NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 28, 2010

2:45 p.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

ACTING PRESIDENT BRESLIN: The Senate will please come to order.

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

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

ACTING PRESIDENT BRESLIN: In the absence of clergy, may we bow our heads for a moment of silence.

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

ACTING PRESIDENT BRESLIN: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Sunday, June 27, the Senate met pursuant to adjournment. The Journal of Saturday, June 26, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT BRESLIN: 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 Klein.

SENATOR KLEIN: Mr. President, I believe there are substitutions at the desk. I ask that we make the substitutions at this time.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: On page 7, Senator Stavisky moves to discharge, from the Committee on Rules, Assembly Bill Number 3923C and substitute it for the identical Senate Bill Number 1538E, Third Reading Calendar 139.

ACTING PRESIDENT BRESLIN: Substitution ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a resolution at the desk by Senator Savino. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT BRESLIN:

Senator Klein, has this resolution been deemed privileged and submitted to the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Savino, Senate resolution authorizing the Temporary President of the Senate to file an election to make certain officers or employees of the Senate eligible for the retirement incentive offered by Part B of Chapter 105 of the Laws of 2010.

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

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Mr. President, I would ask for unanimous consent to have a fast roll call and a recorded vote on this resolution, please.

ACTING PRESIDENT BRESLIN:

Senator Klein.

SENATOR KLEIN: Mr. President, I have no objection.

ACTING PRESIDENT BRESLIN: The Secretary will call the roll. All Senators wishing to be counted as a no vote on this resolution please raise your hands.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Senate Resolution 6244 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's another resolution at the desk by Senator Savino. I ask that the title of

the resolution be read and move for its immediate adoption.

ACTING PRESIDENT BRESLIN: Senator Klein, has this resolution been deemed privileged and submitted to the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Savino, Senate resolution authorizing the Temporary President of the Senate to file an election to make certain officers or employees of the Senate eligible for the retirement incentive offered by Part A of Chapter 105 of the Laws of 2010.

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

(Response of "Aye.")

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Thank you for

recognizing me, Mr. President.

Could I ask for unanimous consent to have a fast roll call and a recorded vote on this particular resolution?

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I have no objection.

ACTING PRESIDENT BRESLIN:

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Libous.

The Secretary will call the roll. All Senators wishing to be counted as a no vote on this resolution please signify by raising your hand.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Senate Resolution 6245 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell,

Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's another resolution at the desk by Senator Savino. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT BRESLIN: Senator Klein, has this resolution been deemed privileged and submitted to the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Savino, Concurrent Resolution of the Senate and Assembly authorizing the Temporary President of the Senate and the Speaker of the

Assembly to file an election to make certain officers and employees of joint legislative employers eligible for the retirement incentive offered by Part B of Chapter 105 of the Laws of 2010.

ACTING PRESIDENT BRESLIN: The Secretary will call the roll on this concurrent resolution.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Concurrent Resolution Number 6246 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, I

believe Senator Savino has another concurrent resolution at the desk. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT BRESLIN: Senator Klein, has this resolution been deemed privileged and submitted to the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Savino, Concurrent Resolution of the Senate and Assembly authorizing the Temporary President of the Senate and the Speaker of the Assembly to file an election to make certain officers and employees of joint legislative employers eligible for the retirement incentive offered by Part A of Chapter 105 of the Laws of 2010.

ACTING PRESIDENT BRESLIN: The Secretary will call the roll on this concurrent resolution.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

THE SECRETARY: Those recorded in the negative on Concurrent Resolution Number 6247 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, there will be an immediate meeting of the Finance Committee, followed by a meeting of the Rules Committee in the Majority Conference Room.

Pending the return of the Rules Committee, may we please stand at ease.

ACTING PRESIDENT BRESLIN: There will be an immediate meeting of the Finance Committee, followed by an immediate meeting of

the Rules Committee in Room 332.

Pending the return of the Rules Committee, the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:00 p.m.)

(Whereupon, the Senate reconvened at 3:39 p.m.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, if we can briefly return to motions and resolutions.

ACTING PRESIDENT BRESLIN: Returning to motions and resolutions.

SENATOR KLEIN: Mr. President, on behalf of Senator Parker, I wish to call up Print Number 3601C, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 298, by Senator Parker, Senate Print 3601C, an act to amend the Social Services Law.

ACTING PRESIDENT BRESLIN: Senator Klein.

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

ACTING PRESIDENT BRESLIN: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

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

ACTING PRESIDENT BRESLIN: Amendments received.

SENATOR KLEIN: Mr. President, on behalf of Senator Stachowski, I wish to call up Print Number 7865, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 1112, by Senator Stachowski, Senate Print 7865, an act to amend the Executive Law.

ACTING PRESIDENT BRESLIN: Senator Klein.

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

ACTING PRESIDENT BRESLIN: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: Senator Klein.

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

ACTING PRESIDENT BRESLIN: Amendments received.

SENATOR KLEIN: Mr. President, on behalf of Senator L. Krueger, on page 28 I offer the following amendments to Calendar Number 930, Senate Print Number 4778B, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: On behalf of Senator Perkins, on page number 12 I offer the following amendments to Calendar Number 317, Senate Print Number 5057A.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: On behalf of

Senator Savino, on page 17 I offer the following amendments to Calendar Number 547, Senate Print Number 2978A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: Mr. President, can you please recognize Senator Libous.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Fuschillo, on page number 33 I offer the following amendments to Calendar Number 1277, Senate Print 8121, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a report of the Rules Committee at the desk. I move we adopt the report at this time.

ACTING PRESIDENT BRESLIN: There is, Senator Klein, a report of the Rules Committee at the desk.

The Secretary will read.

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

Senate Print 6601A, Senate Budget Bill, an act making appropriations for the support of government: LEGISLATURE AND JUDICIARY BUDGET;

6603B, Senate Budget Bill, an act making appropriations for the support of government: EDUCATION, LABOR AND FAMILY ASSISTANCE BUDGET;

6604B, Senate Budget Bill, an act making appropriations for the support of government: HEALTH AND MENTAL HYGIENE BUDGET;

6607B, Senate Budget Bill, an act to amend the Education Law;

6608B, Senate Budget Bill, an act to amend the Public Health Law;

6610B, Senate Budget Bill, an act to amend the Tax Law;

And Senate Print 8381, from the

Senate Committee on Rules, an act to repeal Section 25-b of Part A of a chapter of the Laws of 2010.

All bills ordered direct to third reading.

ACTING PRESIDENT BRESLIN: All those in favor of adopting the Rules Committee report please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The Rules Committee report is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the supplemental calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 1286, Senate Budget Bill, Senate Print 6601A, an act making appropriations for the support of government: LEGISLATURE AND JUDICIARY BUDGET.

ACTING PRESIDENT BRESLIN: Calendar Number 1286 is high and will be laid aside for the day.

THE SECRETARY: In relation to Calendar Number 1287, Senator C. Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 9703C and substitute it for the identical Senate Bill Number 6603B, Third Reading Calendar 1287.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 1287, Assembly Budget Bill, Assembly Print Number 9703C, substituted earlier, an act making appropriations for the support of government: EDUCATION, LABOR AND FAMILY ASSISTANCE BUDGET.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1288, Senate Budget Bill, Senate Print 6604B, an act making appropriations for the support of government: HEALTH AND MENTAL HYGIENE

BUDGET.

SENATOR STACHOWSKI: Lay it aside.

SENATOR ROBACH: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1289, Senate Budget Bill, Senate Print 6607B, an act to amend the Education Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1290, Senate Budget Bill, Senate Print 6608B, an act to amend the Public Health Law.

SENATOR DIAZ: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1291, Senate Budget Bill, Senate Print 6610B, an act to amend the Tax Law.

ACTING PRESIDENT BRESLIN: The bill is high and is laid aside for the day.

THE SECRETARY: Calendar Number

1292, by the Senate Committee on Rules, Senate Print 8381, an act to repeal Section 25-b of Part A of a chapter of the Laws of 2010.

ACTING PRESIDENT BRESLIN: Calendar Number 1292 is high and is laid aside for the day.

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

SENATOR KLEIN: Mr. President, can we please stand at ease for just a few moments.

ACTING PRESIDENT BRESLIN: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:46 p.m.)

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

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, at this time I would like to call up Calendar Number 1287, Senate Print 6603B on the controversial supplemental calendar.

ACTING PRESIDENT BRESLIN: The Secretary will ring the bell. Members are

asked to come to the chamber for the reading of the controversial supplemental calendar.

The Secretary will place Calendar Number 1287 before the house.

THE SECRETARY: Calendar Number 1287, substituted earlier today, Assembly Budget Bill, Assembly Print Number 9703C, an act making appropriations for the support of government: EDUCATION, LABOR AND FAMILY ASSISTANCE BUDGET.

SENATOR DeFRANCISCO: Explanation.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco has requested an explanation, Senator Kruger.

SENATOR CARL KRUGER: Thank you very much, Mr. President.

This budget bill is the Education, Labor and Family Assistance portion of the budget. In principle, the overall impact on education, labor and family assistance appropriates $27.6 billion from the General Fund. This is $623 million or 2.3 percent more than was proposed by the Governor and $29.4 million or 0.1 percent more than the

state fiscal year of 2009-2010.

The Education, Labor and Family Assistance Budget appropriates $61 billion on an All Funds basis for the state fiscal year 2010-2011. This is $3.49 billion or 6 percent more than proposed by the Governor, but $4.6 billion or 7.5 percent less than state fiscal year 2009-2010.

ACTING PRESIDENT BRESLIN: Thank you, Senator Kruger.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would Senator Kruger yield to a couple of questions.

ACTING PRESIDENT BRESLIN: Senator Kruger, will you yield to a couple of questions from Senator DeFrancisco?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR DeFRANCISCO: Senator Kruger, since there's several budget bills -- and I guess that four of them are live for today, and a couple of them are high -- just some general questions about the process.

This particular group of budget bills, if passed today and tomorrow -- all of them are on the supplemental calendar -- is it the position of --

ACTING PRESIDENT BRESLIN: Excuse me, Senator DeFrancisco.

May we have some quiet, please. Take your conversations in the hallway.

SENATOR DeFRANCISCO: -- is it the position of the Majority that that would be a total budget at that point in time?

SENATOR CARL KRUGER: Yes, it would be.

SENATOR DeFRANCISCO: Okay. Senator Kruger, would you yield to another question?

ACTING PRESIDENT BRESLIN: Senator Kruger, do you yield?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

SENATOR DeFRANCISCO: Does that mean we have met a critical mass?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through

you, Mr. President, we've met a critical mass. I've looked through my crystal ball and every other acronym that you might want to come up that I've used through this tortured process.

SENATOR DeFRANCISCO: All right. Now, Senator Kruger, would you yield to another question?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger continues to yield.

SENATOR DeFRANCISCO: Assuming all of these budget bills pass, is it the position of the Majority that this will be a balanced budget where the revenues would be sufficient to pay the cost of government as set forth in these budget bills?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, as Molly Goldberg would say, "What a question." Of course.

SENATOR DeFRANCISCO: That was before my time.

SENATOR CARL KRUGER: Not before

mine.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would Senator Kruger yield to another question.

ACTING PRESIDENT BRESLIN: Do you continue to yield?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR DeFRANCISCO: Now, the Governor has made a substantial point about the FMAP money, the billion dollars that is being anticipated. Is that billion dollars that's being anticipated, is that included in the Majority's budget in order to balance the budget?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, yes.

SENATOR DeFRANCISCO: Would Senator Kruger yield to another question.

ACTING PRESIDENT BRESLIN: Do you

continue to yield?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR DeFRANCISCO: Now, is there any contingency in this budget of the Senate majority and the Assembly majority that would provide for a contingency in case that FMAP money doesn't come in, in view of the fact that it seems to be dead and, if alive, only a portion of it may be voted upon --

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR DeFRANCISCO: -- by the federal government?

SENATOR CARL KRUGER: Through you, Mr. President. Obviously we can't deal with speculation and conjecture. The budget is balanced based upon using the FMAP as we know it to be. There is no actual contingency plan in the budget should it not be, but that is an unanticipated situation.

SENATOR DeFRANCISCO: Senator Kruger, could you tell me if the majority

party in each house has gotten any kind of indication that it is likely that this $1 billion of FMAP money will be available?

ACTING PRESIDENT BRESLIN: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Through you, Mr. President. Once again, we have faith and confidence that our Congressional delegation, which includes Senator Gillibrand and Senator Schumer, have a keen understanding of the importance of that money being part of our budget plan, our fiscal plan. And based upon that, that's the representation that's being made.

SENATOR DeFRANCISCO: Would Senator Kruger yield to another question.

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR DeFRANCISCO: Senator Kruger, assuming that this entire budget passes today and tomorrow, the legislative budget, can you tell me what the total amount of spending -- that means All Funds

spending -- would be for this year, this budget year coming up that's covered by this budget?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, no, we do not have the number.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Senator Kruger, would you yield to another question?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR DeFRANCISCO: Senator Kruger, if you don't know the total amount of spending in this budget, how do you know the budget is balanced by the amount of revenues that are projected from the revenue bill that's going to be voted on later?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through

you, Mr. President, we will compute the number, the spending plan, as well as the revenue plan, and I will have those numbers available for you within several hours.

SENATOR DeFRANCISCO: Now, Senator Kruger, would you yield to another question.

ACTING PRESIDENT BRESLIN: Senator Kruger, do you yield?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR DeFRANCISCO: We've talked about the 2007 reform bill that has obviously not been followed the last couple of years. But there is a requirement by Section 54A of that bill, sunshine reporting: "Preceding final action on all such appropriation bills, members must be provided with a comprehensive cumulative report relating to all budget bills and legislation."

Do we have that right now as we're about ready to vote for these bills?

ACTING PRESIDENT BRESLIN:

Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President. Well, firstly, since we haven't voted on all the appropriation bills yet, then that would be not available. We will certainly have it available after all the appropriation bills are finalized by vote.

SENATOR DeFRANCISCO: Would Senator Kruger yield to another question.

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR DeFRANCISCO: So you're saying that before a vote may be taken on the budget, we will not have that requirement of sunshine reporting that's in that reform bill of 2007.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President. Firstly, the document that you're talking about is for the appropriation bill. The final appropriation bill is high and will not be voted on today.

SENATOR DeFRANCISCO: Will Senator Kruger yield to another question.

ACTING PRESIDENT BRESLIN: Senator Kruger?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR DeFRANCISCO: Are you saying that we will have that report, the sunshine report, prior to voting on the appropriations bill?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, I don't know whether it's a sunshine report or a report, but you will have the information available.

SENATOR DeFRANCISCO: Before we vote on the appropriation bill, is that correct?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Kruger?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

Before the final appropriation bill, yes.

SENATOR DeFRANCISCO: Okay. In addition, would you answer another question, please.

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR DeFRANCISCO: The budget Reform Act of 2007 also requires that before a vote may be taken on a budget bill, all members must have a report on their desk that clearly summarizes the legislative changes to the executive budget. And it goes on to identify revisions in spending, revisions in revenue, workforce changes.

In accordance with that reform act, do we have that document available?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, no.

SENATOR DeFRANCISCO: I have other questions on the appropriations bill,

but I'll wait to the appropriate time. I have no further questions of Senator Kruger.

On the bill, very briefly.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco, on the bill.

