THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

August 3, 2010

12:50 p.m.

EXTRAORDINARY SESSION

SENATOR DIANE SAVINO, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

ACTING PRESIDENT SAVINO: Today's invocation will be provided by the Reverend Peter G. Young, of Mother Teresa Community in Albany.

REVEREND YOUNG: Thank you, Senator. Let us pray.

As we gather here on this August the 3rd day, we ask You, O God, to guide our Senators with wisdom and a special prayer, too, for our deceased Senator Morahan.

With all of the tensions that are a daily part of a Senator's life, public service is difficult, and we pray that You will give them strength and good health to handle their many, many responsibilities.

Amen.

ACTING PRESIDENT SAVINO: The Senate remains in extraordinary session.

The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Extraordinary Session Number 2, Monday, August 2, the Senate met pursuant to adjournment. The Journal of Saturday, July 31, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Madam President, there will be an immediate meeting of the Finance Committee, followed by a meeting of the Rules Committee.

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

ACTING PRESIDENT SAVINO: There will be an immediate meeting of the Finance Committee, followed by a meeting of the Rules Committee in Room 332.

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

(Whereupon, the Senate stood at ease at 12:53 p.m.)

(Whereupon, the Senate reconvened at 1:46 p.m.)

ACTING PRESIDENT SAVINO: Senator Parker.

SENATOR PARKER: Madam President, would you please recognize Senator Libous.

ACTING PRESIDENT SAVINO: I do recognize Senator Libous.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

There will be an immediate conference in the Republican Conference Room that will last about ten minutes.

ACTING PRESIDENT SAVINO: There will be an immediate meeting of the Republican Conference in the Republican Conference Room.

The Senate will continue to stand at ease.

(Whereupon, the Senate stood at ease at 1:47 p.m.)

(Whereupon, the Senate reconvened at 2:41 p.m.)

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: There is a report of the Rules Committee at the desk.

The Secretary will read.

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

Extraordinary Session Senate Print Number 5, by the Senate Committee on Rules, an act to amend the Real Property Tax Law and others;

6, by the Senate Committee on Rules, an act to amend the Education Law and

the State Finance Law;

8, by the Senate Committee on Rules, an act to amend the Tax Law;

9, by the Senate Committee on Rules, an act to amend the Multiple Dwelling Law;

And Extraordinary Session Senate Print Number 11A, by the Senate Committee on Rules, an act to amend the State Finance Law.

All bills ordered direct to third reading.

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

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The Rules Committee report is adopted.

Senator Klein.

SENATOR KLEIN: Madam President, may we now move to a reading of the extraordinary session calendar.

ACTING PRESIDENT SAVINO: The

Secretary will read.

THE SECRETARY: Calendar Number 1, by the Senate Committee on Rules, Senate Print Number 5, an act to amend the Real Property Tax Law, the Education Law, and the General Municipal Law.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

THE SECRETARY: Calendar Number 2, by the Senate Committee on Rules, Senate Print Number 6, an act to amend the Education Law and the State Finance Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

SENATOR LIBOUS: Lay that bill aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

THE SECRETARY: Calendar Number

3, by the Senate Committee on Rules, Senate Print Number 8, an act to amend the Tax Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 4, by the Senate Committee on Rules, Senate Print Number 9, an act to amend the Multiple Dwelling Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO:

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 5, by the Senate Committee on Rules, Senate Print Number 11A, an act to amend the State Finance Law.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: Senator Libous, before we lay the bill aside we'd like to take up the message of necessity from the Governor.

SENATOR LIBOUS: I apologize, Madam President. I got a little anxious.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT SAVINO: Yes Senator Klein, there is a message of necessity at the desk.

SENATOR KLEIN: Madam President, I move to accept the message of necessity at

this time.

ACTING PRESIDENT SAVINO: The question is on the acceptance of the message of necessity. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The message is accepted.

The bill is laid aside.

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

SENATOR KLEIN: Madam President, at this time can we please move to a reading of the controversial extraordinary session calendar.

ACTING PRESIDENT SAVINO: The Secretary will ring the bell.

All members are asked to return to the chamber for the reading of the controversial extraordinary session calendar.

The Secretary will read.

THE SECRETARY: Calendar Number

1, by the Senate Committee on Rules, Senate Print Number 5, an act to amend the Real Property Tax Law, the Education Law, and the General Municipal Law.

ACTING PRESIDENT SAVINO: Senator Libous, why do you rise?

SENATOR LIBOUS: Thank you, Madam President.

I believe there's an amendment at the desk by Senator LaValle. I ask that you waive its reading and please call on Senator LaValle.

