

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 June 28, 2010

11 2:45 p.m.

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13
14 REGULAR SESSION

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18 SENATOR NEIL D. BRESLIN, Acting President

19 ANGELO J. APONTE, Secretary

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

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

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

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

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

12 ACTING PRESIDENT BRESLIN: The
13 reading of the Journal.

14 The Secretary will read.

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

20 ACTING PRESIDENT BRESLIN:
21 Without objection, the Journal stands approved
22 as read.

23 Presentation of petitions.

24 Messages from the Assembly.

25 Messages from the Governor.

1 Reports of standing committees.

2 Reports of select committees.

3 Communications and reports from
4 state officers.

5 Motions and resolutions.

6 Senator Klein.

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

11 ACTING PRESIDENT BRESLIN: The
12 Secretary will read.

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

18 ACTING PRESIDENT BRESLIN:
19 Substitution ordered.

20 Senator Klein.

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

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

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

7 ACTING PRESIDENT BRESLIN: The
8 Secretary will read.

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

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

19 Senator Libous.

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

24 ACTING PRESIDENT BRESLIN:
25 Senator Klein.

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

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

7 (The Secretary called the roll.)

8 ACTING PRESIDENT BRESLIN:
9 Announce the results.

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

19 Ayes, 32. Nays, 29.

20 ACTING PRESIDENT BRESLIN: The
21 resolution is adopted.

22 Senator Klein.

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

1 the resolution be read and move for its
2 immediate adoption.

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

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

9 ACTING PRESIDENT BRESLIN: The
10 Secretary will read.

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

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

21 (Response of "Aye.")

22 SENATOR LIBOUS: Mr. President.

23 ACTING PRESIDENT BRESLIN:
24 Senator Libous.

25 SENATOR LIBOUS: Thank you for

1 recognizing me, Mr. President.

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

5 ACTING PRESIDENT BRESLIN:
6 Senator Klein.

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

9 ACTING PRESIDENT BRESLIN:

10 SENATOR LIBOUS: Thank you,
11 Mr. President.

12 ACTING PRESIDENT BRESLIN: Thank
13 you, Senator Libous.

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

18 (The Secretary called the roll.)

19 ACTING PRESIDENT BRESLIN:
20 Announce the results.

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

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

5 Ayes, 32. Nays, 29.

6 ACTING PRESIDENT BRESLIN: The
7 resolution is adopted.

8 Senator Klein.

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

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

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

20 ACTING PRESIDENT BRESLIN: The
21 Secretary will read.

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

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

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

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BRESLIN:
11 Announce the results.

12 THE SECRETARY: Those recorded in
13 the negative on Concurrent Resolution Number
14 6246 are Senators Alesi, Bonacic, DeFrancisco,
15 Farley, Flanagan, Fuschillo, Golden, Griffo,
16 Hannon, O. Johnson, Lanza, Larkin, LaValle,
17 Leibell, Libous, Little, Marcellino, Maziarz,
18 McDonald, Nozzolio, Padavan, Ranzenhofer,
19 Robach, Saland, Seward, Skelos, Volker, Winner
20 and Young.

21 Ayes, 32. Nays, 29.

22 ACTING PRESIDENT BRESLIN: The
23 resolution is adopted.

24 Senator Klein.

25 SENATOR KLEIN: Mr. President, I

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

5 ACTING PRESIDENT BRESLIN:

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

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

11 ACTING PRESIDENT BRESLIN: The
12 Secretary will read.

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

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

25 (The Secretary called the roll.)

1 ACTING PRESIDENT BRESLIN:

2 Announce the results.

3 THE SECRETARY: Those recorded in
4 the negative on Concurrent Resolution Number
5 6247 are Senators Alesi, Bonacic, DeFrancisco,
6 Farley, Flanagan, Fuschillo, Golden, Griffo,
7 Hannon, O. Johnson, Lanza, Larkin, LaValle,
8 Leibell, Libous, Little, Marcellino, Maziarz,
9 McDonald, Nozzolio, Padavan, Ranzenhofer,
10 Robach, Saland, Seward, Skelos, Volker, Winner
11 and Young.

12 Ayes, 32. Nays, 29.

13 ACTING PRESIDENT BRESLIN: The
14 resolution is adopted.

15 Senator Klein.

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

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

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

1 the Rules Committee in Room 332.

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

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

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

8 ACTING PRESIDENT BRESLIN:
9 Senator Klein.

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

13 ACTING PRESIDENT BRESLIN:
14 Returning to motions and resolutions.

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

19 ACTING PRESIDENT BRESLIN: The
20 Secretary will read.

21 THE SECRETARY: Calendar Number
22 298, by Senator Parker, Senate Print 3601C, an
23 act to amend the Social Services Law.

24 ACTING PRESIDENT BRESLIN:
25 Senator Klein.

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

4 ACTING PRESIDENT BRESLIN: Call
5 the roll on reconsideration.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 61.

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

10 ACTING PRESIDENT BRESLIN:
11 Amendments received.

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

16 ACTING PRESIDENT BRESLIN: The
17 Secretary will read.

18 THE SECRETARY: Calendar Number
19 1112, by Senator Stachowski, Senate Print
20 7865, an act to amend the Executive Law.

21 ACTING PRESIDENT BRESLIN:
22 Senator Klein.

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

1 ACTING PRESIDENT BRESLIN: Call
2 the roll on reconsideration.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 61.

5 ACTING PRESIDENT BRESLIN:
6 Senator Klein.

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

9 ACTING PRESIDENT BRESLIN:
10 Amendments received.

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

17 ACTING PRESIDENT BRESLIN: So
18 ordered.

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

23 ACTING PRESIDENT BRESLIN: So
24 ordered.

25 SENATOR KLEIN: On behalf of

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

6 ACTING PRESIDENT BRESLIN: So
7 ordered.

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

10 ACTING PRESIDENT BRESLIN:
11 Senator Libous.

12 SENATOR LIBOUS: Thank you,
13 Mr. President.

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

19 ACTING PRESIDENT BRESLIN: So
20 ordered.

21 Senator Klein.

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

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

4 The Secretary will read.

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

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

12 6603B, Senate Budget Bill, an act
13 making appropriations for the support of
14 government: EDUCATION, LABOR AND FAMILY
15 ASSISTANCE BUDGET;

16 6604B, Senate Budget Bill, an act
17 making appropriations for the support of
18 government: HEALTH AND MENTAL HYGIENE BUDGET;

19 6607B, Senate Budget Bill, an act
20 to amend the Education Law;

21 6608B, Senate Budget Bill, an act
22 to amend the Public Health Law;

23 6610B, Senate Budget Bill, an act
24 to amend the Tax Law;

25 And Senate Print 8381, from the

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

4 All bills ordered direct to third
5 reading.

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

9 (Response of "Aye.")

10 ACTING PRESIDENT BRESLIN:
11 Opposed, nay.

12 (No response.)

13 ACTING PRESIDENT BRESLIN: The
14 Rules Committee report is adopted.

15 Senator Klein.

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

19 ACTING PRESIDENT BRESLIN: The
20 Secretary will read.

21 THE SECRETARY: Calendar Number
22 1286, Senate Budget Bill, Senate Print 6601A,
23 an act making appropriations for the support
24 of government: LEGISLATURE AND JUDICIARY
25 BUDGET.

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

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

10 ACTING PRESIDENT BRESLIN:
11 Substitution ordered.

12 THE SECRETARY: Calendar Number
13 1287, Assembly Budget Bill, Assembly Print
14 Number 9703C, substituted earlier, an act
15 making appropriations for the support of
16 government: EDUCATION, LABOR AND FAMILY
17 ASSISTANCE BUDGET.

18 SENATOR STACHOWSKI: Lay it
19 aside.

20 ACTING PRESIDENT BRESLIN: The
21 bill is laid aside.

22 THE SECRETARY: Calendar Number
23 1288, Senate Budget Bill, Senate Print 6604B,
24 an act making appropriations for the support
25 of government: HEALTH AND MENTAL HYGIENE

1 BUDGET.

2 SENATOR STACHOWSKI: Lay it
3 aside.

4 SENATOR ROBACH: Lay it aside.

5 ACTING PRESIDENT BRESLIN: The
6 bill is laid aside.

7 THE SECRETARY: Calendar Number
8 1289, Senate Budget Bill, Senate Print 6607B,
9 an act to amend the Education Law.

10 SENATOR STACHOWSKI: Lay it
11 aside.

12 ACTING PRESIDENT BRESLIN: The
13 bill is laid aside.

14 THE SECRETARY: Calendar Number
15 1290, Senate Budget Bill, Senate Print 6608B,
16 an act to amend the Public Health Law.

17 SENATOR DIAZ: Lay it aside.

18 ACTING PRESIDENT BRESLIN: The
19 bill is laid aside.

20 THE SECRETARY: Calendar Number
21 1291, Senate Budget Bill, Senate Print 6610B,
22 an act to amend the Tax Law.

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

25 THE SECRETARY: Calendar Number

1 1292, by the Senate Committee on Rules, Senate
2 Print 8381, an act to repeal Section 25-b of
3 Part A of a chapter of the Laws of 2010.

4 ACTING PRESIDENT BRESLIN:

5 Calendar Number 1292 is high and is laid aside
6 for the day.

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

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

12 ACTING PRESIDENT BRESLIN: The
13 Senate will stand at ease.

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

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

18 ACTING PRESIDENT BRESLIN:
19 Senator Klein.

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

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

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

3 The Secretary will place Calendar
4 Number 1287 before the house.

5 THE SECRETARY: Calendar Number
6 1287, substituted earlier today, Assembly
7 Budget Bill, Assembly Print Number 9703C, an
8 act making appropriations for the support of
9 government: EDUCATION, LABOR AND FAMILY
10 ASSISTANCE BUDGET.