SENATOR DeFRANCISCO: You know, I've said this before and it sounds like a broken record. I'll say it one last time, maybe. And that is that we have a legislation that talks about a certain procedure to make this process work better. And we used that process in 2008 and were successful in a timely budget, and we provided the documents that were required when we were in the majority and so forth.

This whole bill was ignored last year. It was ignored again this year. And it's no doubt part of the reason why we have this problem we're having right now. And it's a problem not only in practice or in procedure but also in some of the things that are going to happen as a way of -- by these bills, including the tax increases, the spending increases and the like.

And to be put in a position when we

don't have these reports that are required by law before we vote on any budget bill is just simply wrong.

I read a lot. I read a lot. But I don't read this much in this short a time. And there's no way anybody can conceivably analyze each provision of the bill and do it in a proper way. And the summaries are there for that reason, or should be there for that reason, and it's required by law.

In addition, I have no idea how anybody can say that a budget is balanced when we cannot find out the total spending in the budget. Now, does that make any sense to anybody? It's balanced, but we can't tell you how much is being spent; we'll let you know later. It makes no sense.

In addition, the Governor is right that you can't rely on money that isn't there. There's restorations being made and no corresponding revenue or cuts, better yet, to deal with those increases in spending. In fact, Senator Kruger has told us that this spends 6 percent more than the Governor's budget. So there's increases in spending and

there's no corresponding increases in revenue sources or, better yet, spending cuts.

And along these same lines, we are in a situation where we can't possibly balance a budget without the two sides spending and appropriations being the same.

Lastly, no one believes, truly believes that the billion dollars in FMAP money is something we can rely on. Senator Kruger says it's speculation to speculate about whether it comes in or will not come in or speculate that it might not come in. That's not speculation. We should assume it's not going to come in. And in the event it does, then we're in better shape.

You can't rely on hope that maybe your family is going to get a second job, one of the members of the family is going to get a second job so they can pay additional spending. It's the same thing here. And especially when the total FMAP plan has been rejected and a new proposal of about 50 percent of the amount that was originally thought is being -- was being discussed and still is tabled.

So it's totally unreasonable to be in a position to rely on that money. You just don't do that by sound financial principles. So for that reason, I'm going to vote no on these bills, and we'll talk more about the specifics of each bill by other members.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator DeFrancisco.

Senator Flanagan, on the bill.

SENATOR FLANAGAN: Thank you, Mr. President. Would Senator Kruger yield to some questions, please.

ACTING PRESIDENT BRESLIN: Senator Kruger, will you yield to Senator Flanagan?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR FLANAGAN: Thank you, Mr. President.

Senator Kruger, I join and concur in the remarks of my colleague Senator DeFrancisco, but I'd like to be a little bit

little more isolated in my approach and speak to the education portion of this budget, if that's possible.

And, Mr. President, I would ask for a slight modicum of latitude here because there are two education bills, and there are separate parts, but I'll try and keep my remarks on both as it relates to this bill.

Senator Kruger, how many restorations, how much dollar restorations are there in the education budget?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, this budget restores $600 million to a $1.4 billion cut proposed by the Governor.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: If Senator Kruger would continue to yield.

SENATOR CARL KRUGER: Yes, I do, Mr. President.

SENATOR FLANAGAN: Senator Kruger, I have in front of me the bill that we

are discussing, which is amongst the pile of bills, approximately 840 pages. Is there a property tax cap in this bill?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, no, there is not.

SENATOR FLANAGAN: Would Senator Kruger continue to yield.

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT BRESLIN: He continues to yield.

SENATOR FLANAGAN: In this 840-page bill, is there a ban on unfunded mandates?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, not in that bill. But in the Article 7 language there is provision to bar unfunded mandates, yes.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: That's in the next bill.

SENATOR CARL KRUGER: Right.

SENATOR FLANAGAN: Mr. President, would Senator Kruger continue to yield.

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR FLANAGAN: Again referring to this bill we have before us, is there any increase or restoration for library aid?

SENATOR CARL KRUGER: No.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: Would Senator Kruger continue to yield.

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT BRESLIN: Senator Kruger continues to yield.

SENATOR FLANAGAN: Senator Kruger, I'm looking at and listening to your discussion about the numbers, and I know we're all going to have to go home at some point and try and explain to our school boards, our superintendents and, more importantly, our

constituents and taxpayers, some of the actions that have been taken here.

In this education position of the budget, could you explain to me the $95 million cut to school districts for data issues?

SENATOR CARL KRUGER: Through you, Mr. President, it's a complicated answer, so I'll take it in pieces.

Through you, Mr. President, we froze the November database at $95 million. There's a $60 million MTA payroll tax reimbursement for school districts that we're -- and $35 million, an added $35 million to the main database.

SENATOR FLANAGAN: Mr. President, will Senator Kruger continue to yield.

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT BRESLIN: Senator Kruger continues to yield.

SENATOR FLANAGAN: Senator Kruger, the $95 million that I'm referring to definitely deals, as you said, with the November data. And basically our school districts and ultimately our taxpayers have

expected that their aid would be reflective of their enrollment, of their programmatic changes, particularly as it relates to the area of special education, which is one of the most challenging issues for every district in the State of New York.

So the expectation would be that as the data changes, that that would be reflected in the aid that they're going to receive.

You and your colleagues in the Democratic majority have now chosen to freeze that data, which in reality is a $95 million cut to school districts tantamount to them being told you had an expense-driven aid but guess what, now you don't have it anymore. Unless I'm missing some portion of the language, this doesn't have anything to do with the MTA payroll tax. This is strictly tied to data that affects school districts.

And I actually took a look at couple of examples. So just if I could illustrate, I looked at Connetquot School District. The restoration over the Governor's cuts was roughly $1.37 million, but now $742,000 of that is going to be taken away.

That's just one district in Suffolk County.

Central Islip, they were going to get a restoration of roughly $2.1 million, but now you've taken $830,000 of that back.

Buffalo, they were going to get a $7.3 million restoration, but now you've taken $1.3 million of that back.

So the reason I'm asking these questions is because when we go home we're going to have to explain the nuances and details. So could you enlighten me as to why you made reference to the MTA payroll tax when, in my review of this, it has absolutely nothing to do with it?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Mr. President, the $60 million MTA payroll tax, plus the $35 million bump, collectively is the $95 million that we're talking about. As an offset.

SENATOR FLANAGAN: As an offset to what?

SENATOR CARL KRUGER: To the $95 million cut.

SENATOR FLANAGAN: Where exactly is the portion that you're referencing as it relates to the MTA? Let me preface it by saying this --

ACTING PRESIDENT BRESLIN: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Please, through you, Mr. President, can you be more specific?

SENATOR FLANAGAN: Yes, I can. I have a list right here that certainly you have and your staff has that is provided to us by the State Education Department. Here's the $95 million in cuts. It doesn't say MTA. It doesn't say anything about the MTA. This is $95 million statewide.

I referenced a number in Buffalo. I referenced two numbers in Suffolk County. This is a statewide hit to school districts. The MTA, the $60 million, that should be complete separate and have actually nothing to do with this.

So my specific question is when I'm looking at this list of $95 million statewide, can you express to me where the MTA language

is in this bill that relates to your contention?

SENATOR CARL KRUGER: Through you, Mr. President. Once again, the $60 million that was restored to the budget, to the MTA portion, plus the $35 million bump, collectively offsets the $95 million cut.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: Mr. President, would Senator Kruger continue to yield.

ACTING PRESIDENT BRESLIN: Senator Kruger, will you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR FLANAGAN: I can just speak for the districts that I represent. No one is going to look and say, "Oh, that $60 million for the MTA payroll tax is an offset." That's something they expected. And there were lots of people on the other side who talked about restoring that money for school districts.

What's the $35 million? What's

that bump that you're referring to?

SENATOR CARL KRUGER: Through you, Mr. President, there is an additional update to the May database that drives to the school districts the additional $35 million.

SENATOR FLANAGAN: So would it be fair to say that your contention is that --

ACTING PRESIDENT BRESLIN: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

SENATOR FLANAGAN: Would it be fair to say that your contention is that there's no $95 million cut at all?

SENATOR CARL KRUGER: Through you, Mr. President, no, let's not twist or confuse, but let's stay -- at least I want to stay on point. There's a $95 million cut. There's also, again, $60 million MTA, $35 million readjustment of the May database. Together, $95 million. $95 million is driven back in to offset the $95 million cut.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: Mr. President, would Senator Kruger continue to yield.

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Kruger?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

SENATOR FLANAGAN: Senator, I would appreciate -- to avoid any further twisting or confusion, I just want to ask you about summer school.

The Governor's proposal under his budget cuts $68 million to school districts for summer school special education. Again, I will remind you, as you know, that this is a very troubling area for school districts across the State of New York. Their costs go up exponentially, and the actions that you're taking here certainly aren't going to make it any easier.

The Governor proposed making that cut. And now could you explain how you've modified that or changed it? Because I'll give you my reading of it. Basically, you're pushing it off. Somehow everyone is assuming that there will be a $68 million savings to the State of New York. But I can tell you, in the practical reality, school districts are

going to say huh-uh, huh-uh. That's a $68 million cut, and it goes right to the heart of the special ed programs. And that's like standing on a land mine when you do something like that.

So when you push that off, it now sounds like what school districts are going to have to do is have this thing called the Race to the Top. In order to get your money, you've got to get your application in, you've got to be first in line, you've got to be faster, better, quicker than everybody else.

Why would we want to do something like that, or why would you advocate something like that when this should be a program that's funded and paid for on the merits and done so in a timely fashion?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President. For a moment, let's just reflect and remember that we restored $600 million of a $1.4 billion cut that was proposed by the Governor, $600 million of a $1.4 billion cut.

So we want to look at this education budget, we should look at it in the context that today we are able to vote on an education budget that restores $600 million of a $1.4 billion cut.

SENATOR FLANAGAN: Mr. President, would Senator Kruger continue to yield.

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR FLANAGAN: Appreciate the comment. Now if you could just answer my question, that would be helpful.

SENATOR CARL KRUGER: Yes, I do.

Please excuse me. Through you, Mr. President, can you repeat the question, Senator Flanagan?

SENATOR FLANAGAN: I'll try and be as concise as possible. The point I'm trying to make and the question I'm asking you is, how can you justify this portion of the education budget, which is a $68 million hit? Regardless of the restoration that you're speaking of, I'm focusing on a particular part.

And what's going to happen is school districts are now going to be in a perverse, ridiculous competition to apply for funds for special education programs. That's not the way it's supposed to be. That's not the way these programs are supposed to run. And certainly it's not going to make school districts' life any easier.

My question is, why would you adopt an approach like that full well knowing that it's going to create all kind of havoc?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Okay. In order to address some of that concern, $395 million is going to be driven back to the school districts for special needs in order to address some of that concern in this budget. IDEA, to be exact.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: Mr. President, on the bill.

Thank you, Senator Kruger.

ACTING PRESIDENT BRESLIN:

Senator Flanagan, on the bill.

SENATOR FLANAGAN: Senator Kruger wanted to talk about the macro effect of what we're discussing here, and I'd like to do the same thing. Because I know what's going to happen, people are going to go out and they're going to tout certain things that are being done here today. But if we are going to be fair, we have to go back and explain to people exactly what these proposals do on day-to-day activities affecting school districts and, most importantly, the property taxpayers here in the State of New York.

And we all talk about it, the overburdened property taxpayer. Now, I see Senator Oppenheimer is in the chamber, and we've had these types of discussions before.

We talked about some of the things that are in the bill. Let's talk about some of the things that are not in the bill. There's no ban on unfunded mandates. How we could come up with a budget and not actually do something in that area is almost beyond my comprehension.

Looking at things that were

proposed by the Governor: Establishing a regulatory review process through the State Education Department -- rejected. Regional student transportation allowing districts to work together to save money -- rejected. Access to employee benefit accrued liability reserve funds -- a pot of money worth over $400 million to school districts -- rejected.

There's no mandate relief in this budget at all. And here's where the problem really lies when we talk about this. This education budget has $726 million of federal funding to help close some of the gap. So if we really want to be fair, everyone should let their districts know that the gap is actually $726 million more and the largesse from the federal government has helped all of us out. The problem is it's not going to be there next year, and you haven't done anything to help school districts prepare.

When it's hard to find money, you have to find other ways to help people. And you're not finding ways to help people here.

And some of the programs that are being talked about -- the $95 million that I

referenced, the $68 million in special ed -- those are things that are largely going to really adversely affect our property taxpayers. If there had been some, some meaningful mandate relief, we could have put the onus back on school districts as we move ahead.

Paperwork reduction. Why should it be hard to do something that simple? Using those liability reserve funds. Those monies have been determined to be excess by not us, but by the Comptroller of the State of New York. We let them use the money, they can reduce their tax levy, help the property taxpayer. But you didn't want to do that. Regional transportation. Come on. School districts can get together and save money, pool their resources.

How can we go back and how can you stand there and advocate for a budget that doesn't do any of this? Because with the economic crisis that we have here in the State of New York, if it's not going to be done now, it's just not going to happen.

Now, this is a two-way compromise.

It's the Senate and the Assembly. And I know, Senator Oppenheimer, we spoke last year that the Assembly was that the one that you blamed, and I agree with you.

ACTING PRESIDENT BRESLIN: Excuse me, Senator Flanagan.

Senator Kruger, why do you rise?

SENATOR CARL KRUGER: Mr. President, if I can just -- point of information.

Senator Flanagan pointed to the bills that we're talking about. Well, there is a Regional Transportation Pilot Program which addresses some of the concerns that he's talking about. And there is a Paperwork Reduction Act, another one of the proposals that is part of language that he's talking about.

So in essence some of that mandate relief that you're talking about has been addressed in these Article 7 language.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: Thank you.

When we go back, I want to be able to say that we've enacted a meaningful property tax cap, that we've come up with ways for school districts to save money. And I just gave some examples in Connetquot, in Buffalo, in Westbury, where people are saying we're going to restore money, and then you're pulling the rug out from underneath those school districts.

And I'll close on this point. Last year several of my colleagues -- Senator Johnson, Senator Foley -- they voted for a budget that provided only 5 percent of the increase in education aid to Long Island. We got shortchanged on the increase in educational funding. This year we're getting 15 percent of the cut. I would much rather have the reverse. I'd rather share in the largesse than get disproportionately hit on the pain.

So I am not going to vote for a budget like this, even though there are some nominally good things in here, because you have to look at the whole picture.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Flanagan.

Senator Saland, on the bill.

SENATOR SALAND: Thank you, Mr. President. Would Senator Kruger yield, please.

ACTING PRESIDENT BRESLIN: Senator Kruger will you yield to Senator Saland?

SENATOR CARL KRUGER: Yes, I do, Mr. President. With the indulgence of Senator Saland, I would just like to point out that on today's active list another one of the concerns that Senator Flanagan had about the employee liability benefit, that is part of our active list, the EBALR bill.

Thank you, Mr. President. Yes, Senator.

SENATOR SALAND: Thank you, Senator Kruger.

Senator Kruger, I'd like to go back and revisit the exchange that you had with Senator Flanagan. I think the term that was used was past due claims. And in some instances those are known as data bumps.

You know how often the SED takes a look at changes in data?

SENATOR CARL KRUGER: Yes.