ACTING PRESIDENT SAVINO: Senator LaValle, your amendment is at the desk. Without objection, the reading is waived and you may speak on the amendment.

SENATOR LaVALLE: Thank you, Madam President.

It's a very, very simple amendment. It reduces the cap from 4 percent to 2.5 percent, or 120 percent of the CPI, whichever is less.

This amendment is very similar to an amendment that I offered up previously that dealt with a cap on real property taxes for

school districts. This amendment, in accordance with the bill, would cover other municipal taxes capped at, in my amendment, 2.5 percent; in the bill, at 4 percent or 120 percent of the CPI.

This bill would make us consistent -- again, as I had said previously on the floor -- with both New Jersey and Massachusetts, and I believe other states are moving in this direction.

During the Finance Committee it was brought up, I think by Senator Klein, that the lesser, if we go to the CPI, is somewhere between a 1 and 2 percent cap. But I think what we need to have in the law is that the cap is at 2.5 percent or, if the CPI is less, then we go to that.

So I would hope that this is an amendment that everyone could support.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Are there any other Senators wishing to be heard on the amendment?

Seeing none, the question is on the nonsponsor motion to amend Calendar Number 1.

Those Senators voting in support of the nonsponsor amendment please signify by raising your hands.

Announce the results.

THE SECRETARY: Ayes, 28. Nays, 31.

ACTING PRESIDENT SAVINO: The motion fails.

We return to the bill in chief. Any Senators wishing to be heard?

Senator Klein.

SENATOR KLEIN: On the bill, Madam President.

This is, I think, a very positive step in us finally achieving a property tax cap in the State of New York. I'd be less than honest if I wasn't frustrated that this is the second time within a five-month period that this legislative body has passed a property tax cap.

I believe that this is going to go a long way towards finally giving homeowners around the State of New York the ability to be able to alleviate this horrible tax burden which actually exists. Needless to say, I

don't think it's too much to ask when a local school district or a local government manage a budget. We're asking taxpayers each and every day around the State of New York to balance their own checkbooks, tighten their belts.

And I think just the threat that we were going to implement a property tax cap in the State of New York I think went a long way towards keeping budgets under 4 percent. I believe the average school budgets around the State of New York didn't increase more than 3.5 percent. I believe we need take this one step further and actually implement a property tax cap in the State of New York.

I also think it's very important for another reason presently we have the STAR exemption program in the State of New York. Originally the STAR exemption program cost about $2 billion. It's now risen to about $3.5 billion. That is taxpayers' money being put in through our budget to help people pay their property tax bill in the form of an exemption. It's a great program.

That program will continue to grow, day after day, year after year, unless we

finally put a cap on property taxes. So I think in order to keep the STAR exemption valid, in order to keep the STAR exemption more affordable or at least affordable so we can continue it, we have to cap property taxes.

I know a lot has been said and a lot has been covered over the last couple of weeks in the news about New Jersey passing an historic property tax cap. Well, when you look at the specifics of the cap that we're going to pass today, ours is a lot more strict and a lot more fiscally sound.

I know Senator LaValle's amendment talked about having, instead of a 4 percent, a 2.5. However, as in this legislation, if we go to the CPI and if the cap was in effect right now in the State of New York, we wouldn't have a 4 percent, we would have a 2 percent property tax cap. And the way things are going, unfortunately, next year the CPI will hold, we'll probably even have a lower than 2 percent property tax cap.

So while Jersey did do the 2.5, I believe that having that property tax cap in

place and the loophole of the 120 percent of the CPI makes sure that we have the lowest property tax cap possible.

Also, New Jersey, in comparison to this legislation, in order to override the cap or spend more money or bust the cap, you need a simple majority in New Jersey. Under this legislation, it must be approved by 60 percent of the votes. Sixty percent of the voters have to agree that they want to spend more than the proposed budget that was proposed by the school district. So ours is a lot tougher and I think a very, very important piece.

Also, we have to look very, very carefully at the exemptions when you compare the two bills. Our only exemption is capital costs. New Jersey has pension costs, healthcare costs, something called emergency costs. It goes on and on. I think in many cases a lot of the exemptions they have make the property tax cap sort of null and void. I think we were very careful to just make sure we only excluded capital costs.

So I think at the end of the day it is up to the Assembly now. This is clearly

something that this body has supported; this will be the second time. The Governor has come on board and tried -- of course earlier when we were in the minority -- to pass a property tax cap. So we do have the Governor now supporting a property tax cap.

It is now incumbent, incumbent upon the Assembly to follow suit and finally give needed property tax relief to the residents of New York State.