11 SENATOR DeFRANCISCO:
12 Explanation.

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

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

18 This budget bill is the Education,
19 Labor and Family Assistance portion of the
20 budget. In principle, the overall impact on
21 education, labor and family assistance
22 appropriates \$27.6 billion from the General
23 Fund. This is \$623 million or 2.3 percent
24 more than was proposed by the Governor and
25 \$29.4 million or 0.1 percent more than the

1 state fiscal year of 2009-2010.

2 The Education, Labor and Family
3 Assistance Budget appropriates \$61 billion on
4 an All Funds basis for the state fiscal year
5 2010-2011. This is \$3.49 billion or 6 percent
6 more than proposed by the Governor, but
7 \$4.6 billion or 7.5 percent less than state
8 fiscal year 2009-2010.

9 ACTING PRESIDENT BRESLIN: Thank
10 you, Senator Kruger.

11 Senator DeFrancisco.

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

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

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

19 ACTING PRESIDENT BRESLIN: You
20 may proceed.

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

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

5 ACTING PRESIDENT BRESLIN: Excuse
6 me, Senator DeFrancisco.

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

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

12 SENATOR CARL KRUGER: Yes, it
13 would be.

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

17 ACTING PRESIDENT BRESLIN:
18 Senator Kruger, do you yield?

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

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

23 ACTING PRESIDENT BRESLIN:
24 Senator Kruger.

25 SENATOR CARL KRUGER: Through

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

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

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

10 ACTING PRESIDENT BRESLIN:
11 Senator Kruger continues to yield.

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

18 ACTING PRESIDENT BRESLIN:
19 Senator Kruger.

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

23 SENATOR DeFRANCISCO: That was
24 before my time.

25 SENATOR CARL KRUGER: Not before

1 mine.

2 ACTING PRESIDENT BRESLIN:

3 Senator DeFrancisco.

4 SENATOR DeFRANCISCO: Would
5 Senator Kruger yield to another question.

6 ACTING PRESIDENT BRESLIN: Do you
7 continue to yield?

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

10 ACTING PRESIDENT BRESLIN: You
11 may proceed.

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

19 ACTING PRESIDENT BRESLIN:
20 Senator Kruger.

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

23 SENATOR DeFRANCISCO: Would
24 Senator Kruger yield to another question.

25 ACTING PRESIDENT BRESLIN: Do you

1 continue to yield?

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

4 ACTING PRESIDENT BRESLIN: You
5 may proceed.

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

13 ACTING PRESIDENT BRESLIN:
14 Senator Kruger.

15 SENATOR DeFRANCISCO: -- by the
16 federal government?

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

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

1 party in each house has gotten any kind of
2 indication that it is likely that this
3 \$1 billion of FMAP money will be available?

4 ACTING PRESIDENT BRESLIN:

5 Senator Kruger, do you continue to yield?

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

15 SENATOR DeFRANCISCO: Would
16 Senator Kruger yield to another question.

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

19 ACTING PRESIDENT BRESLIN:

20 Senator Kruger yields.

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

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

4 ACTING PRESIDENT BRESLIN:
5 Senator Kruger.

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

9 ACTING PRESIDENT BRESLIN:
10 Senator DeFrancisco.

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

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

15 ACTING PRESIDENT BRESLIN:
16 Senator Kruger yields.

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

23 ACTING PRESIDENT BRESLIN:
24 Senator Kruger.

25 SENATOR CARL KRUGER: Through

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

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

8 ACTING PRESIDENT BRESLIN:
9 Senator Kruger, do you yield?

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

12 ACTING PRESIDENT BRESLIN:
13 Senator Kruger yields.

14 SENATOR DeFRANCISCO: We've
15 talked about the 2007 reform bill that has
16 obviously not been followed the last couple of
17 years. But there is a requirement by Section
18 54A of that bill, sunshine reporting:
19 "Preceding final action on all such
20 appropriation bills, members must be provided
21 with a comprehensive cumulative report
22 relating to all budget bills and legislation."

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

25 ACTING PRESIDENT BRESLIN:

1 Senator Kruger.

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

8 SENATOR DeFRANCISCO: Would
9 Senator Kruger yield to another question.

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

12 ACTING PRESIDENT BRESLIN:
13 Senator Kruger yields.

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

19 ACTING PRESIDENT BRESLIN:
20 Senator Kruger.

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

1 SENATOR DeFRANCISCO: Will
2 Senator Kruger yield to another question.

3 ACTING PRESIDENT BRESLIN:
4 Senator Kruger?

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

7 ACTING PRESIDENT BRESLIN:
8 Senator Kruger yields.

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

13 ACTING PRESIDENT BRESLIN:
14 Senator Kruger.

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

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

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

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

1 Before the final appropriation
2 bill, yes.

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

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

8 ACTING PRESIDENT BRESLIN:
9 Senator Kruger yields.

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

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

20 ACTING PRESIDENT BRESLIN:
21 Senator Kruger.

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

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

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

3 On the bill, very briefly.

4 ACTING PRESIDENT BRESLIN:

5 Senator DeFrancisco, on the bill.

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

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

25 And to be put in a position when we

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

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

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

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

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

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

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

16 You can't rely on hope that maybe
17 your family is going to get a second job, one
18 of the members of the family is going to get a
19 second job so they can pay additional
20 spending. It's the same thing here. And
21 especially when the total FMAP plan has been
22 rejected and a new proposal of about
23 50 percent of the amount that was originally
24 thought is being -- was being discussed and
25 still is tabled.

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

7 Thank you, Mr. President.

8 ACTING PRESIDENT BRESLIN: Thank
9 you, Senator DeFrancisco.

10 Senator Flanagan, on the bill.

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

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

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

19 ACTING PRESIDENT BRESLIN: You
20 may proceed.

21 SENATOR FLANAGAN: Thank you,
22 Mr. President.

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

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

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

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

12 ACTING PRESIDENT BRESLIN:
13 Senator Kruger.

14 SENATOR CARL KRUGER: Through
15 you, Mr. President, this budget restores
16 \$600 million to a \$1.4 billion cut proposed by
17 the Governor.

18 ACTING PRESIDENT BRESLIN:
19 Senator Flanagan.

20 SENATOR FLANAGAN: If Senator
21 Kruger would continue to yield.

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

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

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

4 ACTING PRESIDENT BRESLIN:
5 Senator Kruger.

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

8 SENATOR FLANAGAN: Would Senator
9 Kruger continue to yield.

10 SENATOR CARL KRUGER: Yes, I do.

11 ACTING PRESIDENT BRESLIN: He
12 continues to yield.

13 SENATOR FLANAGAN: In this
14 840-page bill, is there a ban on unfunded
15 mandates?

16 ACTING PRESIDENT BRESLIN:
17 Senator Kruger.

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

22 ACTING PRESIDENT BRESLIN:
23 Senator Flanagan.

24 SENATOR FLANAGAN: That's in the
25 next bill.

1 SENATOR CARL KRUGER: Right.

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

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

6 ACTING PRESIDENT BRESLIN:
7 Senator Kruger yields.

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

12 SENATOR CARL KRUGER: No.

13 ACTING PRESIDENT BRESLIN:
14 Senator Flanagan.

15 SENATOR FLANAGAN: Would Senator
16 Kruger continue to yield.

17 SENATOR CARL KRUGER: Yes, I do.

18 ACTING PRESIDENT BRESLIN:
19 Senator Kruger continues to yield.

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

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

3 In this education position of the
4 budget, could you explain to me the
5 \$95 million cut to school districts for data
6 issues?

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

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

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

18 SENATOR CARL KRUGER: Yes, I do.

19 ACTING PRESIDENT BRESLIN:
20 Senator Kruger continues to yield.

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

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

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

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

20 And I actually took a look at
21 couple of examples. So just if I could
22 illustrate, I looked at Connetquot School
23 District. The restoration over the Governor's
24 cuts was roughly \$1.37 million, but now
25 \$742,000 of that is going to be taken away.

1 That's just one district in Suffolk County.

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

5 Buffalo, they were going to get a
6 \$7.3 million restoration, but now you've taken
7 \$1.3 million of that back.

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

15 ACTING PRESIDENT BRESLIN:

16 Senator Kruger.

17 SENATOR CARL KRUGER: Mr.
18 President, the \$60 million MTA payroll tax,
19 plus the \$35 million bump, collectively is the
20 \$95 million that we're talking about. As an
21 offset.

22 SENATOR FLANAGAN: As an offset
23 to what?

24 SENATOR CARL KRUGER: To the
25 \$95 million cut.

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

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

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

10 SENATOR FLANAGAN: Yes, I can. I
11 have a list right here that certainly you have
12 and your staff has that is provided to us by
13 the State Education Department. Here's the
14 \$95 million in cuts. It doesn't say MTA. It
15 doesn't say anything about the MTA. This is
16 \$95 million statewide.

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

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

1 is in this bill that relates to your
2 contention?

3 SENATOR CARL KRUGER: Through
4 you, Mr. President. Once again, the
5 \$60 million that was restored to the budget,
6 to the MTA portion, plus the \$35 million bump,
7 collectively offsets the \$95 million cut.

8 ACTING PRESIDENT BRESLIN:
9 Senator Flanagan.

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

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

14 SENATOR CARL KRUGER: Yes, I do.

15 ACTING PRESIDENT BRESLIN:
16 Senator Kruger yields.

17 SENATOR FLANAGAN: I can just
18 speak for the districts that I represent. No
19 one is going to look and say, "Oh, that
20 \$60 million for the MTA payroll tax is an
21 offset." That's something they expected. And
22 there were lots of people on the other side
23 who talked about restoring that money for
24 school districts.

25 What's the \$35 million? What's

1 that bump that you're referring to?

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

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

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

10 SENATOR CARL KRUGER: Yes, I do.

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

14 SENATOR CARL KRUGER: Through
15 you, Mr. President, no, let's not twist or
16 confuse, but let's stay -- at least I want to
17 stay on point. There's a \$95 million cut.
18 There's also, again, \$60 million MTA,
19 \$35 million readjustment of the May database.
20 Together, \$95 million. \$95 million is driven
21 back in to offset the \$95 million cut.

