving in that direction
2 and just hope that he can move a little
3 further so that it lets us include another
4 instrument that offers us the same
5 opportunity.

6 Thank you.

7 THE PRESIDENT: Senator Perkins
8 will be recorded in the negative.

9 Senator Adams, to explain his vote.

10 (Laughter.)

11 THE PRESIDENT: We have enough
12 people up here with sight problems; we don't
13 need any more.

14 (Laughter.)

15 THE PRESIDENT: Senator Thompson,
16 to explain his vote.

17 SENATOR THOMPSON: Yes,
18 Mr. President. I rise out of concern about
19 the bill, like many of my colleagues,
20 particularly my colleague from Western
21 New York, Senator Stachowski. I do believe
22 that we've taken a step, but I do believe as
23 well we can go a step further.

24 I do also hope that sometime during
25 this session this year that we can look at

1 revisiting this issue, expanding the number of
2 people who are on that board to include the
3 Minority as well from the Assembly, in
4 addition to the Democratic leader in the
5 Senate as well, so that we have greater
6 participation not only from the main leaders
7 but also from the other constituency groups
8 that are in each of the conferences.

9 I also believe as well that we have
10 a responsibility to always give the citizens
11 of the state one last chance when they have
12 issues of concern. I do agree with my
13 colleague Senator Krueger that sometimes
14 people see items in the budget, they may have
15 tried everything they can to get to their
16 member and say that they're displeased with a
17 particular funding request.

18 But the organization, the board,
19 can be the last resort, the last chance to
20 stop a project that may be worthy but may need
21 to be delayed until all the neighborhood and
22 constituency issues are addressed.

23 So I would humbly request that we
24 look at preserving that board but also
25 increasing it by a couple of seats as well.

1 Thank you.

2 THE PRESIDENT: Senator Thompson
3 will be recorded in the negative.

4 The chair advises that if the
5 members speak from their seats, it will be a
6 little easier to recognize them.

7 The Secretary will announce the
8 results.

9 THE SECRETARY: Those recorded in
10 the negative on Calendar Number 14 are
11 Senators Breslin, Hassell-Thompson,
12 L. Krueger, Montgomery, Parker, Perkins,
13 Schneiderman and Thompson.

14 Absent from voting: Senators
15 Connor and C. Kruger.

16 Ayes, 49. Nays, 8.

17 THE PRESIDENT: The bill is
18 passed.

19 That completes the controversial
20 calendar, Senator Bruno, wherever you are.

21 Senator Skelos.

22 SENATOR SKELOS: Mr. President,
23 is there any further business at the desk?

24 THE PRESIDENT: No, there is not,
25 Senator.

1 SENATOR SKELOS: On behalf of
2 Senator Bruno, I hand up committee assignment
3 changes to be filed in the Journal.

4 THE PRESIDENT: To be filed in
5 the Journal.

6 SENATOR SKELOS: There being no
7 further business to come before the Senate, I
8 move we stand adjourned until Tuesday,
9 January 30th, at 3:00 p.m.

10 THE PRESIDENT: On motion, the
11 Senate now stands adjourned until Tuesday,
12 January 30th, at 3:00 p.m.

13 (Whereupon, at 4:21 p.m., the
14 Senate adjourned.)

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