I vote yes, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein will be recorded in the affirmative.

Senator C. Johnson.

SENATOR CRAIG JOHNSON: Thank you very much, Madam President.

I rise today to speak on the bill and support this important piece of the legislation. I want to commend the deputy majority leader, Senator Klein, for his leadership on this issue.

This has been an issue that has really resonated with the residents of my district, and it's something that I have fought for since my election to this body.

And in fact I remember vividly sitting on the opposite side of the aisle in 2008, having a very vivid debate with my good friend Senator Bonacic about legislation that we were offering, and we had a debate as to the parameters of what we called our triple-play bill with respect to our property tax cap.

And I remember our amendment being defeated, and I remember them voting yes on the proposal put forth by the then-Republican majority that was a 4 percent property tax cap or a 120 percent CPI less.

What we've done today is take the same figure, 4 percent or 120 percent of the CPI. And as Senator Klein said, this bill is a strict bill. If enacted today and if in effect, it would be a 2 percent property tax cap without the exemptions that we see that Massachusetts and New Jersey put into place.

I think today what's important for our public to see is this is a victory for the overburdened property taxpayers in Long Island, in Westchester, Rockland, Putnam, all the way through upstate New York who face crippling property taxes. But more

importantly, in my opinion, it's a blow to some of those special interests who for far too long have been trying to prevent the imposition of a property tax cap and who far too long control the power here in Albany.

But what we need to do in working together is make sure that the Assembly now does the right thing, and that's simply to bring this piece of legislation before its house and have a simple up-or-down vote.

Today our constituents and the residents of New York State are going to see whether their elected Senators support a property tax cap and support property tax relief or don't. Those same constituents deserve to hear and see how their Assembly members feel on this issue.

Now, as we know, much work needs to be done here in Albany, but property tax relief must take and must be our top priority. And I think to the credit of this entire body, this body, both Republicans and Democrats, has been in the forefront on this issue. Earlier this year this body came together and voted and passed a comprehensive property tax relief

bill that included a cap and that included a circuit breaker, that included mandate relief. But what's happened all too often is the Assembly leadership failed to take up that package, failed to bring it up for an up-or-down vote.

Well, I think with today's vote, ladies and gentlemen of this body, the Assembly leadership has an opportunity to make amends and it has a chance to show the residents of New York State that it too is serious about capping property taxes. Not just school taxes, but county taxes, town taxes, and something that's not often talked about but seen, village taxes, which oftentimes we see, if you live in a village, grow exponentially.

And so I commend my colleagues on both sides of the aisle who are going to support this bill and who are going to provide real property tax relief to the residents who live in this great state of ours.

I'll be voting yes, Madam President. Thank you very much.

ACTING PRESIDENT SAVINO: Senator

C. Johnson to be recorded in the affirmative.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would the sponsor yield to a question, please. I don't know -- would Mr. Rules yield to a question, or Senator Klein?

ACTING PRESIDENT SAVINO: Senator Klein will.

SENATOR KLEIN: I'll be happy to yield, Madam President.

ACTING PRESIDENT SAVINO: He'll answer the questions.

SENATOR DeFRANCISCO: Senator Klein, it's my understanding, especially from hearing what Senator Johnson just said, this is not an agreed-upon bill. Is that correct?

SENATOR KLEIN: It's not an agreed-upon bill.

SENATOR DeFRANCISCO: Okay.

SENATOR KLEIN: But just to finish what I would like to say -- and I said it earlier, and I guess I'll repeat it -- this is the second time that this body has passed a cap.

And again, I don't think it's any

secret that it's going to be, I believe, very, very difficult for some of my Assembly colleagues who represent the suburbs and upstate New York, people who are very concerned about property tax relief, to vote no or at least not to take this legislation up and get a fair vote on this important bill.

SENATOR DeFRANCISCO: Thank you.

I have nothing further.

ACTING PRESIDENT SAVINO: Senator DeFrancisco, on the bill now? On the bill.

SENATOR DeFRANCISCO: I believe that this is a very good bill and sometimes imitation is the greatest form of flattery, because we passed this bill in 2008 two years ago. And interestingly enough, at that time there were only seven Democrats who voted in favor of it.

So it's nice to see that when you have a good idea and it percolates among the public that eventually there's enough votes to make sure -- I'm sure there will be many, many more than seven votes this year from the Democrat side in order to make this happen.

And I would join with what Senators

Klein and Johnson said, is that the Assembly owes it to the public to at least put the bill on for a vote, owes it for to the Governor who presented the bill, owes it to the public to vote yes or no. If they don't think it's a good idea, then they can vote no.