22 ACTING PRESIDENT BRESLIN:
23 Senator Flanagan.

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

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

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

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

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

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

1 going to say huh-uh, huh-uh. That's a
2 \$68 million cut, and it goes right to the
3 heart of the special ed programs. And that's
4 like standing on a land mine when you do
5 something like that.

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

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

18 ACTING PRESIDENT BRESLIN:
19 Senator Kruger.

20 SENATOR CARL KRUGER: Through
21 you, Mr. President. For a moment, let's just
22 reflect and remember that we restored
23 \$600 million of a \$1.4 billion cut that was
24 proposed by the Governor, \$600 million of a
25 \$1.4 billion cut.

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

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

8 SENATOR CARL KRUGER: Yes, I do.

9 ACTING PRESIDENT BRESLIN:
10 Senator Kruger yields.

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

14 SENATOR CARL KRUGER: Yes, I do.

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

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

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

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

12 ACTING PRESIDENT BRESLIN:
13 Senator Kruger.

14 SENATOR CARL KRUGER: Okay. In
15 order to address some of that concern,
16 \$395 million is going to be driven back to the
17 school districts for special needs in order to
18 address some of that concern in this budget.
19 IDEA, to be exact.

20 ACTING PRESIDENT BRESLIN:
21 Senator Flanagan.

22 SENATOR FLANAGAN: Mr. President,
23 on the bill.

24 Thank you, Senator Kruger.

25 ACTING PRESIDENT BRESLIN:

1 Senator Flanagan, on the bill.

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

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

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

25 Looking at things that were

1 proposed by the Governor: Establishing a
2 regulatory review process through the State
3 Education Department -- rejected. Regional
4 student transportation allowing districts to
5 work together to save money -- rejected.
6 Access to employee benefit accrued liability
7 reserve funds -- a pot of money worth over
8 \$400 million to school districts -- rejected.

9 There's no mandate relief in this
10 budget at all. And here's where the problem
11 really lies when we talk about this. This
12 education budget has \$726 million of federal
13 funding to help close some of the gap. So if
14 we really want to be fair, everyone should let
15 their districts know that the gap is actually
16 \$726 million more and the largesse from the
17 federal government has helped all of us out.
18 The problem is it's not going to be there next
19 year, and you haven't done anything to help
20 school districts prepare.

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

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

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

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

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

25 Now, this is a two-way compromise.

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

5 ACTING PRESIDENT BRESLIN: Excuse
6 me, Senator Flanagan.

7 Senator Kruger, why do you rise?

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

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

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

22 Thank you, Mr. President.

23 ACTING PRESIDENT BRESLIN:
24 Senator Flanagan.

25 SENATOR FLANAGAN: Thank you.

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

10 And I'll close on this point. Last
11 year several of my colleagues -- Senator
12 Johnson, Senator Foley -- they voted for a
13 budget that provided only 5 percent of the
14 increase in education aid to Long Island. We
15 got shortchanged on the increase in
16 educational funding. This year we're getting
17 15 percent of the cut. I would much rather
18 have the reverse. I'd rather share in the
19 largesse than get disproportionately hit on
20 the pain.

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

25 Thank you.

1 ACTING PRESIDENT BRESLIN: Thank
2 you, Senator Flanagan.

3 Senator Saland, on the bill.

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

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

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

17 Thank you, Mr. President. Yes,
18 Senator.

19 SENATOR SALAND: Thank you,
20 Senator Kruger.

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

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

3 SENATOR CARL KRUGER: Yes.

4 SENATOR SALAND: And when might
5 that be?

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

9 SENATOR SALAND: And September.

10 SENATOR CARL KRUGER: And
11 September.

12 ACTING PRESIDENT BRESLIN:
13 Senator Saland.

14 SENATOR SALAND: If Senator
15 Kruger would continue to yield.

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

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

22 SENATOR SALAND: If the Senator
23 will continue to yield.

24 SENATOR CARL KRUGER: Yes, I do.

25 ACTING PRESIDENT BRESLIN:

1 Senator Kruger yields.

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

13 SENATOR CARL KRUGER: Yes.

14 ACTING PRESIDENT BRESLIN:
15 Senator Saland.

16 SENATOR SALAND: Will the Senator
17 continue to yield.

18 SENATOR CARL KRUGER: Yes, I do.

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

25 SENATOR CARL KRUGER: Yes.

1 ACTING PRESIDENT BRESLIN:

2 Senator Saland.

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

5 SENATOR CARL KRUGER: Yes, I do.

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

10 ACTING PRESIDENT BRESLIN:

11 Senator Kruger.

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

17 SENATOR SALAND: If the Senator
18 will continue to yield.

19 ACTING PRESIDENT BRESLIN:

20 Senator Kruger, do you continue to yield?

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

23 ACTING PRESIDENT BRESLIN: He
24 yields.

25 SENATOR SALAND: As we stand here

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

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

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

15 ACTING PRESIDENT BRESLIN:
16 Senator Kruger.

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

21 ACTING PRESIDENT BRESLIN:
22 Senator Saland.

23 SENATOR SALAND: Senator Kruger,
24 if you know --

25 ACTING PRESIDENT BRESLIN: Will

1 you continue to yield, Senator Kruger?

2 SENATOR CARL KRUGER: Yes, I do.

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

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

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

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

15 SENATOR CARL KRUGER: Yes, I do.

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

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

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

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

6 SENATOR SALAND: If the Senator
7 would continue to yield.

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

10 ACTING PRESIDENT BRESLIN:
11 Senator Kruger yields.

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

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

24 ACTING PRESIDENT BRESLIN:
25 Senator Saland.

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

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

13 SENATOR CARL KRUGER: Through
14 you, Mr. President, I guess in the simplest
15 terms that I understand, we took them as
16 savings towards the \$600 million of
17 restoration that we provided out of a
18 \$1.4 billion cut that the Governor proposed.

19 SENATOR SALAND: Thank you.

20 On the bill, Mr. President.

21 ACTING PRESIDENT BRESLIN:
22 Senator Saland, on the bill.

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

1 \$120 million worth of what I will call
2 fudgery. We are willing to stick it to the
3 schools -- when I say "we," I mean those who
4 are going to be voting for this bill -- to the
5 tune of some \$25 million, where, based upon
6 the data they presented to the Ed Department,
7 it was determined that there should be a
8 reduction in their aid.

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

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

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

1 \$59 million from the counties in the MTA by
2 not paying their past-due claims.

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

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

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

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

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

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

15 Thank you, Mr. President.

16 ACTING PRESIDENT BRESLIN: Thank
17 you, Senator Saland.

18 Are there any other Senators
19 wishing to be heard?

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

22 Read the last section.

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

25 ACTING PRESIDENT BRESLIN: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT BRESLIN:

4 Senator Flanagan, to explain his vote.

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

9 I, like everybody else in this
10 chamber, we're constrained to be reading and
11 voting on the bills that are actually before
12 us. Now, I have a copy of the calendar here,
13 I have a copy of the Article 7 education bill,
14 I have a copy of the main education bill,
15 840 pages again. And I listened to Senator
16 Kruger say that I was wrong, that there is
17 paperwork reduction, that there is a regional
18 pilot program for student transportation.

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

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

9 I'm voting no.

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

13 Senator Fuschillo, to explain his
14 vote.

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

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

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

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

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

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

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

1 I vote no, Mr. President. Thank
2 you.

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

6 Senator Saland, to explain his
7 vote.

8 SENATOR SALAND: Thank you,
9 Mr. President.

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

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

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

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

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

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

21 Mr. President, I vote in the
22 negative.

23 ACTING PRESIDENT BRESLIN:
24 Senator Saland to be recorded in the negative.

25 Senator Marcellino, to explain his

1 vote.

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

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

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

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

25 So based on that, I have no other

1 recourse than to vote no.

2 ACTING PRESIDENT BRESLIN:

3 Senator Marcellino will be recorded in the
4 negative.

5 Senator LaValle, to explain his
6 vote.

7 SENATOR LaVALLE: Thank you,
8 Mr. President.

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

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

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

6 Thank you. I vote no,
7 Mr. President.

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

11 Senator Ranzenhofer, to explain his
12 vote.

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

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

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

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

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

9 I'll be voting no, Mr. President.

10 ACTING PRESIDENT BRESLIN:

11 Senator Ranzenhofer to be recorded in the
12 negative.

13 Senator Nozzolio, to explain his
14 vote.

15 SENATOR NOZZOLIO: Thank you,
16 Mr. President. Mr. President and my
17 colleagues, the chairman of the Senate Finance
18 Committee can't tell us how much we're
19 spending in this budget. We've seen a total
20 discard for the Budget Reform Law of 2007. We
21 heard that we're spending 6 percent -- not we,
22 but the proponents of this budget are spending
23 6 percent more than the Governor's budget.
24 And there's no property tax cap.

25 New York State last year, after the

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

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

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

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

21 Announce the results.

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

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

6 Ayes, 32. Nays, 29.

7 ACTING PRESIDENT BRESLIN: The
8 bill is passed.

9 The Secretary will read.

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

12 ACTING PRESIDENT BRESLIN:
13 Senator Serrano.

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

18 ACTING PRESIDENT BRESLIN: The
19 Secretary will read.

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

1 ACTING PRESIDENT BRESLIN:

2 Substitution ordered.

3 THE SECRETARY: Calendar Number
4 1289, Assembly Budget Bill, Assembly Print
5 Number 9707C, an act to amend the Education
6 Law.

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

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

11 Read the last section.

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

14 ACTING PRESIDENT BRESLIN: Call
15 the roll.

16 (The Secretary called the roll.)