SENATOR SALAND: And when might that be?

SENATOR CARL KRUGER: November -- through you, Mr. President, November, February and May.

SENATOR SALAND: And September.

SENATOR CARL KRUGER: And September.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: If Senator Kruger would continue to yield.

And what is the purpose, if you know, of those reviews, those quarterly reviews?

SENATOR CARL KRUGER: Through you, Mr. President, to update the database periodically for school district claims.

SENATOR SALAND: If the Senator will continue to yield.

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT BRESLIN:

Senator Kruger yields.

SENATOR SALAND: So that, for example, as was cited by Senator Flanagan, if suddenly you've taken on perhaps a larger special ed population than you had anticipated initially when you had adopted the budget, or perhaps there were transportation issues that didn't exist at the time that you originally contemplated your aid, perhaps there are building aid issues -- are those the kinds of things that get considered when we do these database adjustments?

SENATOR CARL KRUGER: Yes.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Will the Senator continue to yield.

SENATOR CARL KRUGER: Yes, I do.

SENATOR SALAND: And there are instances, are there not, where in fact in the determination is made that you may have in fact received more aid than you were supposed to receive, and as a result of which your aid may be adjusted downward?

SENATOR CARL KRUGER: Yes.

ACTING PRESIDENT BRESLIN:

Senator Saland.

SENATOR SALAND: Do you know how -- if the Senator will continue to yield.

SENATOR CARL KRUGER: Yes, I do.

SENATOR SALAND: Do you have any idea how much money in data bumps were downward data bumps and how much money were upward data bumps?

ACTING PRESIDENT BRESLIN:

Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President. Again, varying through school district, they may have had a bump up of $35 million. But obviously it's a moving target, it's very fluid.

SENATOR SALAND: If the Senator will continue to yield.

ACTING PRESIDENT BRESLIN:

Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: He yields.

SENATOR SALAND: As we stand here

today, can you share with me the sum total of the upward bumps and the downward bumps? How much in each category?

SENATOR CARL KRUGER: Through you, Mr. President. Certainly data is available. We'll compile it and get it back to you.

SENATOR SALAND: Well, if I were to tell you that there are $25 million in downward bumps -- in other words, monies taken back from schools -- and $94-plus million in upward bumps, would that ring true with either you or the members of your staff who are helping you there?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Again, through you, Mr. President, we have to check the database. But obviously, if you've done the analysis, then I take your word for it.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Senator Kruger, if you know --

ACTING PRESIDENT BRESLIN: Will

you continue to yield, Senator Kruger?

SENATOR CARL KRUGER: Yes, I do.

SENATOR SALAND: Has there ever been a budget in the history of anybody sitting in this chamber today that did not provide for past-due claims?

SENATOR CARL KRUGER: No. Not that I'm aware of. Through you, Mr. President, no.

SENATOR SALAND: And those past-due claims, if you'll continue to yield --

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Kruger?

SENATOR CARL KRUGER: Yes, I do.

SENATOR SALAND: And those past-due claims represent monies that schools have expended anticipating, as they have in every preceding year in the legislative life span of everybody in this chamber, that they would be paid. Is that not correct?

SENATOR CARL KRUGER: Through you, Mr. President, yes.

But once again, you know, we're talking about years where there was money as

opposed to a year, as today, where there is no money. And part of what we accomplished with our DRP was to provide for no midyear cuts, and school districts anticipating that this would be a very bad year.

SENATOR SALAND: If the Senator would continue to yield.

SENATOR CARL KRUGER: Yes, I do, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Kruger yields.

SENATOR SALAND: So you're telling me, then, that school districts anticipated that they were not going to get their past-due claims paid, for the first time in history, regardless of what kind of economy we were going through?

SENATOR CARL KRUGER: Through you, Mr. President. Senator Saland, you're undoubtedly aware that many school districts, if not most school districts, about 92 percent are prepared for that very eventuality as they cast their budgets.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Senator Kruger, I'll ask you one more question and then I'll go on the bill.

Is there a particular reason why you disregarded the $94 million-plus in incurred expenses as past-due claims that school districts had every reasonable expectation of receiving and yet at the same time, on the other side, where runs were adjusted downward, you took the downward adjustment to the tune of $25 million? So you hit them coming and going.

SENATOR CARL KRUGER: Through you, Mr. President, I guess in the simplest terms that I understand, we took them as savings towards the $600 million of restoration that we provided out of a $1.4 billion cut that the Governor proposed.

SENATOR SALAND: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Saland, on the bill.

SENATOR SALAND: Mr. President, the simple fact of the matter here is that what we are seeing is approximately

$120 million worth of what I will call fudgery. We are willing to stick it to the schools -- when I say "we," I mean those who are going to be voting for this bill -- to the tune of some $25 million, where, based upon the data they presented to the Ed Department, it was determined that there should be a reduction in their aid.

Okay, we'll reduce your aid. But we're going to turn a blind eye to those of you who are entitled and, in every year within the memory of anybody in this chamber, would have received, for unanticipated increased expenses, their past-due claims. So that's a swing of about $120 million.

So basically what you're doing is taking from Peter not to pay Paul but to pay Peter. You've taken $120 million you've ripped off the school districts for, and you're now telling them you're doing them a favor and you're going to give it back to them.

Or, if you want to look at it another way, the MTA tax, the one that you're giving $60 million back to the MTA, you took

$59 million from the counties in the MTA by not paying their past-due claims.

Talking about taking from Peter to pay Peter. That's what you did. So you can play with the numbers, you can say what you want, but the data doesn't lie. You have just stuck it to school districts in part the sole purpose of which is to make them pay for your assumed largesse.

I've served as Education chair, I've been through many a budget, and I always thought it grossly unjust to turn your back on school districts that had incurred expenses and anticipated being reimbursed.

There was not one scintilla of notice. There was no expectation. There's not anybody here who can possibly say that their school superintendent came to them and said, Oh, I know, we're going to toss out our past-due claims. I meet with my superintendents once or twice a year. Not a hint, not the slightest hint. They knew it was going to be a difficult year, and I told them it was going to be a difficult year. And I told them to hang onto their reserves as

best they could because next year is going to be worse.

Because as Senator Flanagan pointed out, this deficit for school districts, this cut is really a $2.1 billion cut as proposed by the Governor offset by $700-plus million in federal aid.

So the reality is, ladies and gentlemen, that you should not be patting yourselves on the back without at least acknowledging that you're making school districts fund, out of their own expenses, some of the very things that you're claiming that you're magically producing for them.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland.

Are there any other Senators wishing to be heard?

Hearing none, debate is closed. The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Senator Flanagan, to explain his vote.

SENATOR FLANAGAN: Thank you, Mr. President. I just want to explain my vote and clarify, as Senator Kruger got up and offered a point of information before.

I, like everybody else in this chamber, we're constrained to be reading and voting on the bills that are actually before us. Now, I have a copy of the calendar here, I have a copy of the Article 7 education bill, I have a copy of the main education bill, 840 pages again. And I listened to Senator Kruger say that I was wrong, that there is paperwork reduction, that there is a regional pilot program for student transportation.

And there's nothing. Having a little time to double-check allowed me the opportunity to make sure that I was accurate in what I was saying. So as of now on this calendar and -- even on the next active list that we're seeing -- there is nothing that deals with those issues.

So if I'm going to be voting on a budget and making an informed judgment and it says budget bill or budget bills, one of the reasons I'm going to vote no is because there is no substantive mandate relief whatsoever in this budget. I believe I was accurate when I said it the first time, and I believe I'm accurate when I'm saying it again now.

I'm voting no.

ACTING PRESIDENT BRESLIN: Thank you, Senator Flanagan. You will be recorded in the negative.

Senator Fuschillo, to explain his vote.

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

You know, it's a little shocking to me that when Senator DeFrancisco asked the question how much does this budget spend, what's the total budget, he couldn't answer the question. They're asking us to vote on a budget but you can't tell us what the numbers are going to be.

All I know is it cuts education funding by nearly a billion dollars

anticipates $750 million that we don't have, eliminates -- it wasn't even discussed -- the funding for teacher centers. One of the problematic school districts, Roosevelt School District in my district slashed special grants.

When you do all of that, you have an 843-page tax bill, because that's what it is. It's going to be one of the largest tax bills that the taxpayers are going to see. Because when you eliminate these fundings, the only way to recoup them is to raise property taxes on the local level.

Now, there were so many press clippings from last year after the Democrats enacted the largest spending increase and tax increases, and they kept saying, Do we need mandate relief, yes. There's no mandate relief in any of this stuff. Do we need relief to address property taxes? Yes. There's no cap. And it goes on and on and on.

There's no property tax reform in any of these budgets. It's a property tax increase of significant proportions that you're voting on.

I vote no, Mr. President. Thank you.

ACTING PRESIDENT BRESLIN: Senator Fuschillo to be recorded in the negative.

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, if my memory serves me correctly, Governor Paterson in his budget proposed a four-year moratorium on unfunded mandates. I'm not aware of any mandate relief that is contained in the Article 7 bill. I'll certainly be happy to stand corrected. If it's there, it's certainly minimal, minimal at best.

Why in a time when school districts are in such desperate need would we not provide them with a modicum of justice, equity, decency by giving them relief from unfunded mandates? Is that such a hard thing to do? Is that so foreign of a concept to those of you who are determining this budget?

I mean, it is -- it's astounding to

me that in this climate you could not offer at least mandate relief, that you outright reject the Governor's proposal.

Mr. President, this is certainly as challenging, if not more so, of a budget process than we went through last year. The results are every bit -- apparently in the process of being every bit as ugly if not more so. How anybody, man, woman or child, could conduct their personal finances without knowing how much is in their checkbook, or how any business could operate writing checks -- and I listened to the chairman of the Finance Committee say we don't know how much the revenue number is.

There is nobody, no business, no entity on the face of this earth that could possibly expect to succeed in any endeavor operating in the way this budget is demanding that we operate.

Mr. President, I vote in the negative.

ACTING PRESIDENT BRESLIN:

Senator Saland to be recorded in the negative.

Senator Marcellino, to explain his

vote.

SENATOR MARCELLINO: For very much the same reasons as some of my colleagues have already spoken, I intend to vote no on this particular bill.

It doesn't do what it says it's going to do. It doesn't help the schools, it doesn't provide property tax relief, it doesn't provide mandate relief, it doesn't do a lot of things.

And some of the numbers that were touted by the chair of Finance simply don't add up. The MTA restoration of $60 million and the $95 million statewide give-back to the schools, supposedly one and the same, are actually two different numbers that are not connected to each other.

So I begin to get confused. When you read all of this stuff and you read the bills, or try to -- and they're huge, and it's difficult to read them all -- but just try to pick apart what's there, the numbers don't add up and we're not getting much of an explanation from the Majority.

So based on that, I have no other

recourse than to vote no.

ACTING PRESIDENT BRESLIN: Senator Marcellino will be recorded in the negative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

This budget leaves a $4 billion hole in both the State University and City University budget and, with passage of this bill, will send out a signal where chaos will take place. Because rank-and-file members will say, How can we have this huge hole and continue to deal with the operations at our great university systems?

Earlier we cut from the State University some $500 million that has never been retrieved. In place of that, the Governor put forth something called PHEEIA, or the empowerment legislation. There was never, during the discussions and deliberations during this budget period, for a Plan B or a Plan C or some parts thereof. It was a package PHEEIA, all or nothing.

And today we have chaos because there were no other plans advanced, put forth to this Legislature that would provide something for them but not a $4 billion hole to both systems.

Thank you. I vote no, Mr. President.

ACTING PRESIDENT BRESLIN: Senator LaValle to be recorded in the negative.

Senator Ranzenhofer, to explain his vote.

SENATOR RANZENHOFER: Thank you, Mr. President.

It is amazing to me that with a budget that is three months late that when you ask the question "How much does it cost to run the State of New York this year," the answer is "I don't know."

I mean, no one would ever buy a house, buy a car, buy an article of clothing, buy a service without knowing how much it costs. It just astounds me. And 840 pages that no one on the other side -- when asked the question "How much does it cost, how much

are we going to spend this year," the answer is "I don't know."

I can't vote for a budget which I believe is going to increase spending over last year. And when someone answers the question that "We don't know how much it costs," I cannot support that type of budgeting.

I'll be voting no, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Ranzenhofer to be recorded in the negative.

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President. Mr. President and my colleagues, the chairman of the Senate Finance Committee can't tell us how much we're spending in this budget. We've seen a total discard for the Budget Reform Law of 2007. We heard that we're spending 6 percent -- not we, but the proponents of this budget are spending 6 percent more than the Governor's budget. And there's no property tax cap.

New York State last year, after the

taxes, after the fees, after the exorbitant spending that you on the other side of the aisle enacted, we were number two in this country for the highest taxes as a percentage of income.

Well, congratulations. Because we were just behind New Jersey, and with the enactment of this budget and what we're seeing happen in New Jersey with reforms and spending cuts and an appropriate approach to budgeting, New York State, thanks to the Democrats who are running this Senate, thanks to the Governor and thanks to the Assembly, is now number one. Congratulations.

Mr. President, this is a horrible, horrible situation. I vote no and implore all my colleagues to oppose this budget.

ACTING PRESIDENT BRESLIN: Senator Nozzolio will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1287 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon,

O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The bill is passed.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1288, Senator --

ACTING PRESIDENT BRESLIN: Senator Serrano.

SENATOR SERRANO: Mr. President, I would like to call up Calendar Number 1289, Senate Print 6607B on the controversial calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1289, Senator Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 9707C and substitute it for the identical Senate Bill Number 6607B, Third Reading Calendar 1289.

ACTING PRESIDENT BRESLIN:

Substitution ordered.

THE SECRETARY: Calendar Number 1289, Assembly Budget Bill, Assembly Print Number 9707C, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Are there any Senators wishing to be heard?

Hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1289 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and

Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The bill is passed.

Senator LaValle.

SENATOR LaVALLE: Mr. President, how was I recorded on that vote?

ACTING PRESIDENT BRESLIN: In the negative, Senator LaValle.

SENATOR LaVALLE: Thank you.

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I would like to call up Calendar Number 1288, Senate Print 6604B on the controversial calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1288, Senator Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 9704C and substitute it for the identical Senate Bill Number 6604B, Third Reading Calendar 1288.

ACTING PRESIDENT BRESLIN:

Substitution ordered.

THE SECRETARY: Calendar Number 1288, Assembly Budget Bill, Assembly Print Number 9704C, an act making appropriations for the support of government: HEALTH AND MENTAL HYGIENE BUDGET.

ACTING PRESIDENT BRESLIN: Are there any Senators wishing to be heard?

SENATOR FUSCHILLO: Explanation.

ACTING PRESIDENT BRESLIN: Senator Kruger, an explanation has been requested by Senator Fuschillo.

SENATOR CARL KRUGER: Thank you, Mr. President.

This is the health and mental hygiene portion of the budget. The bill appropriates $5.9 billion for the Department of Health on an All Funds basis. When combined with the appropriations enacted in previous emergency budget bills, a total of $58.4 billion in All Funds support is provided to the department, which is $683 million or 1.2 percent above the Executive Budget, which provides $123.4 million in federal funds for the federal healthcare --

ACTING PRESIDENT BRESLIN: Excuse me, Senator Hannon. Why do you rise?