So this is a good bill, and I'm going to be voting yes.

ACTING PRESIDENT SAVINO: Senator DeFrancisco to be recorded in the affirmative.

Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President.

I just want to reinforce something that Senator DeFrancisco talked about that we did when we held the majority, brought this up in 2008, with the same provisions of the over and under to allow the voters to participate by certain percentages.

In 2008 we could not get the Assembly to pass this bill. Again, with the support of the Governor, we have not been able to move it beyond this house. So, Senator Klein, we have passed a tax cap bill three times, not twice: 2008, 2009, and 2010, three

years.

But one of the provisions that you didn't mention is that this actually, for school purposes, has an available carry-over provision that would allow districts that have saved money to be able to spend that money beyond whatever the cap is.

The time has come for the Democrat majority to get -- whether it is bargaining, whatever methodology -- to get the Assembly to pass this bill. We have certainly -- today this bill is going to pass, even though it should be 2.5 percent, will pass this house. But I believe, despite all the rhetoric here, it is not going to pass in the Assembly. So once again, the voters are going to hear a lot of nice things, but in the final analysis the job's not going to get done.

So I think that we need to, as members of our body, to get our Assembly members to really act responsibly and get it done in the Assembly.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator LaValle to be recorded in the affirmative.

Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Thank you.

As was mentioned earlier by Senator Klein, last March we did vote on a property tax cap, and that particular bill included restoring Senior STAR and a new property tax circuit breaker, both of which I strongly support.

The 4 percent cap in this bill is actually a good deal higher than most of my school district increases this past May. In fact, a couple of my school districts in my bigger cities came in with a minus 1.5 percent from last year's budgets. So they are very, very mindful of the property tax burden.

And I do believe that our economy is not going to be very much better for a number of years, and therefore I do not foresee that our school districts will be able to come forth with budgets that are very large indeed. The average, I think, in my Senate district was a 1.5 percent increase.

So that's the reality. And to tell you the truth, I don't think the tax cap is an adequate solution. I think it kind of

maintains the status quo. I think my bills do more because they cut the costs of schools, my bills being the mandate relief bill and the consolidation and shared services bills. That cuts the costs that the schools have to bear.

But this is a one-house bill, and we will need a two-house solution that hopefully will reduce the mandates and bring direct relief like STAR which actually would benefit the property taxpayer.

But I think we need to do something, and we need to do something around reducing the property tax. And as many of you heard already, particularly, particularly in my county, because my county is the highest property-taxed county in the United States.

And so I am going to be supporting this, and hopefully we will make some progress on reducing the burden that exists for almost every taxpayer in the county of Westchester.

Thank you. I'll be voting yes.

ACTING PRESIDENT SAVINO: Senator Oppenheimer to be recorded in the affirmative.

Senator Padavan.

SENATOR PADAVAN: Thank you,

Madam President.

Senator Klein, would you answer just a brief question. This bill does not --

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Yes, Madam President.

SENATOR PADAVAN: This bill does not affect the City of New York or any of the other dependent school districts, am I correct?

SENATOR KLEIN: Through you, Madam President, the cap would not apply to the five -- the Big Five school districts, correct.

SENATOR PADAVAN: A second question, if I may, Madam President.

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

SENATOR KLEIN: Yes, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein yields.

SENATOR PADAVAN: As you know, in the City of New York -- I'm not sure of the

other cities around the state -- we've had multiple increases in both rates and assessments, and so homeowners are feeling that pinch.

Do you have any idea as to how we can expand this -- I realize we're dealing with a tough situation in regard to the Assembly, and the other incarnations of this bill also did not cover those cities -- how we could deal with that problem in similar fashion?

SENATOR KLEIN: Through you, Madam President, I would love to figure out a way that we can alleviate the tax burden of those in New York City, which of course isn't as high as those in the suburbs, but still growing.

Unfortunately, this can only be applied to those school districts that actually vote and pass their own budgets. And again, as you probably know, Senator Padavan, applying this to New York City, New York City does not fund their school system through a property tax but rather the income tax and other funding.

ACTING PRESIDENT SAVINO: Senator Fuschillo, on the bill.

SENATOR FUSCHILLO: Would the sponsor yield for a quick question.

ACTING PRESIDENT SAVINO: Senator Klein, will you yield?

SENATOR KLEIN: Yes, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein yields.

SENATOR FUSCHILLO: Thank you, Senator. I was just reading the bill itself. On page 25 it deals with reserve accounts. Could you just explain what the changes are?

SENATOR KLEIN: Twenty-five, Senator?