17 Announce the results.

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

1 Young.

2 Ayes, 32. Nays, 29.

3 ACTING PRESIDENT BRESLIN: The
4 bill is passed.

5 Senator LaValle.

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

8 ACTING PRESIDENT BRESLIN: In the
9 negative, Senator LaValle.

10 SENATOR LaVALLE: Thank you.

11 ACTING PRESIDENT BRESLIN:
12 Senator Klein.

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

17 ACTING PRESIDENT BRESLIN: The
18 Secretary will read.

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

25 ACTING PRESIDENT BRESLIN:

1 Substitution ordered.

2 THE SECRETARY: Calendar Number
3 1288, Assembly Budget Bill, Assembly Print
4 Number 9704C, an act making appropriations for
5 the support of government: HEALTH AND MENTAL
6 HYGIENE BUDGET.

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

9 SENATOR FUSCHILLO: Explanation.

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

13 SENATOR CARL KRUGER: Thank you,
14 Mr. President.

15 This is the health and mental
16 hygiene portion of the budget. The bill
17 appropriates \$5.9 billion for the Department
18 of Health on an All Funds basis. When
19 combined with the appropriations enacted in
20 previous emergency budget bills, a total of
21 \$58.4 billion in All Funds support is provided
22 to the department, which is \$683 million or
23 1.2 percent above the Executive Budget, which
24 provides \$123.4 million in federal funds for
25 the federal healthcare --

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

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

8 ACTING PRESIDENT BRESLIN: What
9 did you say, Senator?

10 (Laughter.)

11 ACTING PRESIDENT BRESLIN: Point
12 taken, Senator Hannon.

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

16 This is the health and mental
17 hygiene portion of the budget bills. This
18 bill appropriates \$5.9 billion for the
19 Department of Health on an All Funds basis,
20 which, combined with appropriations enacted in
21 previous emergency extenders, is a total of
22 \$58.4 billion in All Funds support for the
23 department. That's \$683 million or
24 1.2 percent above the Executive Budget.

25 We provide \$123.4 million in

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

9 ACTING PRESIDENT BRESLIN: Thank
10 you, Senator Kruger.

11 Are there any other Senators
12 wishing to be heard?

13 Senator Padavan.

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

16 ACTING PRESIDENT BRESLIN:
17 Senator Kruger, will you yield?

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

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

24 ACTING PRESIDENT BRESLIN:
25 Senator Kruger.

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

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

13 ACTING PRESIDENT BRESLIN:
14 Senator Kruger.

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

18 ACTING PRESIDENT BRESLIN:
19 Senator Padavan.

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

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

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

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

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

7 SENATOR PADAVAN: Well, it is in
8 the Executive Budget, which you're saying will
9 be what it is and this will be folded into it.
10 Therefore, in the Executive Budget,
11 what is the extent of that program as relates
12 to the New York Cares initiative in terms of
13 community residence development in the State
14 of New York in the current fiscal year?

15 ACTING PRESIDENT BRESLIN:
16 Senator Kruger.

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

21 SENATOR PADAVAN: On the bill.
22 Mr. President, you know, it's very
23 difficult --

24 ACTING PRESIDENT BRESLIN:
25 Senator Padavan, on the bill.

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

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

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

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

1 Senator Hannon, on the bill.

2 SENATOR HANNON: On the bill.

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

19 But then to go on, on page 106 and
20 107, for a list of items: Ombudsman Resource
21 Centers, \$20 million; Personal Responsibility
22 Education Grant, \$3 million; Medicare
23 Outreach, \$600,000; a real ambiguous
24 Prevention and Public Health Fund,
25 \$20 million; workforce demo, demonstration

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

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

9 Thank you, Mr. President.

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

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

14 Senator Klein.

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

17 ACTING PRESIDENT BRESLIN: The
18 Senate will stand at ease.

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

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

23 ACTING PRESIDENT BRESLIN: The
24 Senate will come to order.

25 I ask all members to return to the

1 chambers at once. The bells have been
2 ringing.

3 Read the last section.

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

6 ACTING PRESIDENT BRESLIN: Call
7 the roll.

8 (The Secretary called the roll.)

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

11 SENATOR DIAZ: Thank you,
12 Mr. President.

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

20 Today, just in this place, just a
21 few minutes ago I learned that they're cutting
22 \$5 million out of the aging programs and SNAP,
23 EISEP, and CSE from the aging -- Community
24 Service for the Elderly; SNAP, Supplemental
25 Nutrition Assistance Program for the aging,

1 and EISEP.

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

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

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

16 Mr. Chairman, I'm voting yes.

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

20 Senator DeFrancisco, to explain his
21 vote.

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

1 mildly. It's bad financial planning.

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

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

12 I vote no.

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

16 Announce the results.

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

1 Ayes, 32. Nays, 29.

2 ACTING PRESIDENT BRESLIN: The
3 bill is passed.

4 The Secretary will continue to
5 read.

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

12 ACTING PRESIDENT BRESLIN:
13 Substitution ordered.

14 THE SECRETARY: Calendar Number
15 1290, Assembly Budget Bill, Assembly Print
16 Number 9708C, an act to amend the Public
17 Health Law.

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

20 Senator Padavan.

21 SENATOR PADAVAN: Will Senator
22 Kruger yield to a question.

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

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

3 ACTING PRESIDENT BRESLIN:
4 Senator Padavan.

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

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

15 SENATOR PADAVAN: What?

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

20 ACTING PRESIDENT BRESLIN:
21 Senator Padavan.

22 SENATOR PADAVAN: Will he yield
23 again.

24 ACTING PRESIDENT BRESLIN: Will
25 you yield again, Senator?

1 SENATOR CARL KRUGER: Yes,
2 Mr. President.

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

6 ACTING PRESIDENT BRESLIN:
7 Senator Kruger.

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

10 SENATOR PADAVAN: Okay.

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

13 SENATOR PADAVAN: I don't have
14 it.

15 SENATOR CARL KRUGER: Through
16 you, Mr. President, an appropriation of
17 \$4 million.

18 SENATOR PADAVAN: And if you may
19 again yield.

20 SENATOR CARL KRUGER: Yes, I do.

21 SENATOR PADAVAN: How does that
22 compare to --

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

25 SENATOR PADAVAN: Yes, I asked

1 him to yield again. He said yes.

2 ACTING PRESIDENT BRESLIN:

3 Senator Padavan, could you address the chair,
4 please.

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

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

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

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

13 SENATOR CARL KRUGER: Yes, it is.

14 SENATOR PADAVAN: Thank you.

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

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

19 Read the last section.

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

22 ACTING PRESIDENT BRESLIN: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT BRESLIN:

1 Announce the results.

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

11 Ayes, 32. Nays, 29.

12 ACTING PRESIDENT BRESLIN: The
13 bill is passed.

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

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

20 ACTING PRESIDENT BRESLIN: The
21 Secretary will read.

22 THE SECRETARY: Calendar Number
23 139, substituted earlier today by Member of
24 the Assembly Mayersohn, Assembly Print Number
25 3923C, an act to amend the Executive Law.

1 ACTING PRESIDENT BRESLIN: Read
2 the last section.
3 THE SECRETARY: Section 3. This
4 act shall effect on the 180th day.
5 ACTING PRESIDENT BRESLIN: Call
6 the roll.
7 (The Secretary called the roll.)
8 ACTING PRESIDENT BRESLIN:
9 Announce the results.
10 THE SECRETARY: Ayes, 61.
11 ACTING PRESIDENT BRESLIN: The
12 bill is passed.
13 THE SECRETARY: Calendar Number
14 197, by Senator Aubertine, Senate Print 2813C,
15 an act to amend the Public Authorities Law.
16 ACTING PRESIDENT BRESLIN: Read
17 the last section.
18 THE SECRETARY: Section 3. This
19 act shall take effect immediately.
20 ACTING PRESIDENT BRESLIN: Call
21 the roll.
22 (The Secretary called the roll.)
23 ACTING PRESIDENT BRESLIN:
24 Announce the results.
25 THE SECRETARY: Ayes, 60. Nays,

1 1. Senator Golden recorded in the negative.

2 ACTING PRESIDENT BRESLIN: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 287, by Member of the Assembly Amedore,
6 Assembly Print Number 9826, an act to amend
7 the Correction Law.

8 ACTING PRESIDENT BRESLIN: Read
9 the last section.

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

12 ACTING PRESIDENT BRESLIN: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT BRESLIN:
16 Announce the results.

17 THE SECRETARY: Ayes, 61.

18 ACTING PRESIDENT BRESLIN: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 356, by Senator C. Johnson, Senate Print
22 5538A, an act to amend the State Finance Law.

23 ACTING PRESIDENT BRESLIN: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT BRESLIN: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT BRESLIN:
6 Announce the results.

7 THE SECRETARY: Ayes, 61.

8 ACTING PRESIDENT BRESLIN: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 358, by Member of the Assembly Glick, Assembly
12 Print Number 2563A, an act to amend the Civil
13 Rights Law.

14 ACTING PRESIDENT BRESLIN: Read
15 the last section.

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

18 ACTING PRESIDENT BRESLIN: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT BRESLIN:
22 Announce the results.

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

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

4 Ayes, 50. Nays, 11.

5 ACTING PRESIDENT BRESLIN: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 376, by Senator Breslin, Senate Print 5203B,
9 an act to amend the Insurance Law.

10 ACTING PRESIDENT BRESLIN: Read
11 the last section.

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

14 ACTING PRESIDENT BRESLIN: Call
15 the roll.

16 (The Secretary called the roll.)

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

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

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

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

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

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

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

14 Announce the results.

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

18 ACTING PRESIDENT BRESLIN: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 518, by Senator Parker --

22 SENATOR PADAVAN: Lay it aside.

23 ACTING PRESIDENT BRESLIN: The
24 bill is laid aside.

25 THE SECRETARY: Calendar Number

1 603, by Senator Oppenheimer, Senate Print
2 7635, an act to amend the Real Property Tax
3 Law.

4 ACTING PRESIDENT BRESLIN: Read
5 the last section.

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

8 ACTING PRESIDENT BRESLIN: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BRESLIN:
12 Announce the results.

13 THE SECRETARY: Ayes, 61.

14 ACTING PRESIDENT BRESLIN: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 653, by Senator Libous, Senate Print 7700C, an
18 act to amend the Highway Law.