SENATOR HANNON: I just would ask if they could turn up the sound on Senator Kruger. Because I'm sitting here, it's relatively quiet in the chamber, and I can't hear him.

ACTING PRESIDENT BRESLIN: What did you say, Senator?

(Laughter.)

ACTING PRESIDENT BRESLIN: Point taken, Senator Hannon.

SENATOR CARL KRUGER: For the purposes of clarity for Senator Hannon, I'll repeat what I had said.

This is the health and mental hygiene portion of the budget bills. This bill appropriates $5.9 billion for the Department of Health on an All Funds basis, which, combined with appropriations enacted in previous emergency extenders, is a total of $58.4 billion in All Funds support for the department. That's $683 million or 1.2 percent above the Executive Budget.

We provide $123.4 million in

federal funds for the Federal Healthcare Reform Act of 2010, which includes the development of a high-risk pool for uninsured individuals. We restore $4.3 billion in funding for various HIV and AIDS programs and initiatives funded under the AIDS Institute. The total funding available for the AIDS Institute is $119 million.

ACTING PRESIDENT BRESLIN: Thank you, Senator Kruger.

Are there any other Senators wishing to be heard?

Senator Padavan.

SENATOR PADAVAN: Would Senator Kruger yield to a question or two.

ACTING PRESIDENT BRESLIN: Senator Kruger, will you yield?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

SENATOR PADAVAN: Thank you, Senator. Does this portion of the budget deal with the establishment of community residences for the mentally disabled and retarded?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: For the purpose of clarity, Mr. President, Senator Padavan, are you talking about the new court decision?

SENATOR PADAVAN: No, I'm not talking about any court decision. I'm talking about the program, the New York Cares program that's been in effect in a number of years, and the establishment of community residences for the mentally ill and the mentally retarded under OMRDD, largely. It would be part of the OMRDD budget.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President, no, that was not part of this budget bill, Senator Padavan.

ACTING PRESIDENT BRESLIN: Senator Padavan.

SENATOR PADAVAN: If the Senator would yield. What part of the budget is it in if it's not in this part?

SENATOR CARL KRUGER: Through you, Mr. President, the portion that you're talking about, Senator Padavan, was originally

part of the Executive Budget which was not changed by these budget bills.

SENATOR PADAVAN: Thank you. Would the Senator yield again.

SENATOR CARL KRUGER: Yes, I do, Mr. President.

SENATOR PADAVAN: Well, it is in the Executive Budget, which you're saying will be what it is and this will be folded into it.

Therefore, in the Executive Budget, what is the extent of that program as relates to the New York Cares initiative in terms of community residence development in the State of New York in the current fiscal year?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Through you, Mr. President. I will get that information to you, Senator Padavan, within the next couple of hours when it's compiled.

SENATOR PADAVAN: On the bill.

Mr. President, you know, it's very difficult --

ACTING PRESIDENT BRESLIN: Senator Padavan, on the bill.

SENATOR PADAVAN: I'm sure it's very difficult for many of my colleagues to vote on budget bills and be told that, well, I'll give you the information later. But we're voting now.

That one program, which is so important -- there are waiting lists, families with loved ones who are in need of community resident placement throughout the state. Wonderful program. We had the New York Cares project that lasted for a number of years that did take care of a good part of the waiting list, but now that waiting list is growing again.

And what I was seeking to find out is what does the budget provide for this population. And obviously the chairman does not know. And he'll let me know in a couple of hours, but it will be too late in terms of anybody making an intelligent judgment about this portion of the budget which is so important to me and I'm sure to many others.

ACTING PRESIDENT BRESLIN: Are there any other Senators wishing to be heard on the bill?

Senator Hannon, on the bill.

SENATOR HANNON: On the bill.

One of the downfalls of not having public discussion on a budget and having several hundred pages dropped on you suddenly is coming across in the middle of the budget of an appropriation of $123.4 million supposedly to implement federal healthcare reform, which includes $59 million of a high-risk pool, a sum that is well beyond anything I've ever heard discussed, especially when we already have a high-risk pool -- without statute to implement it, without guidelines to implement it, with one of the big questions whether or not, if the state participates, will we be obligated above and beyond what the federal government is going to provide nationally, which is $5 billion.

But then to go on, on page 106 and 107, for a list of items: Ombudsman Resource Centers, $20 million; Personal Responsibility Education Grant, $3 million; Medicare Outreach, $600,000; a real ambiguous Prevention and Public Health Fund, $20 million; workforce demo, demonstration

project, background checks, pregnancy assessment fund, long-term care grants. All well intentioned, I'm sure, but $123 million?

I haven't seen a press release on it, I haven't seen a briefing book on it. I've asked our analysts whether it ever came up in any of the discussions. This is not a good way to do healthcare.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Are there any other Senators wishing to be heard?

Hearing none, the debate is closed. The Secretary will ring the bell.

Senator Klein.

SENATOR KLEIN: Mr. President, can we stand at ease briefly.

ACTING PRESIDENT BRESLIN: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:59 p.m.)

(Whereupon, the Senate reconvened at 6:19 p.m.)

ACTING PRESIDENT BRESLIN: The Senate will come to order.

I ask all members to return to the

chambers at once. The bells have been ringing.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

I am the chairman of the Aging Committee, and I am fully committed to aging benefits and to aging needs. I'm a black guy from Puerto Rico with kinky hair and broken English. But I do not appreciate, Mr. Chairman, Mr. President, I do not appreciate people trying to get one over on me.

Today, just in this place, just a few minutes ago I learned that they're cutting $5 million out of the aging programs and SNAP, EISEP, and CSE from the aging -- Community Service for the Elderly; SNAP, Supplemental Nutrition Assistance Program for the aging,

and EISEP.

I am the chairman of the Aging Committee. When would I be informed of that?

And now, because we are Democrats and we don't want the government to stop, I have to be part of the group. One more time, I'm going to say again, I am black guy with kinky hair and broken English from Puerto Rico. And stupid. So I'm going to vote yes just to honor and out of respect for Senator Sampson.

But whoever is doing that in the finance department of the staff are abusing and trying to do something which I don't appreciate.

Mr. Chairman, I'm voting yes.

ACTING PRESIDENT BRESLIN: Senator Diaz to be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: On an earlier bill I mentioned how bad it was to actually plan on a billion dollars of FMAP money when it's not quite assured, to put it

mildly. It's bad financial planning.

And just to show that this is not a Republican versus Democrat concept, I just want to give you a quote from a famous individual: "I think to do a budget without a contingency on FMAP money would be irresponsible. I think the Legislature is dreaming on this one."

That wasn't anybody on this side of the aisle, that was someone running for Governor by the name of Andrew Cuomo.

I vote no.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1288 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1290, Senator Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 9708C and substitute it for the identical Senate Bill Number 6608B, Third Reading Calendar 1290.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 1290, Assembly Budget Bill, Assembly Print Number 9708C, an act to amend the Public Health Law.

ACTING PRESIDENT BRESLIN: Are there any Senators wishing to be heard?

Senator Padavan.

SENATOR PADAVAN: Will Senator Kruger yield to a question.

ACTING PRESIDENT BRESLIN: Senator Kruger, do you yield to a question from Senator Padavan?

SENATOR CARL KRUGER: Yes, I will, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Padavan.

SENATOR PADAVAN: I notice in the description of the budget bill before us a reference to NORCSS, Naturally Occurring Retirement Community Supportive Service programs. Can you tell me what this budget does for the NORCSS?

SENATOR CARL KRUGER: Through you, Mr. President, the NORC program is extended and it adopts the Governor's Executive Budget.

SENATOR PADAVAN: What?

SENATOR CARL KRUGER: The NORC program is extended in this budget and it adopts the Governor's Executive Budget for appropriations.

ACTING PRESIDENT BRESLIN: Senator Padavan.

SENATOR PADAVAN: Will he yield again.

ACTING PRESIDENT BRESLIN: Will you yield again, Senator?

SENATOR CARL KRUGER: Yes, Mr. President.

SENATOR PADAVAN: What does the Executive Budget do in terms of funding of this program?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Just indulge me; we're going to look it up.

SENATOR PADAVAN: Okay.

SENATOR CARL KRUGER: Unless you happen to have the answer.

SENATOR PADAVAN: I don't have it.

SENATOR CARL KRUGER: Through you, Mr. President, an appropriation of $4 million.

SENATOR PADAVAN: And if you may again yield.

SENATOR CARL KRUGER: Yes, I do.

SENATOR PADAVAN: How does that compare to --

ACTING PRESIDENT BRESLIN: Senator Padavan, would you wish --

SENATOR PADAVAN: Yes, I asked

him to yield again. He said yes.

ACTING PRESIDENT BRESLIN: Senator Padavan, could you address the chair, please.

SENATOR PADAVAN: Yes, I said may he yield again. I was looking at you.

SENATOR CARL KRUGER: Yes. Yes, I do, Mr. President.

I said there's no cut from the previous year's appropriation.

SENATOR PADAVAN: So it's a wash in terms of last year?

SENATOR CARL KRUGER: Yes, it is.

SENATOR PADAVAN: Thank you.

ACTING PRESIDENT BRESLIN: Are there any other Senators wishing to be heard?

Hearing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1290 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The bill is passed.

Senator Klein, that completes the reading of the controversial supplemental calendar.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 139, substituted earlier today by Member of the Assembly Mayersohn, Assembly Print Number 3923C, an act to amend the Executive Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall effect on the 180th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 197, by Senator Aubertine, Senate Print 2813C, an act to amend the Public Authorities Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60. Nays,

1. Senator Golden recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 287, by Member of the Assembly Amedore, Assembly Print Number 9826, an act to amend the Correction Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 356, by Senator C. Johnson, Senate Print 5538A, an act to amend the State Finance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 358, by Member of the Assembly Glick, Assembly Print Number 2563A, an act to amend the Civil Rights Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 358 are Senators DeFrancisco, Golden, Hannon,

O. Johnson, Larkin, Marcellino, Padavan, Ranzenhofer, Skelos and Volker. Also Senator Leibell.

Ayes, 50. Nays, 11.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 376, by Senator Breslin, Senate Print 5203B, an act to amend the Insurance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Little, to explain her vote.

SENATOR LITTLE: Thank you, Mr. President. I just wanted to thank you for this bill. It's very similar to one that I supported before, and it's very necessary.

Many of you recall the Ethan Allen accident that happened in Lake George on a tour boat where 20 drowned, 20 senior

citizens. And that boat was not required, no tour boats were required to carry marine insurance. And so while that boat had insurance, it did not have insurance for anything that happened on the water.

So this would just require it, with a minimum, and it's a reasonable minimum that has been worked upon.

But I thank you for putting it forward and thank you for voting for it.

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

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators O. Johnson and Maziarz recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 518, by Senator Parker --

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number

603, by Senator Oppenheimer, Senate Print 7635, an act to amend the Real Property Tax Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 653, by Senator Libous, Senate Print 7700C, an act to amend the Highway Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 654, by Senator Dilan, Senate Print 7734, an act to amend the Highway Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 706, by Senator Oppenheimer, Senate Print 2003A, an act to amend the Election Law.

ACTING PRESIDENT BRESLIN: Read the last section.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The

bill is laid aside.

THE SECRETARY: Calendar Number 715, by Senator Schneiderman, Senate Print 6263C, an act to amend the Insurance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 736, by Member of the Assembly Cahill, Assembly Print Number 9950, an act to amend the Local Finance Law.

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

Read the last section.

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

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number

746, by Senator Breslin, Senate Print 1700B, an act to amend the Insurance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Excuse me.

ACTING PRESIDENT BRESLIN: Those voting in the negative on Calendar Number 746 please raise their hands.

Announce the results.

THE SECRETARY: In relation to Calendar Number 746: Ayes, 59. Nays, 2. Senator O. Johnson and Ranzenhofer recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 764, by Senator Adams, Senate Print 7578A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 801, by Senator C. Kruger, Senate Print 7878, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 1, 2010.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 812, by Member of the Assembly Espaillat, Assembly Print Number 4501A, an act to amend the General Business Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote no.

At some point we have to have faith that our citizens of this state have some kind of common sense. And to suggest that putting a label on a sippy cup or a bottle to tell

about early childhood tooth decay is a necessary piece of legislation I think insults the intelligence of the people in our community.

And at this rate, we're going to have a warning label on just about every product that's sold in the State of New York for whatever warning that the Legislature can come up with. And I just think it's getting to the point of absurdity now, so I'm going to vote no.

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 812 are Senators DeFrancisco, Flanagan, Golden, Lanza, Larkin, Little, Nozzolio, Ranzenhofer, Skelos, Volker, Winner and Young. Also Senators Farley and O. Johnson.

Ayes, 47. Nays, 14.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 901, by Senator Stavisky, Senate Print 5954D, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 983, by Senator Schneiderman, Senate Print --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 986, by Senator Squadron, Senate Print 7855B, an act to amend the General Construction Law and the Business Corporation Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator O. Johnson to be recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1071, by Senator Huntley, Senate Print 2061A, an act to amend the Public Authorities Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Savino, Senate Print 5953A, an act authorizing the Commissioner of Finance.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

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

SENATOR BONACIC: You know, I've always voted against these tax-exempt measures, and I think it's appropriate at this time to say why we vote in view of the budget bills that have passed today. And I'm not picking on the sponsor of this particular legislation.

But the concern of the Senate has always been property tax reform and lowering the property tax burden. I don't know if you realize that the tax-exempt burden, it now, based on the 2006 assessment, is over

$600 billion. And every time you take a parcel and make it tax-exempt, you are increasing the tax burden on all homeowners and other businesses.

So whenever you think of property tax relief, think of the other side of the ledger, that if we start to remove the abuses of tax-exempt we can give real property tax burden relief to our homeowners and our businesses.

Thank you very much, Mr. President. I vote no.

ACTING PRESIDENT BRESLIN: Senator Bonacic will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1097, by Senator Addabbo, Senate Print 7153A, an act to --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1098, by Senator Dilan, Senate Print 1103A, an act to amend the Social Services Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1098 are Senators Bonacic, DeFrancisco, Farley, Flanagan, Hannon, O. Johnson, Lanza, Larkin, LaValle, Libous, Nozzolio, Ranzenhofer, Saland, Seward, Skelos, Volker and Winner. Also Senators Griffo and Young.

Ayes, 42. Nays, 19.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number

1102, by Senator Valesky, Senate Print 7544A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1104, by Senator Addabbo, Senate Print 7591C, an act to amend the Public Authorities Law.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1117, by Senator Stachowski, Senate Print 8092A, an act to amend the Insurance Law.

ACTING PRESIDENT BRESLIN: Read

the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Seward, to explain his vote.

SENATOR SEWARD: Yes, thank you, Mr. President.

This legislation before us, which would create some new, innovative, some would say riskier reserving options for carriers to break into the municipal bond insurance market here in New York State, is one that I continue to have some questions regarding.

However, I am going to support the legislation. It has been amended by the sponsor. There is now a five-year sunset in the bill. And of course whatever happens if this becomes law will be under the careful, watchful eye and approval process at the Insurance Department. So based on that, I vote aye.

ACTING PRESIDENT BRESLIN:

Senator Seward will be recorded in the affirmative.

Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Yeah, just briefly, I'd like to thank Senator Seward for his comments and point out that we worked with Senator Seward and with yourself, Mr. President, in making some changes to the legislation.