SENATOR FUSCHILLO: Page 25. Does that allow them to utilize reserve accounts now without any additional legislative approval if this was a two-house bill?

SENATOR KLEIN: You're referring to page 25? Any specific line on page 25?

SENATOR FUSCHILLO: It deals with reserve accounts. My question to you is, does

that now allow them to spend down their reserve accounts without having to come back to us for legislative approval if this was a two-house bill?

SENATOR KLEIN: I know the bill talks about keeping reserve accounts, unused tax levies, would be available for future years to increase the levy up to 1.5 percent. But that's the most that they can actually bank for future use.

SENATOR FUSCHILLO: Thank you, Senator.

SENATOR KLEIN: Again, just for clarification, this is another example where our legislation is a lot harsher or stricter than the State of New Jersey, who can actually bank far more money than the 1.5 percent for additional years.

SENATOR FUSCHILLO: Thank you.

On the bill.

ACTING PRESIDENT SAVINO: Senator Fuschillo, on the bill.

SENATOR FUSCHILLO: A Newsday editorial today states "New Yorkers deserve a debate on capping tax growth," and it goes

into that this is a long-overdue issue that should be taken up on this floor.

And it talks about all the gubernatorial candidates, attorney general candidates, candidates for comptroller and other races all supporting a tax cap. And it says we should do this today just to put -- and I'll echo what Senator DeFrancisco and others said -- to put the pressure and the blame where it should be laid, on the Assembly, for not having to take this up.

Whether I was in the majority or the minority party, as a Republican or as a Democrat, capping property taxes and reducing property taxes should be a nonpartisan issue. There's no greater issue that I hear every single day in my district when I walk the streets, and it's property taxes. And people are being squeezed out of their houses. And unless we do something, we fail the voters, we fail the residents.

We're doing our part today. This bill should pass, and the Assembly should have the heat and the pressure to put it on the floor at least for an up-or-down vote, at

least for a discussion, to debate it, to see what the people of the districts in the Assembly want to talk about. And if it's not property taxes, then they're not hearing their people. It's the number-one issue.

People are moving out of this state in droves. We are the number-one state in interstate migration for the last decade, for the last ten years. And that means people are leaving our state and going to other states throughout the United States. And it's wrong. And we should do our part, what we can do to keep residents here where they've lived all their lives.

Madam President, I'll be voting in favor of the property tax cap.

ACTING PRESIDENT SAVINO: Senator Fuschillo to be recorded in the affirmative.

Senator L. Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you, Madam President.

As my colleague Suzi Oppenheimer already stated, we have visited variations on this bill several times in this house. And to be honest, I have preferred earlier versions.

I have preferred exploring a circuit breaker model of dealing with property tax control. I do prefer a number of other options that didn't make it into this bill.

But I also know that for my colleagues from outside the Big Five cities where this bill would impact, I have heard from them how crucial it is for their districts, for their constituents.

And so in fact, even though I recognize this bill in itself is not where we ultimately should go, I do believe we need to have a circuit breaker. Senator Klein and I have worked on that. And I believe that going forward with the Assembly and the Governor, we are going to be able to do more than just this bill today.

But because this is so crucial for so many areas of the state and because it still does allow the local districts options to make decisions to override this if they think that this is not an adequate option for them in their school districts in their communities, I am comfortable voting for this bill, hoping that we can move forward with an

agenda that is not one bill alone, but that finally gets our arms around changing the tax policies of the state such that we do not find ourselves with families and seniors being priced out of their own homes because they cannot afford their local property taxes.

So I'll be voting yes, Madam President.

ACTING PRESIDENT SAVINO: Senator L. Krueger to be recorded in the affirmative.

Are there any other Senators wishing to be heard on the bill?

Senator McDonald.

SENATOR McDONALD: Thank you, Madam President. On the bill.

I've had some experience in property taxes at the grassroots level. I heard a few comments in reference to higher taxes. I'm very proud to have been part of a team in Saratoga County that in 1986 officially made it the lowest-taxed county in the state. It still is.

I was the chairman of that budget that year. A tax cap is critical. But it's got to be more than that. If you think that's

the answer, we're going to be back here next year responding to the same people who are upset.

I commend everybody for taking the first step, but it's spending and it's also revenue. You cannot allow revenue to leave the state. You cannot allow businesses or programs and services not to be collected, like the VLT money for the last several years.

I also had the opportunity to be the supervisor of a town that almost 25 years ago limited property taxes for the local town general and highway funding monies. Which saves that taxpayer today approximately $2,000 a year. Now, that's not a rebate check on some program at the state that they send you $150 for, that's $2,000 on an averaged assessed house. Not a high-middle-class house, but an average assessed house.