19 ACTING PRESIDENT BRESLIN: Read
20 the last section.

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

23 ACTING PRESIDENT BRESLIN: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT BRESLIN:

2 Announce the results.

3 THE SECRETARY: Ayes, 61.

4 ACTING PRESIDENT BRESLIN: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 654, by Senator Dilan, Senate Print 7734, an
8 act to amend the Highway Law.

9 ACTING PRESIDENT BRESLIN: Read
10 the last section.

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

13 ACTING PRESIDENT BRESLIN: Call
14 the roll.

15 (The Secretary called the roll.)

16 SENATOR PADAVAN: Lay it aside.

17 ACTING PRESIDENT BRESLIN: The
18 bill is laid aside.

19 THE SECRETARY: Calendar Number
20 706, by Senator Oppenheimer, Senate Print
21 2003A, an act to amend the Election Law.

22 ACTING PRESIDENT BRESLIN: Read
23 the last section.

24 SENATOR LIBOUS: Lay it aside.

25 ACTING PRESIDENT BRESLIN: The

1 bill is laid aside.

2 THE SECRETARY: Calendar Number
3 715, by Senator Schneiderman, Senate Print
4 6263C, an act to amend the Insurance Law.

5 ACTING PRESIDENT BRESLIN: Read
6 the last section.

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

9 SENATOR LIBOUS: Lay it aside.

10 ACTING PRESIDENT BRESLIN: The
11 bill is laid aside.

12 THE SECRETARY: Calendar Number
13 736, by Member of the Assembly Cahill,
14 Assembly Print Number 9950, an act to amend
15 the Local Finance Law.

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

18 Read the last section.

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

21 SENATOR LIBOUS: Lay the bill
22 aside.

23 ACTING PRESIDENT BRESLIN: The
24 bill is laid aside.

25 THE SECRETARY: Calendar Number

1 746, by Senator Breslin, Senate Print 1700B,
2 an act to amend the Insurance Law.

3 ACTING PRESIDENT BRESLIN: Read
4 the last section.

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

7 ACTING PRESIDENT BRESLIN: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BRESLIN:
11 Announce the results.

12 THE SECRETARY: Ayes, 61.

13 ACTING PRESIDENT BRESLIN: The
14 bill is passed.

15 THE SECRETARY: Excuse me.

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

19 Announce the results.

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

24 ACTING PRESIDENT BRESLIN: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 764, by Senator Adams, Senate Print 7578A, an
3 act to amend the Racing, Pari-Mutuel Wagering
4 and Breeding Law.

5 ACTING PRESIDENT BRESLIN: Read
6 the last section.

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

9 ACTING PRESIDENT BRESLIN: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT BRESLIN:
13 Announce the results.

14 THE SECRETARY: Ayes, 61.

15 ACTING PRESIDENT BRESLIN: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 801, by Senator C. Kruger, Senate Print 7878,
19 an act to amend the Education Law.

20 ACTING PRESIDENT BRESLIN: Read
21 the last section.

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

24 ACTING PRESIDENT BRESLIN: Call
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT BRESLIN:

3 Announce the results.

4 THE SECRETARY: Ayes, 61.

5 ACTING PRESIDENT BRESLIN: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 812, by Member of the Assembly Espaillat,
9 Assembly Print Number 4501A, an act to amend
10 the General Business Law.

11 ACTING PRESIDENT BRESLIN: Read
12 the last section.

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

15 ACTING PRESIDENT BRESLIN: Call
16 the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT BRESLIN:

19 Senator DeFrancisco, to explain his vote.

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

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

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

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

12 ACTING PRESIDENT BRESLIN:
13 Announce the results.

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

20 Ayes, 47. Nays, 14.

21 ACTING PRESIDENT BRESLIN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 901, by Senator Stavisky, Senate Print 5954D,
25 an act to amend the Education Law.

1 ACTING PRESIDENT BRESLIN: Read
2 the last section.

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

5 ACTING PRESIDENT BRESLIN: Call
6 the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT BRESLIN:
9 Announce the results.

10 THE SECRETARY: Ayes, 61.

11 ACTING PRESIDENT BRESLIN: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 983, by Senator Schneiderman, Senate Print --

15 SENATOR LIBOUS: Lay it aside.

16 ACTING PRESIDENT BRESLIN: The
17 bill is laid aside.

18 THE SECRETARY: Calendar Number
19 986, by Senator Squadron, Senate Print 7855B,
20 an act to amend the General Construction Law
21 and the Business Corporation Law.

22 ACTING PRESIDENT BRESLIN: Read
23 the last section.

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

1 ACTING PRESIDENT BRESLIN: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT BRESLIN:
5 Announce the results.

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

9 ACTING PRESIDENT BRESLIN: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 1071, by Senator Huntley, Senate Print 2061A,
13 an act to amend the Public Authorities Law.

14 ACTING PRESIDENT BRESLIN: Read
15 the last section.

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

18 ACTING PRESIDENT BRESLIN: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT BRESLIN:
22 Announce the results.

23 THE SECRETARY: Ayes, 61.

24 ACTING PRESIDENT BRESLIN: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 1088, by Senator Savino, Senate Print 5953A,
3 an act authorizing the Commissioner of
4 Finance.

5 ACTING PRESIDENT BRESLIN: Read
6 the last section.

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

9 ACTING PRESIDENT BRESLIN: Call
10 the roll.

11 (The Secretary called the roll.)

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

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

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

1 \$600 billion. And every time you take a
2 parcel and make it tax-exempt, you are
3 increasing the tax burden on all homeowners
4 and other businesses.

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

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

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

16 Announce the results.

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

20 ACTING PRESIDENT BRESLIN: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 1097, by Senator Addabbo, Senate Print 7153A,
24 an act to --

25 SENATOR LIBOUS: Lay it aside.

1 ACTING PRESIDENT BRESLIN: The
2 bill is laid aside.

3 THE SECRETARY: Calendar Number
4 1098, by Senator Dilan, Senate Print 1103A, an
5 act to amend the Social Services Law.

6 ACTING PRESIDENT BRESLIN: Read
7 the last section.

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

10 ACTING PRESIDENT BRESLIN: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BRESLIN:
14 Announce the results.

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

22 Ayes, 42. Nays, 19.

23 ACTING PRESIDENT BRESLIN: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 1102, by Senator Valesky, Senate Print 7544A,
2 an act to amend the Retirement and Social
3 Security Law.

4 ACTING PRESIDENT BRESLIN: Read
5 the last section.

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

8 ACTING PRESIDENT BRESLIN: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BRESLIN:
12 Announce the results.

13 THE SECRETARY: Ayes, 61.

14 ACTING PRESIDENT BRESLIN: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 1104, by Senator Addabbo, Senate Print 7591C,
18 an act to amend the Public Authorities Law.

19 SENATOR PADAVAN: Lay it aside.

20 ACTING PRESIDENT BRESLIN: The
21 bill is laid aside.

22 THE SECRETARY: Calendar Number
23 1117, by Senator Stachowski, Senate Print
24 8092A, an act to amend the Insurance Law.

25 ACTING PRESIDENT BRESLIN: Read

1 the last section.

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

4 ACTING PRESIDENT BRESLIN: Call
5 the roll.

6 (The Secretary called the roll.)

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

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

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

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

25 ACTING PRESIDENT BRESLIN:

1 Senator Seward will be recorded in the
2 affirmative.

3 Senator Stachowski, to explain his
4 vote.

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

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

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

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

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

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

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

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

17 Announce the results.

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

21 Ayes, 58. Nays, 3.

22 ACTING PRESIDENT BRESLIN: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 1204, by Senator Parker --

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

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

5 THE SECRETARY: Calendar Number
6 1243, by Senator Valesky, Senate Print 7814B,
7 an act to authorize the lease of lands.

8 ACTING PRESIDENT BRESLIN: Read
9 the last section.

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

12 ACTING PRESIDENT BRESLIN: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT BRESLIN:
16 Announce the results.

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

20 ACTING PRESIDENT BRESLIN: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 1260, by Senator Thompson, Senate Print 8338,
24 an act to amend the General Municipal Law.

25 ACTING PRESIDENT BRESLIN: Read

1 the last section.

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

4 ACTING PRESIDENT BRESLIN: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT BRESLIN:
8 Announce the results.

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

12 ACTING PRESIDENT BRESLIN: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 1264, by Senator Espada --

16 SENATOR LIBOUS: Lay it aside.

17 ACTING PRESIDENT BRESLIN: The
18 bill is laid aside.

19 THE SECRETARY: Calendar Number
20 1268, by Senator Klein, Senate Print 6928B, an
21 act to amend the Education Law.

22 ACTING PRESIDENT BRESLIN: Read
23 the last section.

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

1 SENATOR PADAVAN: Lay it aside.

2 ACTING PRESIDENT BRESLIN: The
3 bill is laid aside.

4 THE SECRETARY: Calendar Number
5 1270, by Senator Foley, Senate Print 7447A, an
6 act to authorize certain school districts.

7 SENATOR PADAVAN: Lay it aside.

8 ACTING PRESIDENT BRESLIN: The
9 bill is laid aside.

10 THE SECRETARY: Calendar Number
11 1272, by the Assembly Committee on Rules,
12 Assembly Print Number 11389, an act to amend
13 the Public Officers Law.

14 ACTING PRESIDENT BRESLIN: Read
15 the last section.

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

18 ACTING PRESIDENT BRESLIN: Call
19 the roll.

20 (The Secretary called the roll.)

21 SENATOR PADAVAN: Is this 1272?

22 ACTING PRESIDENT BRESLIN: Yes.

23 SENATOR PADAVAN: Lay it aside,
24 please.

25 ACTING PRESIDENT BRESLIN: The

1 bill is laid aside.

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

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

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

10 The Secretary will read.

11 THE SECRETARY: Calendar Number
12 518, by Senator Parker, Senate Print 4291C, an
13 act to amend the State Finance Law.