I think it's important to note that currently in the municipal bond market there's only one provider. And this new innovative idea -- and as Senator Seward pointed out before me, still anything that they -- any participation they have has to be okayed by the Insurance Department. So there's all kinds of safeguards in that respect.

And the only riskiness, if that is any -- and I don't think it's really risky -- is instead of all cash, it's cash, it's treasuries, and it's very secure municipals as backup on this.

It's a patented way of funding it. Competition should make for cheaper bonds for

municipalities, and therefore saving the taxpayers money. So we think it's a great idea to try.

Obviously the safeguard, the main safeguard in this bill is that before anything can happen, the Insurance Department has to sign off on it after close investigation.

So we just think it's a good opportunity to help our municipalities save money and our taxpayers in particular save money through lowering the cost of municipal bonding, and we're glad to have everybody's support, hopefully. And I vote aye.

ACTING PRESIDENT BRESLIN: Thank you, Senator Stachowski. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1117 are Senators O. Johnson, Larkin and Volker.

Ayes, 58. Nays, 3.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1204, by Senator Parker --

SENATOR KLEIN: Lay the bill aside for the day, please.

ACTING PRESIDENT BRESLIN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1243, by Senator Valesky, Senate Print 7814B, an act to authorize the lease of lands.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

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

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1260, by Senator Thompson, Senate Print 8338, an act to amend the General Municipal Law.

ACTING PRESIDENT BRESLIN: Read

the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators Volker and Young recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1264, by Senator Espada --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1268, by Senator Klein, Senate Print 6928B, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1270, by Senator Foley, Senate Print 7447A, an act to authorize certain school districts.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1272, by the Assembly Committee on Rules, Assembly Print Number 11389, an act to amend the Public Officers Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

SENATOR PADAVAN: Is this 1272?

ACTING PRESIDENT BRESLIN: Yes.

SENATOR PADAVAN: Lay it aside, please.

ACTING PRESIDENT BRESLIN: The

bill is laid aside.

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

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the controversial calendar.

ACTING PRESIDENT BRESLIN: The Secretary will ring the bell for the controversial reading of the calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 518, by Senator Parker, Senate Print 4291C, an act to amend the State Finance Law.

ACTING PRESIDENT BRESLIN: Are there any Senators wishing to be heard?

Seeing none, the debate is closed. The Secretary will ring the bell.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY:

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 518 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 654, by Senator Dilan, Senate Print 7734, an act to amend the Highway Law.

ACTING PRESIDENT VALESKY: Are there any Senators who wish to be heard?

Seeing none, the debate is closed. The Secretary will ring the bells and read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY:

Senator O. Johnson, to explain his vote.

SENATOR OWEN JOHNSON: Yes, Mr. President. This bill I don't believe is desirable because there's no reference to the zoning of that area, whether it's suitable for that purpose or not.

The local government may not desire that. These windows can make an awful lot of noise in the neighborhood. Solar electric is a good idea, but wherever you place it is important. So I think I think the local government should have their prerogative to say whether or not they accept this before it's put in place. Thank you.

ACTING PRESIDENT VALESKY:

Senator Owen Johnson to be recorded in the negative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Mr. President.

I have been on record from the earliest times of being supportive of all kinds of sensible alternative energy sources.

One thing that concerns me is the location of windmills is now starting to become a very popular thing, and perhaps it should be. But the state has at this point no real comprehensive plan about the regional locations of windmills.

I'm especially concerned about the fact that in some of the more scenic areas of the state -- the Finger Lakes, for example -- we're starting to see small towns pitted against each other because windmills are being located just miles away from some neighbor's property and they have absolutely no say in where these windmills are located, destroying the scenic vistas of precious lands.

So until I can see that there's some kind of a sensible regional approach that might also deal with the placement of windmills on the southern shore of Lake Ontario, part of which I represent, I am very sensitive to a bill that does what this bill does and I will be voting no on it.

ACTING PRESIDENT VALESKY: Senator Alesi to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 654 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 33. Nays, 28.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 706, by Senator Oppenheimer, Senate Print 2003A, an act to amend the Election Law.

ACTING PRESIDENT VALESKY: Seeing no Senators to speak on the bill, the Secretary will ring the bells. All Senators are asked to return to the chamber for the roll call.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2012.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 706 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 33. Nays, 28.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 715, by Senator Schneiderman, Senate Print 6263C, an act to amend the Insurance Law.

ACTING PRESIDENT VALESKY: Are there any Senators who wish to be heard?

Senator Hannon.

SENATOR HANNON: On the bill.

ACTING PRESIDENT VALESKY: Senator Hannon, on the bill.

SENATOR HANNON: This is a bill

that would allow for a private right of action if there were an insurance company that withdrew a line of products because of discriminatory purposes.

I originally looked into it because I believe it contradicts some of the federal law, federal law of the Healthcare Reform Act, which prohibits rescission by insurance companies.

But upon reading it, I believe that it's even more well considered -- or less well considered, because it says that if there's discrimination in the withdrawal of an insurance product, then the company itself is subject to a lawsuit, and presumably with damages to be awarded and attorneys fees to be awarded by the people who are bringing the suit.

And I was thinking if you're an insurance company you're never then going to subject yourself to this type of action. Even though the product line you have may be an ever-shrinking line, maybe something not popular, maybe better to be incorporated in a broader set of coverages. And then, once that

starts to happen, they'll leave that product in place but they'll have to start charging greater amounts for the premium because there will be less people covered.

In other words, insurance spreads risk. When you spread risk you can have a supposedly reasonable premium but when the risk gets less well spread, then the premium goes up.

And so for that reason, Mr. President, I'm going to vote against this. I think this is going to have a reverse effect than what the sponsor intends, and I don't think it's as well thought out as it should be.

ACTING PRESIDENT VALESKY: Thank you, Senator Hannon.

Are there any other Senators who wish to be heard?

Seeing none, the debate is closed. The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT VALESKY: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY:

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

This is an amended version of a bill we passed a few weeks ago. Again, this is the bill that arose out of the case of Ian Pearl, a 37-year-old man with muscular dystrophy who lost his New York insurance when his carrier canceled the entire class of policies as a pretext to get him off because he was costing them too much money.

This protects all the insured in the State of New York against this sort of conduct. It's been amended to deal with some of the issues that were raised since the last time.

And I do want to note, just to put my distinguished colleague on the other side of the aisle at ease, actually the bill that we passed a couple of weeks ago had a private right of action in it, the one that only eight people voted no on. This has been amended so

that the private right of action provision was taken out.

I vote yes, Mr. President. This is something that's going to make a lot of New Yorkers a lot safer and ensure that you have insurance coverage when you really need it. Thank you.

ACTING PRESIDENT VALESKY: Senator Schneiderman to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators Golden and Hannon recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 736, by Member of the Assembly Cahill, Assembly Print Number 9950, an act to amend the Local Finance Law.

ACTING PRESIDENT VALESKY: Are there any Senators who wish to be heard?

Seeing none, the debate is closed. The Secretary will ring the bells.

There is a home-rule message at the

desk.

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 983, by Senator Schneiderman, Senate Print 7280A, an act to amend the Public Authorities Law.

ACTING PRESIDENT VALESKY: Are there any Senators who wish to be heard?

Seeing none, the debate is closed. The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1097, by Senator Addabbo, Senate Print 7153A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT VALESKY: Senator Padavan.

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

ACTING PRESIDENT VALESKY: Senator Padavan, on the bill.

SENATOR PADAVAN: Yeah. There are some very serious concerns relevant to this legislation that have been generated -- primarily from the City of New York -- in terms of the impact that this bill might have in a variety of ways.

First, the memo from the mayor's office outlines what the options are if the products that we're talking about were to be transported by other than rail. They point out that it would take like four tractor-trailer trucks to replace one railcar if you were in any way going to discourage our rail

system from carrying this kind of waste.

The costs associated with doing what this bill would require, putting a cover on the railcar, would be in effect a safety problem. If it were pulled loose and that train is going down the track passing railroad stations and it's dragging along the side, the potential for hurting someone, perhaps even seriously so, exists.

The liability that the railroad would then have if they were to use or do what this bill requires them to do would be extensive. So not only is there a cost factor involved, but the liability is even more severe and more troubling. So they would say no, we're not going to carry this product on our railcars.

And now we're back to the tractor-trailer trucks tromping through our city day and night with situations that you and I both experience, I'm sure, that are very troubling to many, many of our constituents, causing not only traffic problems and noise problems but pollution problems from the diesel fumes associated with these

tractor-trailer trucks being among them.

So in view of the fact that the city is opposing this -- the city has a solid waste management plan which actually encourages freight rail in terms of export of waste. It's not a high-value commodity, and any cost difference can make it either viable or not viable. And this, according to the City of New York, would cost an estimated $145, or $1.20 per ton, in the cost of the transport.

So if you look at the safety issues, the liability issues, the impact that tractor trailers, which is the only other alternative, would have on our local streets and communities, you know, all in all it just doesn't make sense.

Keep in mind, these trailers, there is a mesh that covers the material in question. It's not like it's open. There's a mesh there that contains the material in question. But to put a tarp over it or another cover over it presents the kinds of problems that I've just outlined to you.

And I would urge for all those

reasons, Mr. President, that we reject this proposal.

ACTING PRESIDENT VALESKY: Thank you, Senator Padavan.

Senator Farley.

SENATOR FARLEY: Thank you. I rise in support of what Senator Padavan was saying.

You know, rail is one of the most efficient, environmentally sound methods of transportation in this nation. And this provides a tremendous burden on them and a very costly burden. And like you say, they may just stop transporting this stuff.

ACTING PRESIDENT VALESKY: Thank you, Senator Farley.

Senator Libous.

SENATOR LIBOUS: Mr. President, will the sponsor yield to a few questions.

ACTING PRESIDENT VALESKY: Senator Addabbo, do you yield?

SENATOR ADDABBO: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Thank you,

Mr. President. Thank you, Senator Addabbo.

Mr. President, through you.

Senator Addabbo, does this bill go into effect statewide or just in certain regions of the state?

SENATOR ADDABBO: As it is written, Mr. President, through you, it is statewide.

SENATOR LIBOUS: This is statewide.

And, Mr. President, if the Senator would continue to yield.

ACTING PRESIDENT VALESKY: Senator Addabbo?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: It requires a hardtop on all debris statewide?

SENATOR ADDABBO: Through you, Mr. President, because the problem for people who live adjacent to a railroad exists statewide, the answer would be yes, statewide.

SENATOR LIBOUS: Mr. President,

would the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Addabbo, do you continue to yield?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Does it pertain to construction debris?

SENATOR ADDABBO: Mr. President, through you, because construction debris when idling on a railroad collects water from rainfall and during hot humid days would create a mold, the answer is yes. Because it's construction debris that causes a lot of the odor and the mold that goes into the air. So the answer would be yes.

SENATOR LIBOUS: Mr. President, would Senator Addabbo continue to yield.

ACTING PRESIDENT VALESKY: Senator Addabbo?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator, have there been a variety of complaints in various areas of the state? For instance, obviously you represent the City of New York, and I'm told the City of New York is against this.

But I'm wondering, do you have a handful of complaints from constituents there? I live in Binghamton. Do you have any complaints from people in Binghamton, Rochester, Syracuse, the Hudson Valley?

SENATOR ADDABBO: Mr. President, through you. Unfortunately, for my district there is a major issue here. For me, this particular bill and the one that follows it is constituent-driven.

Yes, Senator Libous, I have constituents who are bothered daily, through all hours of the night, dealing with this odor. Not only the odor, they have insects, mice, rats, raccoons, everything that this debris would bring because it is not covered.

So yes, this is constituent-driven, constituents who could care less that the mayor opposes this. Constituents who could care less that the railroad companies make a

ton of money, could absorb the cost, denounce the safety concerns because there have factually not been any incidents brought to our attention regarding safety concerns. And the constituents could care less that the railroads don't want to comply.

All they care about is that day in, day out, they are breathing bad fumes, odors from this uncovered waste, that they are experiencing, like I mentioned, all the unnecessary attendance from raccoons, mice and rats and everything else that it brings. So unfortunately for my constituents, their quality of life suffers because this is an issue that needs to be addressed.

SENATOR LIBOUS: Would Senator Addabbo continue to yield.

ACTING PRESIDENT VALESKY: Senator Addabbo?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator Addabbo, are you aware that presently the railroads do

cover municipal solid waste material with a hard cover?

SENATOR ADDABBO: Mr. President, through you. Unfortunately, I don't know if they cover it with a hard -- right now I understand, and I viewed it in the local railroad company's spot in my district, that they cover it with a mesh. Visible to the eye, because it's orange. And unfortunately, that mesh allows the rainwater to come in and still allows the mold to grow and the oder to come out. And when the train is coupled, that mesh still allows debris to come out from it.

So unfortunately, I don't know of any hard covering or hard tarping that occurs now, and that's the reason for my introducing this bill.

SENATOR LIBOUS: Thank you, Mr. President.

On the bill.

ACTING PRESIDENT VALESKY: Senator Libous, on the bill.

SENATOR LIBOUS: Certainly I understand what Senator Addabbo is trying to do. But it is my understanding,

Mr. President, in talking to many of the freight companies, the rail companies who transport -- and I did it in my capacity as chairman of the Transportation Committee and continue to do that as a member or the Transportation Committee, because I think, like many others, rail is something that's very important. I know Senator Smith is working very hard on high-speed rail, and at the same time freight is still extremely important to the economic development of this state.

I'm somewhat concerned here because again we have a bill on the floor by a legislator from the City of New York who now wants to impose something statewide on everyone. And I'm not going to get into an emotional state today as I have in the past. But this is just the third time within five days that we have legislation on the floor that's going to affect the entire state.

Right now I know also that the mayor of New York says that this is a bad idea, and Senator Padavan spoke quite eloquently on why this is a bad idea for the

City of New York.

So I stand here before you a little confused as to understanding why this legislation is moving forward not only in the City of New York, where it is opposed by the mayor, but also in the rest of the state.

I am told, in talking with the rail companies -- because moving freight across this great state is something that we have done for many, many hundreds of years and we want to continue to do because it is important for economic development in this state. And I am told that when it comes to municipal solid waste that they do put hard cover over the back of the cars. When it comes to debris, they do use the orange mesh, as Senator Addabbo did state, because sometimes in hauling debris it becomes a little bit of a problem.

But I have to say, Mr. President, I would say that this is the first time that anyone has said that that debris has an odor to it. I travel, if any of you have ever traveled up Route 81 or Route 17, and there are trucks daily bringing garbage from the

City of New York up the highway. And quite frankly sometimes those trucks -- maybe, Senator Dilan, another issue that we can address -- but those trucks probably need to be covered.

I think doing it by rail is much more pleasant, is not a distraction to the scenery of our beautiful state. And Route 17, I don't know if any of you have ever traveled it from -- Senator Larkin's familiar with it. But I travel from Binghamton to New York City, take the Palisades Parkway to the bridge. That's my favorite route because it's so beautiful and so scenic. And I get somewhat aggravated when I see those big 18-wheelers hauling garbage that's visible from New York City to some garbage-burning facility in upstate New York. I hope wherever that is, we're making money on it. But I would rather see this be hauled by rail.

And I'm told again, Mr. President, that when they do haul solid municipal waste, they do cover the cars with a hard top.