It can be done. But you've got to realize that mandates are part of the problem and that mandates start right here in this building. You also have to realize it's not a one-time shot and that maybe a little better communications with all the local governments,

so they can explain to you that one size doesn't fit all. Programs and services that might be necessary in New York City may not be necessary in the smaller community. Programs and services that are necessary upstate may not be needed downstate.

So if anybody's walking out of here thinking that they're going to have lower property taxes, or if that's going to be the presentation in the paper tomorrow, it isn't going to happen. It's going to be a lot harder work.

I've done this myself and can show you the results. And just for the notification, people in my county are moving in. So the tax structure, lowering it, exploded the population. So not everything is negative in New York State. There is positive areas. And I'm sure there's positive areas in your district. But it's a little ridiculous to sit here and hear what's come out of these buildings for the past 30 or 40 years and say we're going to stop it now.

Well, I'll challenge anybody; we know how to stop it up on the other side of

the Mohawk River. It's called Saratoga County. You want to see low taxes? You want to see corporations moving in and expanding, people moving in? That's the place to go. Ask them how they're doing it despite what this state has done to them in the last three decades.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator McDonald, how do you vote?

SENATOR McDONALD: I vote yes.

ACTING PRESIDENT SAVINO: Senator McDonald to be recorded in the affirmative.

Are there any other Senators wishing to be heard on the bill?

Seeing none, debate is closed. The Secretary will ring the bells. We ask all members to return to the chamber.

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator

Robach, to explain his vote.

SENATOR ROBACH: Yes, Madam President. I rise to support this bill I think not only for the topic of controlling property taxes, which so many of my colleagues have very eloquently alluded to, but I'm also happy to vote for this because I think it's significant in this way.

We desperately in this Legislature in this chamber need to show the public that we are listening to what they want. And clearly anywhere in upstate New York, certainly in Rochester and Monroe County, property taxes are the number-one talked-about item, polled item of what people want to control.

So today we are moving in the right direction in being responsive to the public. But it's also been pointed out we can't stop. Not only do we have to work with our colleagues in the Assembly and make them responsive to the public, but really for whoever is watching and listening, I'm calling on the public as well to also make sure that the Assembly does the right thing by the

people and does something to try to control property tax which, as my colleague Senator Chuck Fuschillo pointed out, is the number-one reason why people are voting with their feet and leaving this state.

So we're on the right track; that's good. But there's plenty of work to get done. But I gladly cast my vote in the affirmative, Madam President.

ACTING PRESIDENT SAVINO: Senator Robach to be recorded in the affirmative.

Senator Seward, to explain his vote.

SENATOR SEWARD: Thank you, Madam President. I rise to explain my vote.

No question high property taxes are a huge problem for homeowners throughout the State of New York. I know in my own district that's the number-one complaint that I hear from my constituents. Senior citizens having a tough time staying in their homes, young families just starting out that have a tough time because of high property taxes even owning a home or breaking into the housing market, and of course everyone in between

facing high property taxes -- a huge problem.

I'm going to support this legislation before us today, but I must point out that I believe this is only half the solution. The property tax cap is fine, but a tax cap alone is not the total answer. We have to in the State of New York get serious about mandate relief. What's driving up local government costs and local taxes? It's mandates from the State of New York are a huge part of that.

And so I'm going to support the tax cap. I think it's a step in the right direction. But we've got to finish the job by having meaningful and serious mandate relief. Let's take the burden off the backs of local governments and school districts so that they can lower their expenses and thus lower their taxes and stay well within any property tax cap.

Madam President, I vote aye.

ACTING PRESIDENT SAVINO: Senator Seward to be recorded in the affirmative.

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Madam President.

Madam President, I too rise in support of this measure. This house over the course of the past two decades has certainly had a long and I think certainly accomplished history of trying to drive the issue of not only property tax relief but also mandate relief.

And we now have before us the Governor's program bill. We have, I believe, virtual unanimity in this house. We have seen a near unanimity on tax cap bills previously. The problem today, as it was last year, as it was five years ago, as it was 10 years ago, as it was 15 years ago, remains the intransigence of the Assembly. And we can continue to hammer away and we can continue each and every day in every way possible to drive this message, and yet when it comes to the very doorstep of the Assembly: No response. It falls upon deaf ears. And there's a vast injustice in that.

This weekend I walked a parade line with probably hundreds of fireman, a number of

whom raised questions with me about property tax relief. And I said the problem is not this house, the problem is in the Assembly. And we continue to fight that fight. And I hope that somehow or other this message will resonate sufficiently to divide the waters and bring this miraculous change, much like Moses brought us to the Promised Land.