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

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

18 ACTING PRESIDENT VALESKY: Read
19 the last section.

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

22 ACTING PRESIDENT VALESKY: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT VALESKY:

1 Announce the results.

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

11 Ayes, 32. Nays, 29.

12 ACTING PRESIDENT VALESKY: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 654, by Senator Dilan, Senate Print 7734, an
16 act to amend the Highway Law.

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

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

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

24 ACTING PRESIDENT VALESKY: Call
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT VALESKY:

3 Senator O. Johnson, to explain his vote.

4 SENATOR OWEN JOHNSON: Yes,

5 Mr. President. This bill I don't believe is
6 desirable because there's no reference to the
7 zoning of that area, whether it's suitable for
8 that purpose or not.

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

17 ACTING PRESIDENT VALESKY:

18 Senator Owen Johnson to be recorded in the
19 negative.

20 Senator Alesi, to explain his vote.

21 SENATOR ALESI: Thank you,
22 Mr. President.

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

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

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

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

23 ACTING PRESIDENT VALESKY:

24 Senator Alesi to be recorded in the negative.

25 Announce the results.

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

10 Ayes, 33. Nays, 28.

11 ACTING PRESIDENT VALESKY: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 706, by Senator Oppenheimer, Senate Print
15 2003A, an act to amend the Election Law.

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

21 Read the last section.

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

24 ACTING PRESIDENT VALESKY: Call
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT VALESKY:

3 Announce the results.

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

13 Ayes, 33. Nays, 28.

14 ACTING PRESIDENT VALESKY: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 715, by Senator Schneiderman, Senate Print
18 6263C, an act to amend the Insurance Law.

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

21 Senator Hannon.

22 SENATOR HANNON: On the bill.

23 ACTING PRESIDENT VALESKY:

24 Senator Hannon, on the bill.

25 SENATOR HANNON: This is a bill

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

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

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

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

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

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

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

16 ACTING PRESIDENT VALESKY: Thank
17 you, Senator Hannon.

18 Are there any other Senators who
19 wish to be heard?

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

22 Read the last section.

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

25 ACTING PRESIDENT VALESKY: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT VALESKY:

4 Senator Schneiderman, to explain his vote.

5 SENATOR SCHNEIDERMAN: Thank you,
6 Mr. President.

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

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

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

1 that the private right of action provision was
2 taken out.

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

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

11 Announce the results.

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

15 ACTING PRESIDENT VALESKY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 736, by Member of the Assembly Cahill,
19 Assembly Print Number 9950, an act to amend
20 the Local Finance Law.

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

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

25 There is a home-rule message at the

1 desk.

2 Read the last section.

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

5 ACTING PRESIDENT VALESKY: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 61.

9 ACTING PRESIDENT VALESKY: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 983, by Senator Schneiderman, Senate Print
13 7280A, an act to amend the Public Authorities
14 Law.

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

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

19 Read the last section.

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

22 ACTING PRESIDENT VALESKY: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 61.

1 ACTING PRESIDENT VALESKY: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 1097, by Senator Addabbo, Senate Print 7153A,
5 an act to amend the Environmental Conservation
6 Law.

7 ACTING PRESIDENT VALESKY:
8 Senator Padavan.

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

11 ACTING PRESIDENT VALESKY:
12 Senator Padavan, on the bill.

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

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

1 system from carrying this kind of waste.

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

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

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

1 tractor-trailer trucks being among them.

2 So in view of the fact that the
3 city is opposing this -- the city has a solid
4 waste management plan which actually
5 encourages freight rail in terms of export of
6 waste. It's not a high-value commodity, and
7 any cost difference can make it either viable
8 or not viable. And this, according to the
9 City of New York, would cost an estimated
10 \$145, or \$1.20 per ton, in the cost of the
11 transport.

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

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

25 And I would urge for all those

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

3 ACTING PRESIDENT VALESKY: Thank
4 you, Senator Padavan.

5 Senator Farley.

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

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

15 ACTING PRESIDENT VALESKY: Thank
16 you, Senator Farley.

17 Senator Libous.

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

20 ACTING PRESIDENT VALESKY:
21 Senator Addabbo, do you yield?

22 SENATOR ADDABBO: Yes.

23 ACTING PRESIDENT VALESKY: The
24 sponsor yields.

25 SENATOR LIBOUS: Thank you,

1 Mr. President. Thank you, Senator Addabbo.

2 Mr. President, through you.

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

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

9 SENATOR LIBOUS: This is
10 statewide.

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

13 ACTING PRESIDENT VALESKY:
14 Senator Addabbo?

15 SENATOR ADDABBO: Yes,
16 Mr. President.

17 ACTING PRESIDENT VALESKY: The
18 sponsor yields.

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

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

25 SENATOR LIBOUS: Mr. President,

1 would the Senator continue to yield.

2 ACTING PRESIDENT VALESKY:

3 Senator Addabbo, do you continue to yield?

4 SENATOR ADDABBO: Yes, Mr.

5 President.

6 ACTING PRESIDENT VALESKY: The

7 sponsor yields.

8 SENATOR LIBOUS: Does it pertain
9 to construction debris?

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

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

20 ACTING PRESIDENT VALESKY:

21 Senator Addabbo?

22 SENATOR ADDABBO: Yes, Mr.

23 President.

24 ACTING PRESIDENT VALESKY: The

25 sponsor yields.

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

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

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

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

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

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

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

16 SENATOR LIBOUS: Would Senator
17 Addabbo continue to yield.

18 ACTING PRESIDENT VALESKY:
19 Senator Addabbo?

20 SENATOR ADDABBO: Yes,
21 Mr. President.

22 ACTING PRESIDENT VALESKY: The
23 sponsor yields.

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

1 cover municipal solid waste material with a
2 hard cover?

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

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

18 SENATOR LIBOUS: Thank you,
19 Mr. President.

20 On the bill.

21 ACTING PRESIDENT VALESKY:
22 Senator Libous, on the bill.

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

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

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

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

1 City of New York.

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

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

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

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

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

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

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

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

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

8 ACTING PRESIDENT VALESKY: Thank
9 you, Senator Libous.

10 Are there any other Senators who
11 wish to be heard?

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

14 Read the last section.

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

17 ACTING PRESIDENT VALESKY: Call
18 the roll.

19 (The Secretary called the roll.)

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

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

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

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

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

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

18 The concerns that I heard from the
19 railroad companies, the cost involved -- CSX,
20 one of the railroad companies, makes
21 \$1.5 billion a year. If they can't afford a
22 tarp that costs \$145, I don't know what else
23 they can afford. They make a lot of money.
24 Large railroad companies do. So I don't think
25 the cost is going to be it. I don't think

1 that's the issue here.

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

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

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

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

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

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

15 Senator Padavan, to explain his
16 vote.

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

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

25 And as I said earlier, one railcar

1 of this material translates to four to five
2 tractor-trailer trucks. Now, here's what
3 those trucks will do. In the City of New York
4 alone, 40,000 truck trips per year. That
5 translates into air pollution. And recently
6 we have a spent a lot of time in this chamber
7 talking about air pollution with home heating
8 fuel and other things. It translates into
9 2,000 tons per year of carbon dioxide, over
10 16 tons per year of nitrous oxide, as well as
11 reductions in particulate matter, volatile
12 organic compounds and carbon.

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

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

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

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

6 Senator Klein.

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

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

13 The Secretary will continue to
14 read.

15 THE SECRETARY: Calendar Number
16 1104, by Senator Addabbo, Senate Print 7591C,
17 an act to amend the Public Authorities Law.

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

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

22 THE SECRETARY: Calendar Number
23 1264, by Senator Espada, Senate Print 6291, an
24 act to amend the Social Services Law.

25 ACTING PRESIDENT VALESKY: Are

1 there any Senators who wish to be heard?

2 Seeing none, the debate is closed.

3 The Secretary will ring the bell.

4 Read the last section.

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

7 ACTING PRESIDENT VALESKY: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT VALESKY:

11 Senator Espada, to explain his vote.

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

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

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

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

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

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

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

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

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

23 Senator Golden, to explain his
24 vote.

25 SENATOR GOLDEN: Thank you,

1 Mr. President.

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

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

18 And it's done a good job. Since
19 1995 we've gotten almost \$32 million returned
20 to us. Just last year alone, we had over 1400
21 individuals where we had over \$4 million, over
22 \$4 million of savings from waste and fraud.

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

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

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

20 Ladies and gentlemen, I vote no.

21 ACTING PRESIDENT VALESKY:

22 Senator Golden to be recorded in the negative.

23 Senator Diaz, to explain his vote.

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

1 colleague Senator Espada.

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

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

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

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

22 Announce the results.

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

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

7 Ayes, 32. Nays, 29.

8 ACTING PRESIDENT VALESKY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 1268, by Senator Klein, Senate Print 6928B, an
12 act to amend the Education Law.

13 SENATOR LaVALLE: Explanation.

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

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

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

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

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

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

20 ACTING PRESIDENT VALESKY:
21 Senator Klein, do you yield?

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

24 ACTING PRESIDENT VALESKY: The
25 sponsor yields.

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

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

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

13 SENATOR LaVALLE: Who does
14 support this legislation?

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

18 SENATOR LaVALLE: Council 82?

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

21 SENATOR LaVALLE: Okay.

22 On the bill, Mr. President.

23 ACTING PRESIDENT VALESKY:

24 Senator LaValle, on the bill.

25 SENATOR LaVALLE: A number of

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

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

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

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

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

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

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

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

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

1 to put into effect, is critically important.

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

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

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

1 are providing in your bill.

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

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

7 ACTING PRESIDENT VALESKY: Thank
8 you, Senator LaValle.

9 Senator Klein.

10 SENATOR KLEIN: On the bill,
11 Mr. President.

12 ACTING PRESIDENT VALESKY:
13 Senator Klein, on the bill.

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

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

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

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

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

25 So of course I recommend a yes

1 vote, Mr. President.