So there are some other issues with the hard top. I think Senator Padavan

explained them, about safety. I don't want to get into those.

But, Mr. President, I just think that this bill is not well drafted, is not a good piece of legislation. And I would urge my colleagues, on behalf of commerce and economic development, to vote no on this bill.

ACTING PRESIDENT VALESKY: Thank you, Senator Libous.

Are there any other Senators who wish to be heard?

Seeing none, the debate is closed. The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Senator Addabbo, to explain his vote.

SENATOR ADDABBO: Thank you, Mr. President.

You know, hearing the concerns of Senator Libous, I heard them loud and clear.

Except that we understand that railroad is a growing industry, but we want it to grow in the right direction, and certainly to be more efficient. And certainly environmentally friendly is one way to go. And I don't believe that it's going in that direction.

We do have an issue here, an issue that is not only for New York City. I know for a fact it's in places outside of New York City, like Long Island. So we do have an issue to address here.

And it's not just the waste that Senator Libous spoke about, but this has to do with putrescible waste, waste that could possibly have an odor. And that includes a myriad of different kinds of waste that the railroads are carrying.

The concerns that I heard from the railroad companies, the cost involved -- CSX, one of the railroad companies, makes $1.5 billion a year. If they can't afford a tarp that costs $145, I don't know what else they can afford. They make a lot of money. Large railroad companies do. So I don't think the cost is going to be it. I don't think

that's the issue here.

Safety, of course, is an issue, even for me. If I thought this was an unsafe bill, I would have pulled it a long time. But I have not seen concrete evidence of the hard tarp incidents that they named that might happen. Of all the memos of opposition that I have, the words "could cause an accident" and "might cause an accident" is not enough for me when we're talking about such a health related, environmentally related, and quality of life related issue.

Trucks on our roads, I don't want more trucks on my roads. But I don't think this bill will cause that. It's such a growing industry, the railroad industry, that I don't think requiring them to put a hard top on what maybe a very problematic issue for people who may have asthma and other illnesses to me is not going to cause more trucks on the road. Again, this is a growing industry. I don't think trucks come on the road because we pass this bill.

It's not a cost-related issue, it's not a safety-related issue, it's not a

truck-related issue. What it really is is a health-related issue, an environmentally friendly-related issue, a quality-of-life-related issue. This, for me, is a constituent-driven issue, brought to my attention for people who complain each and every day as they face this.

So I hope to work with my colleagues and the office of the mayor as we look to do something down the line to address this issue. Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Senator Addabbo to be recorded in the affirmative.

Senator Padavan, to explain his vote.

SENATOR PADAVAN: Thank you, Mr. President. Explaining my vote, I'm going to illustrate, hopefully, to the sponsor why this is a hazardous bill.

There's no doubt about the fact that the liability issue, beyond the cost of the tarp and everything else, is critical to the railroad.

And as I said earlier, one railcar

of this material translates to four to five tractor-trailer trucks. Now, here's what those trucks will do. In the City of New York alone, 40,000 truck trips per year. That translates into air pollution. And recently we have a spent a lot of time in this chamber talking about air pollution with home heating fuel and other things. It translates into 2,000 tons per year of carbon dioxide, over 16 tons per year of nitrous oxide, as well as reductions in particulate matter, volatile organic compounds and carbon.

Now, that's a hazard. All these tractor-trailer trucks, forget about them interfering with the normal traffic, the problems we have on the LIE and on the Clearview Expressway and other places where trucks are permitted, pulling over to the side, running their motors all night, polluting the air -- all kinds of problems. I get those complaints. And all this will do will exacerbate it.

And there's no reason in the world -- we're trying to get freight on railcars and reduce traffic on our streets,

bridges and highways. We're not trying to do the reverse. I vote no.

ACTING PRESIDENT VALESKY: Senator Padavan to be recorded in the negative.

Senator Klein.

SENATOR KLEIN: Mr. President, can you lay the bill aside for the day, please.

ACTING PRESIDENT VALESKY: The roll call is withdrawn and the bill is laid aside for the day.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1104, by Senator Addabbo, Senate Print 7591C, an act to amend the Public Authorities Law.

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

ACTING PRESIDENT VALESKY: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1264, by Senator Espada, Senate Print 6291, an act to amend the Social Services Law.

ACTING PRESIDENT VALESKY: Are

there any Senators who wish to be heard?

Seeing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Senator Espada, to explain his vote.

SENATOR ESPADA: Thank you, Mr. President. I want to thank my colleagues, particularly Senator Diaz.

Mr. President, this bill provides for the prohibition of finger-imaging for those applicants to the food stamp program in New York City.

It is ironic that my Republican colleagues don't find it fit to support this bill. In 2007, the finger-imaging was banned as a requirement for upstate New Yorkers.

But whether that be upstate, downstate, anywhere in the state, poor people, people in need should not be stigmatized,

should not be criminalized presumptively because they're in need.

And by way of this bill today, New York will leave the ranks of three other states. There are only four states in the United States of America that have seen fit to carry forth this policy. And the fact of the matter is that in those four states that have finger-imaging, there is a higher percentage of error rates, there is a higher percentage of nonparticipation in these areas.

So today, with support of this bill, we have increased participation, we have made more people in New York State who need food on their table be eligible to get it and not trade in their dignity and not trade in their time at work for this kind of need.

So I wish to thank my colleagues for their support. I vote aye.

ACTING PRESIDENT VALESKY: Senator Espada to be recorded in the affirmative.

Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you,

Mr. President.

The roaring '80s are back. Since the Democratic control of this chamber, we've seen the return of the '80s, where we've seen over 1.3 million people on welfare -- but we think it's a great idea to do away with finger-imaging, face-to-face interviews, and the asset checks. No asset checks, we think that's a good idea.

Crime is up across this state, and now we're going to do the same thing with fingertip imaging for food stamps. Absolutely absurd. 1.8 million people use this program every month. 289,000 new people on this program since 2002. And fingerprint imaging hasn't impacted that at all, it's moved right along.

And it's done a good job. Since 1995 we've gotten almost $32 million returned to us. Just last year alone, we had over 1400 individuals where we had over $4 million, over $4 million of savings from waste and fraud.

Ladies and gentlemen, we cannot continue to go backwards, we have to go forward. We shouldn't be comparing ourselves

to four states or five states. We should be the Empire State. We have to stop the fraud and the waste. Heaven forbid we ever did this for Medicaid. I guess that would be like the biggest sin that we've ever seen. Could you imagine the Medicaid fraud that we could stop if in fact we went into finger-imaging?

Ladies and gentlemen, you cannot continue down this path. Fraud is going to continue to rise in this state, just as crime is rising, just as welfare is rising, such as food stamps are rising here in the State of New York, we cannot continue to carry the load as the way we're doing without having this checks and balances in this system, which is perfectly simple, perfectly legitimate, and perfectly acceptable to the majority of the people that have had these fingerprint imaging done.

Ladies and gentlemen, I vote no.

ACTING PRESIDENT VALESKY: Senator Golden to be recorded in the negative.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you. Thank you, Mr. President. I just rise to support my

colleague Senator Espada.

I think that Senator Espada, by introducing this piece of legislation, is doing a great service to the poor and the needy of the State of New York. Understand that in every part of life there is always corruption or there are some people that would like to do it. But Senator Espada today has shown how humane he is, how considerate he is for the poor and the needy.

And to put people, to put needy people in the State of New York through this shameful, humiliating and degrading action just so they could eat is something that we should not allow in the State of New York.

Senator Espada, thank you for this piece of legislation. I am proud to support you on this one. Thank you.

ACTING PRESIDENT VALESKY: Senator Diaz to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1264 are Senators Alesi, Bonacic, DeFrancisco, Farley,

Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1268, by Senator Klein, Senate Print 6928B, an act to amend the Education Law.

SENATOR LaVALLE: Explanation.

ACTING PRESIDENT VALESKY: Senator Klein, an explanation has been requested by Senator LaValle.

SENATOR KLEIN: Mr. President, this legislation would have the Board of Trustees of the State University of New York appoint a qualified and experienced individual as the commissioner of the SUNY campus police in order to implement the single centralization program.

This legislation comes out of the Task Force on Government Efficiency and the

report that we did in analyzing SUNY. One of the things that we found was that every SUNY campus has their own police force. They have their separate uniforms, separate insignias. But the thing that costs the taxpayers so much money is each of these campuses also have separate chiefs, deputy chiefs, assistant chiefs. There's more supervisors in the SUNY police force than the whole state police force combined.

So this is, I think, a very simple way that we can just have one centralized chief at a central office who would administer all of the SUNY campuses around the State of New York, thus saving the taxpayers anywhere from $3 million to $5 million a year in recurring revenue.

SENATOR LaVALLE: Senator Klein, would you yield for a couple of questions.

ACTING PRESIDENT VALESKY: Senator Klein, do you yield?

SENATOR KLEIN: I'd be happy to yield, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LaVALLE: Did the SUNY Board of Trustees ask you for this legislation?

SENATOR KLEIN: No, Mr. President. This came, as I said, after an investigation we had.

We did question the vice chancellor of operations for SUNY, told her about this program. She was kind of new to the job. She said she found it interesting. But now, lo and behold, SUNY does not support the legislation.

SENATOR LaVALLE: Who does support this legislation?

SENATOR KLEIN: The legislation is being supported by the SUNY police officers, their union.

SENATOR LaVALLE: Council 82?

SENATOR KLEIN: I believe that that's the number.

SENATOR LaVALLE: Okay.

On the bill, Mr. President.

ACTING PRESIDENT VALESKY: Senator LaValle, on the bill.

SENATOR LaVALLE: A number of

years ago, as chairman of the Senate Committee on Higher Education, I held a number of hearings on campus safety. I must tell you that Senator Stavisky attended each and every one of those hearings. Also, this house passed -- not once, but twice -- a campus safety bill.

During the deliberations in forming the legislation and the hearings, we heard from all parties. I can't remember Council 82 supporting an effort like this.

So I don't know, Senator Klein, what the politics are at this time to have them make a proposal or support something like this. Because a centralized municipal police force tends to work. Where you have 64 campuses, it does not work in terms of the safety issue.

What you are doing, I think unwittingly, is overriding the president's decision in formulating a safety policy with his local chief and working with the central administration.

In the many years that I've been here, you have done one thing that I have not

seen in many years, and that is an actual memo in opposition -- a piece of paper -- from SUNY. They don't usually do that. They usually come around and say, We oppose this bill, we oppose that bill.

So what you have gotten them to do is to actually come out. And so they must have some very strong feelings on this particular bill.

The issue, the issue of cost. Well, there seems to be a disagreement, as you might suspect, from State University and information from the local chiefs, that if you took the local chiefs out and made Council 82 members in their place, a captain or whatever, the whole structure of that, dealing with overtime and so forth, would not have a savings but would actually cost the state more money.

The most important thing here in the hearings that I held and the discussions that we had on the floor dealing with campus safety is that when you have a system like SUNY, 64 campuses, each campus differs. Each campus, in knowing what requirements they need

to put into effect, is critically important.

We talked about, you know, how do you notify students that there is a campus closedown. Well, different campuses indicated strongly that they wanted to use different mechanisms, whether it was texting, the sounding of a horn or other device, and on and on.

So the critical issue here is campus safety, student safety. And going to a SUNY commissioner to centralize this authority overrides what I believe should be a campus decision with campus individuals giving their input to provide safety to the students.

So I recommend that this legislation not pass this house until we really take a look at the cost issue. I think the trustees deserve an opportunity to see what the structure is and how that would play out. And by not having a specific hearing on this bill -- and to deal with the campus safety and security needs proper focus. One hearing or hearings dealing generically with how you save money really doesn't cut it when we deal with the safety on campuses that you

are providing in your bill.

While I think it's well intentioned in terms of the savings part, that is clearly, Senator, in dispute. It's in dispute.

So I would ask that we have a no vote on this bill.

ACTING PRESIDENT VALESKY: Thank you, Senator LaValle.

Senator Klein.

SENATOR KLEIN: On the bill, Mr. President.

ACTING PRESIDENT VALESKY: Senator Klein, on the bill.

SENATOR KLEIN: Mr. President, I respect my colleague Senator LaValle and his knowledge of higher education, but I think I differ where I think that SUNY administrators walk on water.

Clearly the investigation that we did and the hearings that we followed where we had a vice president of SUNY for operations who, when we asked her about the excessive overtime which exists for nonessential personnel at campuses, she shrugged and said overtime is a fact of life at SUNY.

So this is merely a way that I believe we can save money and also have a more centralized administration. It certainly borders on ridiculous that we would have more supervisors at the SUNY police force, as I said earlier, than the whole state police force combined.

The other issue that I didn't point out when I explained the legislation was this actually will increase safety on our campuses. One of the things that I didn't mention is presently these supervisors and chiefs at campus are not required to have any law enforcement background. The president of a university can appoint a sociology professor, a philosophy professor to be the chief of police at a campus.

So clearly if we allow a centralized unit at SUNY and have a commissioner of all the police working in conjunction with individual presidents to ensure campus safety, I believe we can actually save the taxpayers money and at the same time probably get a much safer campus.

So of course I recommend a yes

vote, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Klein.

Senator Volker.

SENATOR VOLKER: Mr. President -- and I'm going to be brief. I was at those hearings too, and this is a rather strange situation. I'm not exactly sure what the -- and I think the union is behind this. I think the union thinks that if they get a guy on top, they'll become a real police department somehow.

You have to remember one thing -- and I was the one that created the SUNY police department. But they are not police in the same way as regular police departments are. Now, I don't know where this issue of superintendents and all the rest of the stuff came from, but I'll tell you what should happen. I don't know how you have a police department on campuses that doesn't have somebody to oversee them. That doesn't make any sense. It's like a local police chief.

Now, if they have too many people that are running the operation, then that

should be dealt with. But I know what they want to do, they want to oversee the men separate from the SUNY administration. It's never going to happen, by the way. If this bill passes, it will be vetoed by the Governor because the SUNY trustees are never going to let it happen.

But this is an interesting bill because it shows the changes in SUNY personnel. What needs to be done is a reorganization, I think, of the SUNY police maybe on all the campuses. And if what you say is true -- and I never have heard of that, that they've got so many people -- it's got to be downstate, because it certainly isn't upstate that they've got so many different people that are running these campuses. Because I can tell you, the campuses I know of haven't got that many people. I know the people in charge, and all the people in charge in my area are either former police officers or came up through the SUNY ranks.

So I don't think this is a good idea. I think I know the people that talked about this and where it came from. But I

think what has to happen is that the SUNY law enforcement people have got to come down to the earth and realize that they are part of the SUNY system. And if they want to be a police department, that's fine, but they're never going to be a police department in the same way as the New York State Police and all the rest of the people who are authorized cops, which means they can go off and operate in any place in the state.

So I think this is a bad idea, I agree with Senator LaValle, and I'm going to vote no.

ACTING PRESIDENT VALESKY: Thank you, Senator Volker.

Senator Marcellino.

SENATOR MARCELLINO: Yeah, would Senator Klein yield to a couple of questions, please.

ACTING PRESIDENT VALESKY: Senator Klein, do you yield?

SENATOR KLEIN: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR MARCELLINO: We heard before about the 64 campuses located throughout the state in the SUNY system. I have one SUNY, Old Westbury, in my district, and we border on SUNY Farmingdale, which is another SUNY school, obviously.