I would be more than pleasantly surprised, because I fear it will take divine intervention to get the Assembly to move on this. But I do in fact echo the comments that I've heard virtually everybody here make and believe there's no time like the present. So if we're going to have that divine intervention, may it please occur before it's too late for far too many people.

Thank you.

ACTING PRESIDENT SAVINO: Senator Saland to be recorded in the affirmative.

Senator Farley, to explain his vote.

SENATOR FARLEY: Yes, I rise in support of this legislation because if there's any issue that so many have said that is being

said loud and clear throughout the state, particularly in the upstate area, is we have to do something about real property taxes. They are killing us.

And every poll that exists says that people overwhelmingly, in the high 80s, want something to be done about a tax cap.

Actually, it's all spending. This is something that we can address, because we don't seem to be addressing spending.

But, Madam President, I vote in favor of this legislation.

ACTING PRESIDENT SAVINO: Senator Farley to be recorded in the affirmative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Madam President and my colleagues.

I think it's gratifying that we can look on both sides of the aisle today and see that there is widespread support for an initiative that started actually a couple of years ago. And finally today it seems as though we all agree that we can at least get behind a bill that caps property taxes in this state.

I think that we should all take the same effort and energize ourselves to go over to the other house, into the Assembly, and make them see the same wisdom. Because our constituents and their constituents are the same people. They are the same homeowners, they are the same ones who are suffering under the burden of these high taxes that we've had in New York State.

And so while I congratulate my colleagues, both Republicans and Democrats alike, I would remind them that there are still people out there that, no matter how much we cap, will be paying high taxes in this state. And as Senator Seward pointed out, there are other things that we can do to help lessen the property taxes that we have in this state -- mandate relief, consolidation of services, and a number of other things.

But we can't do that unless we have a cooperative effort not only between Democrats and Republicans but a cooperative effort between the Senate and the Assembly, along with the cooperative effort of the Governor.

So as I think of a young couple, a young man in particular, my niece's husband, who served two terms in Iraq and came back here to be with his wife and his two children and had only one dream, and that was to own a home. And the more they looked, the more they realized that even though they could afford the down payment, the real struggle for them would be property taxes.

And that delayed their buying a home. That delayed their part of the American dream, and it put off for some time their children's ability to live in a home and have a back yard and live in a nice neighborhood.

And I'm happy to say that they finally now have had that. But it was property taxes alone that kept them from being able to enjoy that.

My colleagues, I congratulate each and every person here who not only votes on this bill but those who drafted this legislation a few years ago. Without regard to who's in the majority then and who's in the majority now, we have done it here in the Senate. Let's work to get it done in the

Assembly.

ACTING PRESIDENT SAVINO: Senator Alesi to be recorded in the affirmative.

Senator Foley, to explain his vote.

SENATOR FOLEY: Thank you, Madam President.

I stand in strong support of this particular legislation. Property tax relief is important on the minds of New Yorkers from Niagara Falls to Montauk Point. As a matter of fact, throughout the suburban areas of our state there's not a bigger issue than property taxes.

When you think for a moment, Madam President, that anywhere from 65 to 70 percent of one's property tax bill is geared towards our school taxes, we need to have a tax cap in that particular area, which is what this bill will achieve.

Also, as some of our colleagues have stated, combining this effort with the effort to have shared services among school districts, particularly through the BOCES supervisory district, along with efforts to finally have collective regional bargaining

arrangements as well. Those are things that will also help to tamp down the increase in expenses.

But certainly this property tax cap bill is a very important component to the overall effort to bring property tax relief to the citizens of our great state, so I support this bill. Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator Foley to be recorded in the affirmative.

Are there any other Senators wishing to explain their vote?

Seeing none, announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1 are Senators Parker, Peralta, Perkins, Schneiderman and Thompson. Also Senator Diaz. Also Senator Huntley.

Those Senators absent from voting: Senator Duane. Excused, Senator Golden.

Ayes, 52. Nays, 7.

ACTING PRESIDENT SAVINO: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 2, by the Senate Committee on Rules, Senate Print Number 6, an act to amend the Education Law and the State Finance Law.

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

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

Could we have some order in the chamber, please.

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

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

SENATOR DIAZ: Madam President, to explain my vote. Even though -- even though, Madam President, I wanted to speak on the bill, because it will give me more time. So you went too fast. So please bear with me. Because today is a day of shame.

ACTING PRESIDENT SAVINO: Senator Diaz, I will give you a certain amount of leeway to extend beyond the two minutes.