2 ACTING PRESIDENT VALESKY: Thank
3 you, Senator Klein.

4 Senator Volker.

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

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

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

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

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

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

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

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

14 ACTING PRESIDENT VALESKY: Thank
15 you, Senator Volker.

16 Senator Marcellino.

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

20 ACTING PRESIDENT VALESKY:
21 Senator Klein, do you yield?

22 SENATOR KLEIN: Yes,
23 Mr. President.

24 ACTING PRESIDENT VALESKY: The
25 sponsor yields.

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

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

9 SENATOR KLEIN: No.

10 SENATOR MARCELLINO: It's over
11 600 acres. A lot of it treed, wooded, hard to
12 get through and find -- you can have a lot of
13 places where you can have some serious
14 problems if you don't have an adequate force
15 to deal with that.

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

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

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

4 SENATOR MARCELLINO: Will the
5 Senator yield.

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

8 SENATOR KLEIN: Yes,
9 Mr. President.

10 ACTING PRESIDENT VALESKY: The
11 sponsor yields.

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

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

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

21 SENATOR KLEIN: I think there was
22 26.

23 SENATOR MARCELLINO: Twenty-six
24 officers?

25 SENATOR KLEIN: Well, actually

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

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

8 SENATOR KLEIN: About 47, 50.

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

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

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

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

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

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

23 SENATOR MARCELLINO: I gotcha.
24 How many --

25 ACTING PRESIDENT VALESKY:

1 Senator Klein, do you continue to yield?

2 SENATOR KLEIN: Yes, Mr.

3 President.

4 ACTING PRESIDENT VALESKY: The
5 sponsor yields.

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

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

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

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

25 SENATOR MARCELLINO: Thank you,

1 Senator Klein. I appreciate the courtesy.

2 Mr. President, on the bill.

3 ACTING PRESIDENT VALESKY:

4 Senator Marcellino, on the bill.

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

1 were our supervisors, if you were.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 Thank you, Mr. Chairman.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Thank you, Senator Marcellino.

12 Senator Little.

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

15 As many of you know, I represent a
16 very large district: Six counties, 88 towns,
17 25 villages, and 53 school districts. And
18 since I have been in the Legislature --
19 particularly in the Senate -- with this size
20 district, I've been a proponent of sharing
21 services, of consolidating, of becoming more
22 efficient, of trying to do things together.

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

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

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

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

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

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

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

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

18 And I support this bill. Thank
19 you.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Thank you, Senator Little.

22 Senator Saland.

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Saland, on the bill.

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

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

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

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

6 Each of the campuses -- and there
7 are 28 of them that have police forces --
8 certainly present differently. I would assume
9 there are any number of variations on the
10 theme. But the first and foremost
11 responsibility of that SUNY officer is to his
12 or her campus. It's not to a campus in some
13 other part of the state, it's not a campus
14 30 miles away. They were created for purposes
15 of providing security on their campus. That's
16 where they belong, and that's where their
17 focus should be, and that's where they should
18 be administered.

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

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

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

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

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

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

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

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

22 Thank you, Mr. President.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Thank you, Senator Saland.

25 Senator LaValle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Read the last section.

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

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Call the roll.

8 (The Secretary called the roll.)

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

11 SENATOR ADAMS: Thank you,
12 Mr. President.

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

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

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

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

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

16 Announce the results.

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

24 Ayes, 43. Nays, 18.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 The bill is passed.

2 The Secretary will continue to
3 read.

4 THE SECRETARY: Calendar Number
5 1270, by Senator Foley, Senate Print 7447A, an
6 act authorizing certain school districts.

7 SENATOR LaVALLE: Explanation.

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

11 SENATOR FOLEY: Thank you,
12 Mr. President.

13 This legislation would allow school
14 districts to make a one-time transfer of up to
15 50 percent from their EBALR reserve account.
16 And that particular account statewide would
17 enable school districts to access close to
18 \$485 million.

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

22 Senator Flanagan, why do you rise?

23 SENATOR FLANAGAN: Mr. President,
24 on the bill.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Flanagan, on the bill.

2 SENATOR FLANAGAN: Thank you.

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

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

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

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

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

16 And for that reason, Mr. President,
17 I will be voting no and I urge my colleagues
18 to do the same. Well-intended, but the
19 language needs to be changed so we can protect
20 the taxpayers while we're trying to help
21 school districts.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Thank you, Senator Flanagan.

24 Senator LaValle.

25 SENATOR LaVALLE: Thank you,

1 Mr. President. On the bill.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator LaValle, on the bill.

4 SENATOR LaVALLE: I had similar
5 legislation. I think Senator Foley filed his
6 bill April 12, 2010; mine was February 23,
7 2009.

8 And the most important thing -- and
9 this came out of something that Comptroller
10 DiNapoli had caught and had indicated but said
11 we need legislative authority. So in the
12 first line of my bill -- and it goes to what
13 Senator Flanagan said -- "if after audit and
14 certification by the State Comptroller that
15 there are funds in excess of" blah, blah,
16 blah. We differ in terms of the prescription.

17 I say it goes to real property
18 relief or, if there is voter-approved capital
19 projects, which takes the burden off the debt
20 service that the local taxpayers have to pay.

21 So, Senator Foley, I think the most
22 important thing, there is no oversight. And
23 it makes this legislation very deficient.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Oppenheimer.

1 SENATOR OPPENHEIMER: Thank you.

2 I'm going to be voting for this
3 legislation. And I guess the only reason I
4 will is because it's a one-time transfer, only
5 for this year. Because I do agree with the
6 two people that spoke before me. The ranker
7 on the Education Committee, John Flanagan said
8 it exactly right.

9 If you are going to be removing
10 monies that are not in excess -- and that's
11 one of the options, to remove 100 percent of
12 the excess. And that I support. But if you
13 take more than the excess, it means that these
14 monies will have to be replaced at a later
15 time. They are essential to the functioning
16 of the retirement system of that school
17 district.

18 And I will be supporting it, though
19 the second part of this -- 100 percent of the
20 excess monies I can see, but 50 percent of the
21 total, whichever is greater, I cannot see.
22 But I will be supporting it since this is a
23 one-time event. And I hope we can correct it
24 if this occurs again and it becomes a
25 second-time or a third-time event.

1 Thank you.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Thank you, Senator Oppenheimer.

4 Any other Senators wishing to be
5 heard?

6 Senator Marcellino.

7 SENATOR MARCELLINO: I won't ask
8 any questions, but the appropriate --

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Senator Marcellino, on the bill.

11 SENATOR MARCELLINO: On the bill.
12 The appropriate language says it could be used
13 to offset any property tax increases. That's
14 great. But it also says it can be used to
15 offset any staff reductions.

16 This is a one-time hit. What do
17 you do next year with that same staff when you
18 don't have the money to pay for it? This is a
19 one-time use of this fund. And, you know,
20 it's like we did with the stimulus money; it's
21 a one-shot. Went to the schools. The schools
22 are now faced with what do we do with these
23 teachers we paid for last year? What do we do
24 with the programs we paid for last year with
25 money that we're not getting back?

1 A one-shot means it's not coming
2 back again next year. You're paying teachers
3 this year with money you will not get next
4 year. How do you replace that money? You
5 increase the taxes or you fire the teachers.
6 So you're in the same boat, you're just
7 kicking the can down the road. That's the
8 problem with the bill.

9 Fix the language and I don't have a
10 problem. The first part, mitigate property
11 taxes, great idea. But more often than not
12 this is going to go to save jobs -- another
13 good idea, but how do you pay for them next
14 year? A bad idea.

15 So in this case I would recommend a
16 no vote unless you want to pull the bill and
17 amend it and fix it and do it right.

18 Thank you, Mr. President.

19 ACTING PRESIDENT CRAIG JOHNSON:

20 Thank you, Senator Marcellino.

21 Any other Senators wishing to be
22 heard?

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

25 Read the last section.

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

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Call the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Foley, to explain his vote.

8 SENATOR FOLEY: Thank you,
9 Mr. Chairman.

10 As I mentioned earlier, this
11 one-time allocation of a transfer will allow
12 school districts throughout the State of
13 New York to return over \$485 million back to
14 the taxpayers of those particular component
15 school districts.

16 These school districts, in other
17 words, Mr. President, will be able to keep
18 property taxes down with this particular
19 allocation when they set their tax levies this
20 September.

21 And as far as accountability is
22 concerned, as we all well know, local school
23 districts have their own elected body, they
24 have the school boards. So the school boards
25 have the fiduciary responsibility in those

1 component school districts. And yes, they
2 will be making the decision and therefore they
3 would have that responsibility.

4 So this is a real win/win for the
5 people of our state at a time of a dire fiscal
6 situation for our taxpayers. This is an
7 opportunity that our school districts could
8 take if they so desire to help the local
9 taxpayers. I would strongly encourage our
10 colleagues to support this bill.

11 I vote in the affirmative.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Senator Foley to be recorded in the
14 affirmative.

15 Senator Marcellino, to explain his
16 vote.

17 SENATOR MARCELLINO: I agree with
18 what my learned colleague just said. And if
19 everything was just -- if it ended there on
20 property tax relief, I would be an aye vote on
21 this bill.

22 But the sentence in the bill is
23 very clear: "Such funds appropriated by this
24 section shall only be used to mitigate an
25 anticipated increase in school property taxes

1 and/or restore anticipated or actual
2 staff-level reductions."

3 You've given them a Hobson's
4 choice. They're going to either go there or
5 they're going to save teachers. It could
6 happen both ways. You're going to have
7 teacher on the line whose salaries are going
8 to be paid by money this year that won't be
9 there next year. This is not a good choice.