Do you have any idea how big the campus is for SUNY Old Westbury?

SENATOR KLEIN: No.

SENATOR MARCELLINO: It's over 600 acres. A lot of it treed, wooded, hard to get through and find -- you can have a lot of places where you can have some serious problems if you don't have an adequate force to deal with that.

SENATOR KLEIN: Mr. President, we're not reducing the force in any way, Senator. This is just taking away, as it was called, the top brass or the supervisors. We're not in any way reducing the police force.

As a matter of fact, in a way of, I believe, being more efficient, as I said before, the Senator was surprised but the SUNY police union testified at the hearing they

were supportive of this legislation. And this was one of their ways to make SUNY, according to them, more efficient.

SENATOR MARCELLINO: Will the Senator yield.

ACTING PRESIDENT VALESKY: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR MARCELLINO: How many of the top brass, how many officers would be involved in this program?

SENATOR KLEIN: Administrators -- I'm sorry, you've got to repeat the question.

SENATOR MARCELLINO: Well, you said you were going to take the top brass of these officers off the top, get rid of them. How many are they or are there?

SENATOR KLEIN: I think there was 26.

SENATOR MARCELLINO: Twenty-six officers?

SENATOR KLEIN: Well, actually

it's broken up into chiefs and deputy chiefs. So there's about 27 chiefs, and then you have some deputy chiefs and then some assistant deputy chiefs.

SENATOR MARCELLINO: Do you have any idea how many that would be? How many would that be, if I may.

SENATOR KLEIN: About 47, 50.

And by the way, their average salary tends to be over $100,000 a year.

SENATOR MARCELLINO: That was my next question, the average salary --

SENATOR KLEIN: Probably anywhere, looking here, probably about $90,000 to $100,000, on average, their salary.

And by the way, these are people who I said before are not required to have any criminal justice experience or any background.

SENATOR MARCELLINO: Through you, Mr. President, if --

SENATOR KLEIN: Unlike the police officers that actually patrol the campuses.

SENATOR MARCELLINO: I gotcha. How many --

ACTING PRESIDENT VALESKY:

Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR MARCELLINO: Do you know of any that are not former police officers or do not have police officer training?

SENATOR KLEIN: I don't know specific stories. I can get you those because I know when the -- both the union and I think even the vice president of operations testified, they did give us specific cases.

SENATOR MARCELLINO: Do you know how many of these officers break down, if there's about 50 and there are 64 campuses -- so not every campus apparently, according to the numbers you've given me, would have a captain or a chief or something. Do you know which ones don't, for whatever reason?

SENATOR KLEIN: I'm not sure which don't. But they all had a chief, they all had a deputy chief. Some of them had, you know, assistants as well.

SENATOR MARCELLINO: Thank you,

Senator Klein. I appreciate the courtesy.

Mr. President, on the bill.

ACTING PRESIDENT VALESKY:

Senator Marcellino, on the bill.

SENATOR MARCELLINO: I taught school in the City of New York for 20 years. And I was a UFT member, walked several picket lines during that 20-year stretch when we had our disagreements with the Board of Education. And the system had a hierarchy: Principal of the school, assistant principals. I'll deal just with the high schools. The principals ran the high schools, two assistant principals, one for administration, one for guidance the dealing with student matters, the other one dealing with the hiring and firing of personnel. Then you had subject area chairpeople, the master teachers within the different subject areas whose job it was to make sure that the teachers assigned to those subject areas were able to properly function, they had what they needed to function and were in fact doing the job according to the rules and according to proper pedagogical procedures. They did their work. And they

were our supervisors, if you were.

You know something, when I was in the union we didn't think we needed anybody. I don't know of any school or any teacher that actually said to us, you know, we really need supervision, we really want supervision. We don't need it. These guys get in our way. We can all teach better than they can. We all know what we're doing. After all, paper is supplied, this comes in, that comes in. Who needs these guys at the top? What the heck do they ever do?

Well, there came a point in time when the chairman of the department that I was in had to leave, and I was asked by the principal to take over the responsibilities of the department, become the acting chairperson of the science department of my high school, which had approximately, at the time, 5,000 students in it. Five thousand students in one high school. There are school districts throughout this state that don't have 5,000 students in total, from the prekindergarten right up through the high schools. But in this case, that was the nature of the school.

Turned out, as it happened, that I found out what the chairman of that department actually did. And it filled my day and a lot of nights and a lot of time involved supervising the teachers of the department, making sure the administrative duties were properly performed, observing lessons, watching to make sure all the security necessary was done and supplies were involved. It was a big job and it was important and it was difficult to do. And as a teacher, you didn't comprehend the need.

So I'm not impressed when I hear that union members, lower-level rank-and-file union members don't appreciate being supervised by higher-level people. Nobody likes to be told what to do. Nobody likes to be given orders. Everybody knows what they're doing -- or everybody feels they do, anyway -- and everybody knows more than the chief who's in the rank and file, but they don't necessarily have a larger picture. So I kind of dismiss the argument that the union is in favor of that because, quite frankly, I wouldn't expect otherwise.

I would like to know and it would be a problem if you said that the person who was going to be the overall supervisor of all of the campuses was located in one place -- probably, I would assume, in Albany, just for argument's sake. Or pick another location throughout the state where this super person would be located. And how that person would get up to Buffalo or down to Long Island or in the Southern Tier or, you know, in the North Country, find a place, running around. The campuses are different, they're diverse, they vary in size. Population differences, all kinds of situations totally different. Weather conditions vary from one end of the state to the other. So you can see the differences and the diversity.

I'm all for saving money. And if there is a way to look at this and to save some money in respect to overtime and all the rest, that's great. But I'm also concerned, as my colleague Senator LaValle stated, in the security of each campus. Because I said some campuses are urban and some campuses, such as the one in SUNY Old Westbury, has hundreds of

acres. And a lot of it wooded acres. So it's a whole different environment that you have to deal with and a whole different set of concerns in worrying about the security. It might be easier in secure buildings in a city, whereas in our area there's almost no way you can prevent someone from getting on the campus that you don't want. There's hundreds of acres and lots of ways to get in, and you're on that campus. Impossible to stop it. Impossible to stop it. So you're going to need perhaps even more people in that situation rather than less.

And people do need to be supervised. Someone has to know that the police officers are patrolling where they belong. Someone has to know that the security people are where they should be and not playing cards someplace else. You have to have supervision. To say that you can run a place with all the Indians and no chiefs frankly belies logic. It simply isn't the case. It's impossible to do.

You've got to have the people to run it, you've got to have people supervising

it, you've got to have people on the scene who will say Officer A is a good officer, is doing his job or her job and deserves to be retained, Officer Q is not doing the job and doesn't deserve to be retained.

And that means if you're going to suggest or recommend firing, someone's got to be in there to write them up, someone's got to be in there to point out what was wrong and when it happened and what you did to try prevent it from happening again.

Were there training programs put in place for those people on those campuses? Just a fire drill, who's going to supervise that? Who's going to conduct them? Who's going to make sure they happen at the right time? All of this is all part of it. It's all part of it. In these days with homeland security, it's all part of it. We've got to make sure that our people, our campuses are safe.

I understand what Senator Klein is trying to do, and I commend him for it. I like the idea. But I'm not sure that this is the way to go. Better, better, I think, if we

held a meeting of all the SUNY presidents, with the trustees. Set up a meeting. Let's talk about how we can better utilize our forces.

What is the police force that's necessary to protect the campuses appropriately, to make sure that they're safe for our kids? What do we need? Let's take a look at that. Let's take a look at the salary scale. Let's take a look at the training necessary to become a SUNY police officer. In fact, does it have to be increased? Do we want a non-police officer running the place? Is it appropriate? Maybe we want a law that says you've got to be a trained police officer and there has to be so many years of training involved.

I'd like to see all that. I don't think this bill does it quite that way. I understand, as I said, what he wants to do, and I don't disagree with it. Saving money is a good thing, especially in a time where we have a state budget where we don't have a lot of money to play with. We've got to be careful.

But I don't think this bill is going to do it, Mr. Chairman. So I'm not going to vote for it because I just don't think it's there. Revision, be happy to work with the sponsor to fix it to do the right thing, but this doesn't quite cut it. I'll be voting no and I suggest a no vote on this particular bill.

Thank you, Mr. Chairman.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Marcellino.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

As many of you know, I represent a very large district: Six counties, 88 towns, 25 villages, and 53 school districts. And since I have been in the Legislature -- particularly in the Senate -- with this size district, I've been a proponent of sharing services, of consolidating, of becoming more efficient, of trying to do things together.

And I will tell you I've had my head batted around, especially when I suggested that two community colleges who were

both looking for a president, who were right near each other, combine. And believe me, that was not thought of well by those two community colleges.

So I came up with a saying -- because this is what I think is happening. Here we are in a state with among the highest property taxes in the nation, and everyone that we talk to wants lower taxes, less government, and absolutely no change. And you can't get it that way. So we have to do some change.

I've been involved in several task forces. I've been involved in Senator Klein's task force on this. I've talked to the president of SUNY Plattsburgh. You know, this would be modeled, basically, after the State Police. But the State Police superintendent supervises 5,000 State Police all over the state, with Troop B, Troop G and all of those different troops and commanders and the like.

We're talking about about 500 SUNY police that could be supervised under one supervision, one administration, and there definitely would be some savings. There would

be a change, but I think it could be done very well and it could be done safely.

At SUNY Plattsburgh not only do they have the police, but they also have these kind of green poles and lights where any kind of student or anyone on campus who needs extra help can pull the lever and, you know, a siren goes off and all, and someone comes to help them.

So, you know, while the details of this may need to be fixed as we go along -- and they will be -- I think that this is a good idea and this is where we need to be. We have got to control the cost of government. We have got to make some changes so that we're not taking as much money out of the taxpayers' pockets.

And I support this bill. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Little.

Senator Saland.

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

ACTING PRESIDENT CRAIG JOHNSON:

Senator Saland, on the bill.

SENATOR SALAND: Mr. President, oh, probably six to eight weeks ago I engaged in a debate with Senator Valesky regarding a bill dealing with the SUNY police. And as I look at the language that's being amended, it's language that I had drafted and had negotiated some number of years ago, 10, 12 years ago, perhaps, when we created the SUNY police force.

And I believe I mentioned then and I'll mention again now the SUNY police were created in response really to an effort on behalf of the then security personnel who felt that their efforts as security personnel were being derided, being ignored, were being in effect totally -- if not totally, then certainly substantially abused by students on campus.

And if you look at the language, notwithstanding Senator Little's comments about consolidation and efficiencies, if you look at the language, what is important and in why they were created was for them not to be like the State Police, not for them to be a

State Police agency. They were given police power primarily for two reasons. Number one, to elevate their status. Number two, for the ability to pursue someone in hot pursuit who was leaving the campus.

Each of the campuses -- and there are 28 of them that have police forces -- certainly present differently. I would assume there are any number of variations on the theme. But the first and foremost responsibility of that SUNY officer is to his or her campus. It's not to a campus in some other part of the state, it's not a campus 30 miles away. They were created for purposes of providing security on their campus. That's where they belong, and that's where their focus should be, and that's where they should be administered.

And if you look at the language that's being amended, the language doesn't give cart blanche to anybody. It says that the president of the campus has the ability, with the approval of the chancellor, to enter compacts with local police to the extent to which they wish to have mutual aid agreements.

So this is a police force that was created for the sole purpose of giving them greater authority on their campus, giving them the respect due to positions they held and elevating their status to police officers, enabling them to leave the campus in hot pursuit and, where deemed appropriate by the president of the campus, to enter some type of mutual aid compact with protocols set forth with a local police force.

This does not require, by any stretch of the imagination, the kind of administration that occurs with the State Police. And to compare this to the State Police and to look at this through that same prism really defies and defiles the whole purpose behind the creation of this police force.

Their first, foremost, and virtual sole responsibility is the campus upon which they are employed. Their obligation is to the students, the faculty, the administration and any guests on that campus.

I don't know what is driving these particular bills at this point to create a

quasi-State Police force when the elements just are much like comparing apples and oranges. To elevate this to some statewide, State Police-like police force really is in derogation of their creation, their role, their responsibility and their duties.

So, Mr. President, while the bill at first blush seems to be something about administrative efficiencies, it certainly flies in the face of the original intent of the legislation, flies in the face of the purpose of the police force, and I think is totally uncalled for.

And the fact is that the SUNY trustees and assumedly the chancellor -- I can't believe that there would have been a memorandum in opposition if the chancellor felt that there should not have been a memorandum in opposition -- do not believe that this is the way to go, and I happen to concur this is not the way to go.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Saland.

Senator LaValle.

SENATOR LaVALLE: To close the debate, Mr. President.

I just wanted to clarify a couple of things. The most important thing that came out of the legislation on campus safety was what happened at Virginia Tech. And everyone out of that situation, in the hearings that we held and the discussions that we held, clearly talked about the system that we have in place, with the president -- who, by the way, Senator Klein, and I think you know it, is the person who is solely the authority for whether the peace officers on that campus will carry firearms or not.

So it starts with the president. It goes down to that individual who is the chief of the SUNY police on that campus. And as far as I know -- and we have documentation of the kind of training that these police officers go through. So I don't know if there's someone out there, a chief or anyone else, who doesn't have the kind of training that other peace officers have.

I'm taking -- just to clarify something, because the cost issue seems to be

important, as you being the chair of the Task Force on Government Efficiency. You had indicated that there were $23 million in potential savings from SUNY's 2008 budget, including reductions in overtime pay and consolidation of campus police forces.

Now, you talked about Vice Chancellor Monica Rimai, and she had indicated she told the committee that much of the overtime is paid to medical and maintenance staff and that the system is a 24/7 year-round operation in which overtime is unavoidable. And then she said overtime is our reality.

Then you indicated during these deliberations that there were a hundred individuals that made more than 50 percent of their salary in overtime pay. Nowhere do I have in this, which was on Capital Confidential Blog, no one in overtime were the people that you want to replace, the chiefs.

So we're doing all this when the very individuals don't get overtime pay but the people that would replace them do get, would get overtime pay, because they would be union members from Council 82.

As I indicated, this $3 million savings that you talked about just is a specious number. It just does not hold up. And as I indicated, the substitutes that would replace the police chiefs, the SUNY police chiefs, would be eligible for overtime. The overtime -- and Monica Rimai indicated that SUNY's overtime costs are 1.9 percent, well below the state average of 3.1 percent.

So as I indicated, I don't know what is going on in terms of the union and why they wanted this bill. But quite honestly, Senator Klein, they are the only ones that want this bill.

And as I indicated, there probably are no savings of the $3 million that you have indicated. But why -- and Senator Saland was very articulate and right on point -- why would we do something that is going to compromise student safety?

So I ask that there be a no vote on the bill.

ACTING PRESIDENT CRAIG JOHNSON: Are there any other Senators wishing to be heard on the bill?

Seeing none, debate is closed. The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Adams, to explain his vote.

SENATOR ADAMS: Thank you, Mr. President.

I'm going to be voting for this bill. We have 76, 76 precincts in New York City, 12 transit districts, nine PSAs, and we have one commissioner. Our college campuses are not the college campuses of yesteryear. We need well qualified and trained individuals to look over the campuses. Nowhere in Senator Klein's bill does it state we're taking away supervisors. In fact, he points out that he wants police supervisors.