10 I vote no.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Marcellino to be recorded in the
13 negative.

14 Senator Saland, to explain his
15 vote.

16 SENATOR SALAND: Thank you,
17 Mr. President.

18 In a day filled with mysterious
19 numbers and lack thereof, I heard our Senate
20 colleague and sponsor of the bill, Senator
21 Foley, make reference to some \$485 million in
22 savings. And what I find intriguing about
23 that is the either/or situation in the bill.
24 It's either 50 percent of the employee benefit
25 fund or the excess, whichever is greater.

1 So I don't know whether that
2 \$485 million means we're going to raid the
3 funds and draw them down to the 50 percent or
4 whether that is the excess over and above
5 whatever would be otherwise permissible. So
6 it's a rather fuzzy number, but today has been
7 a great day for fuzzy and mysterious numbers.

8 I vote in the negative. Thank you.

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Senator Saland to be recorded in the negative.

11 Senator Alesi, to explain his vote.

12 SENATOR ALESI: Thank you,
13 Mr. President.

14 I am going to support this bill,
15 although I share the concerns that many of my
16 colleagues have stated here. Most notably, at
17 least in this bill, I think if I can get over
18 one issue, that the bill allows the school's
19 governing body to make these decisions -- I
20 would have grave decisions about any school
21 governing body that was not elected by the
22 public.

23 But I will vote for the bill.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Alesi to be recorded in the

1 affirmative.

2 Announce the results.

3 THE SECRETARY: Those recorded in
4 the negative on 1270 are Senators DeFrancisco,
5 Farley, Flanagan, Golden, O. Johnson, Lanza,
6 Larkin, LaValle, Leibell, Libous, Marcellino,
7 Nozzolio, Padavan, Ranzenhofer, Saland,
8 Skelos, Volker and Young.

9 Ayes, 43. Nays, 18.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 The bill is passed.

12 The Secretary will continue to
13 read.

14 THE SECRETARY: Calendar Number
15 1272, by the Assembly Committee on Rules,
16 Assembly Print Number 11389, an act to amend
17 the Public Officers Law.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Senator Padavan, why do you rise?

20 SENATOR PADAVAN: Mr. President,
21 I'm going to be brief as I possibly can.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 On the bill, Senator Padavan.

24 SENATOR PADAVAN: There are two
25 parts of this bill that create problems. One

1 is subjective, and the other is technical
2 almost to the point -- and I think really at
3 the point, Senator Espada, where you're going
4 to get a veto if you don't correct it.

5 Now, let me tell you what they are.
6 And they're in the memo from the City of
7 New York. On the subjective part of it, this
8 bill makes it a Class A misdemeanor if someone
9 were to release or disclose the contents of a
10 sealed court record.

11 Now, if a clerk were to make a
12 mistake, some person at an administrative
13 level, they're facing a jail term. So what's
14 going to happen is that they'll be very
15 reluctant, as this memo says, with the result
16 that courts, attorneys, schools, mental health
17 professionals, and law enforcement agencies
18 with a need for such records will be unable to
19 obtain them in a timely fashion.

20 And then the word "release" is very
21 broad in the way it's defined here. That
22 could also be an individual speaking about a
23 sealed record, nevertheless even providing it.
24 So that's one problem.

25 But here's the part that's fatal, I

1 think, Senator Espada, and you might want to
2 listen to this. It says the bill does not
3 incorporate or acknowledge the lawful
4 exceptions to sealed requirements which are
5 already contained in the applicable laws. For
6 example, CPL Section 150-50, subdivision 1D,
7 sets forth the circumstances under which
8 sealed records may be disclosed without a
9 court order, including for purposes of firearm
10 licensing and employment as a police or police
11 officer.

12 Yet -- and here's the part -- the
13 lawful disclosure becomes a Class A
14 misdemeanor under your bill. So, you know, in
15 effect it shoots itself in the foot.

16 I don't think you intended that to
17 happen. And I would strongly suggest that you
18 take a look at this and see what you really
19 have to do to make the bill viable.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Espada, on the bill.

22 SENATOR ESPADA: On the bill.

23 Firstly, I think the amendment to
24 the Public Officers Law is accurately stated.
25 That is, it does establish a crime for

1 intentional releasing or disclosing of the
2 nature and substance of a sealed court record.
3 And we're clearly spelling out intentionally,
4 and we're clearly saying that "intentionally"
5 means and meets all the standards of intent:
6 Knowingly, recklessly, negligently, strict
7 liability accruing to that intent.

8 And we have unfortunately tragic,
9 tragic situations -- and by way of explanation
10 I wish to dedicate this bill to the family of
11 Patrick Dorsimond, who 10 years ago, an
12 unarmed security guard, was fatally shot by a
13 police officer. No trial for the Dorsimond
14 shooter, but the juvenile records of this
15 young man were released.

16 And obviously he died. And all of
17 the damage that accrued through the media was
18 a result of Mayor Giuliani intentionally
19 releasing this information, knowingly
20 releasing this information for the media to
21 create the kind of criminality that he sought
22 to create.

23 And so this bill is necessary
24 because there are these celebrated and
25 unfortunate and tragic cases, but it happens

1 all the time to our young people in the
2 criminal justice system.

3 And so we're clear about what
4 intent means, we're clear how it applies. And
5 I ask my colleagues to support this bill
6 because this is true justice. True justice
7 for our young people, true justice for any of
8 us that could be caught in a circumstance in
9 which our youthful indiscretions we wish to
10 leave behind us. The law allows for that, and
11 anybody who breaks the law intentionally
12 should pay for that.

13 Lastly, lastly --

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Padavan, why do you rise?

16 SENATOR PADAVAN: I'll let him
17 finish.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Okay. Senator Espada, continue.

20 SENATOR ESPADA: Lastly, the
21 ceiling provisions attach to the record. That
22 is, even if you're dead you cannot release
23 these records unless a representative of your
24 estate or a court determines that they can be
25 released.

1 Thank you, Mr. President. I shall
2 vote aye.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Thank you, Senator Espada.

5 Senator Padavan.

6 SENATOR PADAVAN: Will the
7 Senator yield to a question.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Senator Espada, will you yield for a question
10 from Senator Padavan?

11 SENATOR ESPADA: Yes, of course.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 The sponsor yields.

14 SENATOR PADAVAN: Senator Espada,
15 it says here -- and I'm going to read it,
16 because I want to be accurate: "Lawful
17 disclosure becomes a Class A misdemeanor,
18 pursuant to the language of the bill, which
19 specifically cites the various ceiling
20 statutes but prohibits the lawful disclosure
21 provided for in the statute that it cites."

22 I mean, to me it's very clear,
23 there's a major contradiction there. And I'm
24 not even a lawyer and I understand it.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Espada.

2 SENATOR ESPADA: Well, I have no
3 response in that I think it's misinterpreted,
4 misunderstood. And we stand by our bill.
5 It's carefully crafted. And quite frankly, we
6 add chapter amendments all the time here.

7 But in this instance we're clear in
8 defining intent here, and we're clear as to
9 the relief and the sanctions that should
10 accrue.

11 Thank you very much, Mr. President.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Thank you, Senator Espada.

14 Seeing no other Senators wishing to
15 be heard, debate is closed. The Secretary
16 will please ring the bells.

17 Read the last section.

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

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Senator Schneiderman, to explain his vote.

25 SENATOR SCHNEIDERMAN: Yes, thank

1 you, Mr. President.

2 I'm going to support this bill
3 because I think it does deal with a very
4 important issue of the unauthorized release of
5 sealed court records.

6 I do think the bill in its present
7 form probably needs some editing because it's
8 not completely clear to me that as drafted it
9 might not affect people who knowingly release
10 records, but there's no clear requirement that
11 they have to know the records are sealed.

12 So I'm going to support the
13 legislation because it is a tremendously
14 important issue that's being addressed here,
15 to ensure that when your records are sealed
16 you have confidence that they will remain
17 sealed and that no one will violate the court
18 orders that relate to the sealing.

19 So I'm going to vote yes, Mr.
20 President, and look forward to working on
21 improving this as we move forward. Thank you.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Schneiderman to be recorded in the
24 affirmative.

25 Announce the results.

1 THE SECRETARY: Those recorded in
2 the negative on Calendar Number 1272 are
3 Senators DeFrancisco, Hannon, O. Johnson,
4 Larkin, LaValle, Libous, Marcellino, Padavan,
5 Ranzenhofer, Skelos and Volker.

6 Ayes, 50. Nays, 11.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 The bill is passed.

9 Senator Klein, that completes the
10 reading of the controversial calendar.

11 Senator Klein.

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

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Libous.

16 SENATOR LIBOUS: There will be an
17 immediate Republican conference for no more
18 than 10 minutes.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 There will be an immediate Republican
21 conference in the Republican Conference Room
22 for no more than 10 minutes.

23 Senator Klein.

24 SENATOR KLEIN: Mr. President,
25 can we please stand at ease while the

1 Republicans conference. Can we please return
2 at ten after 9:00.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 The Senate will stand at ease until ten after
5 9:00 while the Republicans conference.

6 (Whereupon, the Senate stood at
7 ease at 9:03 p.m.)

8 (Whereupon, the Senate reconvened
9 at 9:34 p.m.)

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Klein.

12 SENATOR KLEIN: Mr. President, if
13 we could just briefly return to motions, I
14 have a single motion.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Returning to motions and resolutions.

17 Senator Klein.

18 SENATOR KLEIN: On behalf of
19 Senator Kruger, I move to recommit Senate
20 Print Number 6610B, Calendar Number 1291 on
21 the order of third reading, to the Committee
22 on Rules.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 So ordered, Senator Klein.

25 SENATOR KLEIN: Mr. President, is

1 there any further business at the desk?

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The desk is clear, Senator Klein.

4 SENATOR KLEIN: There being no
5 further business, Mr. President, I move that
6 we adjourn until Tuesday, June 29th, at
7 12:00 p.m.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 Senator Klein, there being no further business
10 to come before the Senate, on motion, the
11 Senate stands adjourned until Tuesday,
12 June 29th, at 12:00 p.m.

13 (Whereupon, at 9:35 p.m., the
14 Senate adjourned.)

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