And lastly, when you read his explanation, you see that we currently have campuses where they have their own training,

their own standards, all separate. That is not how you provide public safety for young people. You must have standardized levels. Even if the terrain is different, the basic principles or philosophies of public safety are the same regardless of if it's a snow area or a sun area.

And I think this bill is right on time, it's long overdue. We have to evolve to a better system of protecting our young people. And having someone at the top will do the job. I will be voting aye.

ACTING PRESIDENT CRAIG JOHNSON: Senator Adams to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1268 are Senators Bonacic, DeFrancisco, Farley, Golden, Hannon, O. Johnson, Larkin, LaValle, Marcellino, Padavan, Ranzenhofer, Saland, Seward, Skelos, Volker and Young. Also Senators Leibell and Libous.

Ayes, 43. Nays, 18.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1270, by Senator Foley, Senate Print 7447A, an act authorizing certain school districts.

SENATOR LaVALLE: Explanation.

ACTING PRESIDENT CRAIG JOHNSON: Senator Foley, an explanation has been requested by Senator LaValle.

SENATOR FOLEY: Thank you, Mr. President.

This legislation would allow school districts to make a one-time transfer of up to 50 percent from their EBALR reserve account. And that particular account statewide would enable school districts to access close to $485 million.

ACTING PRESIDENT CRAIG JOHNSON: Are there any Senators wishing to be heard on the bill?

Senator Flanagan, why do you rise?

SENATOR FLANAGAN: Mr. President, on the bill.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Flanagan, on the bill.

SENATOR FLANAGAN: Thank you.

We've had discussions about this type of reserve fund use in the past. The Governor had introduced this in his budget. We had offered amendments which were unceremoniously defeated here as part of the extenders. And now we have this bill before us, and I'm going to differentiate and say I support the prudent use of reserve funds to help mitigate property tax issues in the districts that we represent.

But here's my concern with this bill. I think this bill goes beyond what we should be allowing. Because the bill specifically says, and it's relatively short, that school districts are allowed to transfer up to 50 percent of the total of such monies or 100 percent of the excess of such monies, whichever is greater, into the general fund of the school districts.

So by using an example, let's assume you had a fund with $20 million and the excess was determined to be $5 million. A fair reading of this bill would say that you

can go and take more than the $5 million, and because you could take more, you could end up taking $10 million, which would create a situation -- which we're trying to avoid -- which would allow a school district to take more than the excess, thereby undermining the whole point of the reserve fund and potentially creating a situation where these are going to be underfunded, and that could down the road make that situation even worse.

I understand that the excess is allowed to be used. But there's no oversight here, from what I can see. And this would allow school districts to go beyond where we think we want to let them go.

And for that reason, Mr. President, I will be voting no and I urge my colleagues to do the same. Well-intended, but the language needs to be changed so we can protect the taxpayers while we're trying to help school districts.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Flanagan.

Senator LaValle.

SENATOR LaVALLE: Thank you,

Mr. President. On the bill.

ACTING PRESIDENT CRAIG JOHNSON: Senator LaValle, on the bill.

SENATOR LaVALLE: I had similar legislation. I think Senator Foley filed his bill April 12, 2010; mine was February 23, 2009.

And the most important thing -- and this came out of something that Comptroller DiNapoli had caught and had indicated but said we need legislative authority. So in the first line of my bill -- and it goes to what Senator Flanagan said -- "if after audit and certification by the State Comptroller that there are funds in excess of" blah, blah, blah. We differ in terms of the prescription.

I say it goes to real property relief or, if there is voter-approved capital projects, which takes the burden off the debt service that the local taxpayers have to pay.

So, Senator Foley, I think the most important thing, there is no oversight. And it makes this legislation very deficient.

ACTING PRESIDENT CRAIG JOHNSON: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I'm going to be voting for this legislation. And I guess the only reason I will is because it's a one-time transfer, only for this year. Because I do agree with the two people that spoke before me. The ranker on the Education Committee, John Flanagan said it exactly right.

If you are going to be removing monies that are not in excess -- and that's one of the options, to remove 100 percent of the excess. And that I support. But if you take more than the excess, it means that these monies will have to be replaced at a later time. They are essential to the functioning of the retirement system of that school district.

And I will be supporting it, though the second part of this -- 100 percent of the excess monies I can see, but 50 percent of the total, whichever is greater, I cannot see. But I will be supporting it since this is a one-time event. And I hope we can correct it if this occurs again and it becomes a second-time or a third-time event.

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Oppenheimer.

Any other Senators wishing to be heard?

Senator Marcellino.

SENATOR MARCELLINO: I won't ask any questions, but the appropriate --

ACTING PRESIDENT CRAIG JOHNSON: Senator Marcellino, on the bill.

SENATOR MARCELLINO: On the bill. The appropriate language says it could be used to offset any property tax increases. That's great. But it also says it can be used to offset any staff reductions.

This is a one-time hit. What do you do next year with that same staff when you don't have the money to pay for it? This is a one-time use of this fund. And, you know, it's like we did with the stimulus money; it's a one-shot. Went to the schools. The schools are now faced with what do we do with these teachers we paid for last year? What do we do with the programs we paid for last year with money that we're not getting back?

A one-shot means it's not coming back again next year. You're paying teachers this year with money you will not get next year. How do you replace that money? You increase the taxes or you fire the teachers. So you're in the same boat, you're just kicking the can down the road. That's the problem with the bill.

Fix the language and I don't have a problem. The first part, mitigate property taxes, great idea. But more often than not this is going to go to save jobs -- another good idea, but how do you pay for them next year? A bad idea.

So in this case I would recommend a no vote unless you want to pull the bill and amend it and fix it and do it right.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Marcellino.

Any other Senators wishing to be heard?

Seeing none, debate is closed. The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Foley, to explain his vote.

SENATOR FOLEY: Thank you, Mr. Chairman.

As I mentioned earlier, this one-time allocation of a transfer will allow school districts throughout the State of New York to return over $485 million back to the taxpayers of those particular component school districts.

These school districts, in other words, Mr. President, will be able to keep property taxes down with this particular allocation when they set their tax levies this September.

And as far as accountability is concerned, as we all well know, local school districts have their own elected body, they have the school boards. So the school boards have the fiduciary responsibility in those

component school districts. And yes, they will be making the decision and therefore they would have that responsibility.

So this is a real win/win for the people of our state at a time of a dire fiscal situation for our taxpayers. This is an opportunity that our school districts could take if they so desire to help the local taxpayers. I would strongly encourage our colleagues to support this bill.

I vote in the affirmative.

ACTING PRESIDENT CRAIG JOHNSON: Senator Foley to be recorded in the affirmative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: I agree with what my learned colleague just said. And if everything was just -- if it ended there on property tax relief, I would be an aye vote on this bill.

But the sentence in the bill is very clear: "Such funds appropriated by this section shall only be used to mitigate an anticipated increase in school property taxes

and/or restore anticipated or actual staff-level reductions."

You've given them a Hobson's choice. They're going to either go there or they're going to save teachers. It could happen both ways. You're going to have teacher on the line whose salaries are going to be paid by money this year that won't be there next year. This is not a good choice.

I vote no.

ACTING PRESIDENT CRAIG JOHNSON: Senator Marcellino to be recorded in the negative.

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

In a day filled with mysterious numbers and lack thereof, I heard our Senate colleague and sponsor of the bill, Senator Foley, make reference to some $485 million in savings. And what I find intriguing about that is the either/or situation in the bill. It's either 50 percent of the employee benefit fund or the excess, whichever is greater.

So I don't know whether that $485 million means we're going to raid the funds and draw them down to the 50 percent or whether that is the excess over and above whatever would be otherwise permissible. So it's a rather fuzzy number, but today has been a great day for fuzzy and mysterious numbers.

I vote in the negative. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland to be recorded in the negative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Mr. President.

I am going to support this bill, although I share the concerns that many of my colleagues have stated here. Most notably, at least in this bill, I think if I can get over one issue, that the bill allows the school's governing body to make these decisions -- I would have grave decisions about any school governing body that was not elected by the public.

But I will vote for the bill.

ACTING PRESIDENT CRAIG JOHNSON: Senator Alesi to be recorded in the

affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on 1270 are Senators DeFrancisco, Farley, Flanagan, Golden, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Marcellino, Nozzolio, Padavan, Ranzenhofer, Saland, Skelos, Volker and Young.

Ayes, 43. Nays, 18.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1272, by the Assembly Committee on Rules, Assembly Print Number 11389, an act to amend the Public Officers Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan, why do you rise?

SENATOR PADAVAN: Mr. President, I'm going to be brief as I possibly can.

ACTING PRESIDENT CRAIG JOHNSON: On the bill, Senator Padavan.

SENATOR PADAVAN: There are two parts of this bill that create problems. One

is subjective, and the other is technical almost to the point -- and I think really at the point, Senator Espada, where you're going to get a veto if you don't correct it.

Now, let me tell you what they are. And they're in the memo from the City of New York. On the subjective part of it, this bill makes it a Class A misdemeanor if someone were to release or disclose the contents of a sealed court record.

Now, if a clerk were to make a mistake, some person at an administrative level, they're facing a jail term. So what's going to happen is that they'll be very reluctant, as this memo says, with the result that courts, attorneys, schools, mental health professionals, and law enforcement agencies with a need for such records will be unable to obtain them in a timely fashion.

And then the word "release" is very broad in the way it's defined here. That could also be an individual speaking about a sealed record, nevertheless even providing it. So that's one problem.

But here's the part that's fatal, I

think, Senator Espada, and you might want to listen to this. It says the bill does not incorporate or acknowledge the lawful exceptions to sealed requirements which are already contained in the applicable laws. For example, CPL Section 150-50, subdivision 1D, sets forth the circumstances under which sealed records may be disclosed without a court order, including for purposes of firearm licensing and employment as a police or police officer.

Yet -- and here's the part -- the lawful disclosure becomes a Class A misdemeanor under your bill. So, you know, in effect it shoots itself in the foot.

I don't think you intended that to happen. And I would strongly suggest that you take a look at this and see what you really have to do to make the bill viable.

ACTING PRESIDENT CRAIG JOHNSON: Senator Espada, on the bill.

SENATOR ESPADA: On the bill.

Firstly, I think the amendment to the Public Officers Law is accurately stated. That is, it does establish a crime for

intentional releasing or disclosing of the nature and substance of a sealed court record. And we're clearly spelling out intentionally, and we're clearly saying that "intentionally" means and meets all the standards of intent: Knowingly, recklessly, negligently, strict liability accruing to that intent.

And we have unfortunately tragic, tragic situations -- and by way of explanation I wish to dedicate this bill to the family of Patrick Dorsimond, who 10 years ago, an unarmed security guard, was fatally shot by a police officer. No trial for the Dorsimond shooter, but the juvenile records of this young man were released.

And obviously he died. And all of the damage that accrued through the media was a result of Mayor Giuliani intentionally releasing this information, knowingly releasing this information for the media to create the kind of criminality that he sought to create.

And so this bill is necessary because there are these celebrated and unfortunate and tragic cases, but it happens

all the time to our young people in the criminal justice system.

And so we're clear about what intent means, we're clear how it applies. And I ask my colleagues to support this bill because this is true justice. True justice for our young people, true justice for any of us that could be caught in a circumstance in which our youthful indiscretions we wish to leave behind us. The law allows for that, and anybody who breaks the law intentionally should pay for that.

Lastly, lastly --

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan, why do you rise?

SENATOR PADAVAN: I'll let him finish.

ACTING PRESIDENT CRAIG JOHNSON: Okay. Senator Espada, continue.

SENATOR ESPADA: Lastly, the ceiling provisions attach to the record. That is, even if you're dead you cannot release these records unless a representative of your estate or a court determines that they can be released.

Thank you, Mr. President. I shall vote aye.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Espada.

Senator Padavan.

SENATOR PADAVAN: Will the Senator yield to a question.

ACTING PRESIDENT CRAIG JOHNSON: Senator Espada, will you yield for a question from Senator Padavan?

SENATOR ESPADA: Yes, of course.

ACTING PRESIDENT CRAIG JOHNSON: The sponsor yields.

SENATOR PADAVAN: Senator Espada, it says here -- and I'm going to read it, because I want to be accurate: "Lawful disclosure becomes a Class A misdemeanor, pursuant to the language of the bill, which specifically cites the various ceiling statutes but prohibits the lawful disclosure provided for in the statute that it cites."

I mean, to me it's very clear, there's a major contradiction there. And I'm not even a lawyer and I understand it.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Espada.

SENATOR ESPADA: Well, I have no response in that I think it's misinterpreted, misunderstood. And we stand by our bill. It's carefully crafted. And quite frankly, we add chapter amendments all the time here.

But in this instance we're clear in defining intent here, and we're clear as to the relief and the sanctions that should accrue.

Thank you very much, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Espada.

Seeing no other Senators wishing to be heard, debate is closed. The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Yes, thank

you, Mr. President.

I'm going to support this bill because I think it does deal with a very important issue of the unauthorized release of sealed court records.

I do think the bill in its present form probably needs some editing because it's not completely clear to me that as drafted it might not affect people who knowingly release records, but there's no clear requirement that they have to know the records are sealed.

So I'm going to support the legislation because it is a tremendously important issue that's being addressed here, to ensure that when your records are sealed you have confidence that they will remain sealed and that no one will violate the court orders that relate to the sealing.

So I'm going to vote yes, Mr. President, and look forward to working on improving this as we move forward. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Schneiderman to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1272 are Senators DeFrancisco, Hannon, O. Johnson, Larkin, LaValle, Libous, Marcellino, Padavan, Ranzenhofer, Skelos and Volker.

Ayes, 50. Nays, 11.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

Senator Klein.

SENATOR KLEIN: Mr. President, can you recognize Senator Libous.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: There will be an immediate Republican conference for no more than 10 minutes.

ACTING PRESIDENT CRAIG JOHNSON: There will be an immediate Republican conference in the Republican Conference Room for no more than 10 minutes.

Senator Klein.

SENATOR KLEIN: Mr. President, can we please stand at ease while the

Republicans conference. Can we please return at ten after 9:00.

ACTING PRESIDENT CRAIG JOHNSON: The Senate will stand at ease until ten after 9:00 while the Republicans conference.

(Whereupon, the Senate stood at ease at 9:03 p.m.)

(Whereupon, the Senate reconvened at 9:34 p.m.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, if we could just briefly return to motions, I have a single motion.

ACTING PRESIDENT CRAIG JOHNSON: Returning to motions and resolutions.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Kruger, I move to recommit Senate Print Number 6610B, Calendar Number 1291 on the order of third reading, to the Committee on Rules.

ACTING PRESIDENT CRAIG JOHNSON: So ordered, Senator Klein.

SENATOR KLEIN: Mr. President, is

there any further business at the desk?

ACTING PRESIDENT CRAIG JOHNSON: The desk is clear, Senator Klein.

SENATOR KLEIN: There being no further business, Mr. President, I move that we adjourn until Tuesday, June 29th, at 12:00 p.m.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, there being no further business to come before the Senate, on motion, the Senate stands adjourned until Tuesday, June 29th, at 12:00 p.m.

(Whereupon, at 9:35 p.m., the Senate adjourned.)