SENATOR DIAZ: Thank you.

Today, on this bill, make us -- made me to call this a day of shame. It was the Democratic Party and the Democratic philosophy that created an opportunity for minorities, for poor people, black and Hispanic especially, to give us in the state universities the opportunity for those families that cannot afford to pay for the higher tuition at private universities to be able to send their children to college.

And I want to repeat this, Madam President. This is -- this is a Democratic idea, created by Democrats. So today I would love to stand here and blame the Republicans, but I cannot. I would love to be here and say, You Republicans, you are always against us minorities.

I can't do that, because this bill has been introduced in the Committee on Rules by -- at the request of the Governor of the State of New York, a Democrat governor. And

this bill requires, requires to give the authority to the State University to increase tuition on everybody. I want to read something here on the bill.

It says "General tuition policy shall mean a policy established by the board of trustees governing a homogeneous tuition increase or decrease across all campuses equally for resident undergraduate students." This also reads: "The trustees shall not impose a differential tuition charge based upon need or income. All student enrolled in programs leading to like degrees at state-operated institutions of the State University shall be charged a uniform rate of tuition."

Meaning that when Juana and Pepe from the community cannot have the opportunity to send their children, there's no opportunity. Doors have been closed today. It's a day of shame. There is no way that a Democrat could vote for this. There's no way that a Democrat could vote for something like this.

Let me tell you something else that

says. "The trustees shall be authorized to implement a general tuition policy that shall apply in a uniform manner for all state-operated institutions to increase annual tuition within each academic year 2011, 2012, 2013, 2014, for resident undergraduate students."

So Madam President, again, I'm going say this is a day of shame. And I love -- I would love to stand here and blame the Republicans. I'm going to repeat myself again. I would love to stand here and say, well, you Republican people, you always against us. You -- you -- you know, you have no feeling. You don't care about us minorities. I would love to say that. But I cannot. I cannot.

Because this bill is not a Republican bill. This is a Democrat Governor who introduced this bill to stop our minority communities from getting an education. And again, I'm saying there is no way that a Democrat in this chamber could vote for this. Let the Republicans vote for it. Let the Republicans vote for it. But we cannot blame

the Republicans no more, telling the people that the Republicans are against us.

This is a -- this is a -- this is shameful. This is a very painful bill that will hurt our people, my people in the South Bronx, my people, my black and Hispanic with kinky hair and broken language. No, it's --

ACTING PRESIDENT SAVINO: Senator Diaz --

SENATOR DIAZ: No, this -- no, let me -- let me -- let me -- I got to vent.

ACTING PRESIDENT SAVINO: Senator Diaz, I've given you more than enough time. So I would like to ask you.

SENATOR DIAZ: You didn't give me a chance to explain the bill.

ACTING PRESIDENT SAVINO: Yes, I did. If you would --

SENATOR DIAZ: See, I --

ACTING PRESIDENT SAVINO: How do you vote, Senator Diaz?

SENATOR DIAZ: With all due respect, Madam President, when you talk on the bill, you get all the time you need.

ACTING PRESIDENT SAVINO: But

Senator Diaz --

SENATOR DIAZ: When you explain your vote, you only get two minutes. But you didn't give me time to speak on the bill.

ACTING PRESIDENT SAVINO: Senator Diaz, we called the bill up, we asked if any members wanted to speak on it. No members indicated they wanted to speak on the bill. Decent was closed.

We are now on the vote. I have given you significant leeway, way beyond the two minutes, because I recognize that you might not have heard me call the bill. But we do need to move on.

So, Senator Diaz, how do you vote?

SENATOR DIAZ: I need to move on and I need to ask my Democratic colleagues to stop this bill. Thank you.

ACTING PRESIDENT SAVINO: Senator Diaz will be recorded in the negative.

Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Yes, Madam President. I don't like to get up to disagree with my colleague Reverend Diaz, but I think

that he's read this bill wrong. I think that what he's missing out on is that rather than less access, there will be more access for minority students with SUNY empowerment.

The fact is that out of every tuition increase, 20 percent of the increase goes into a pot of the money that's laid aside for more student aid besides the TAP and the probable TAP increase that's going to take place, to match up with any of the increases in tuition.

So there will be TAP, an increase in TAP, the pot of money that we for now will call Beyond TAP. And then also Pell grants currently are larger than ever, and those are also available for minority students. And the bottom line is that more likely than not, the students will not only be able to afford to go to SUNY without an increase, but based on the fact of the increased Pell grant, they may even have a little money on the side after they pay all their expenses.

So quite honestly, I wish that maybe the bill was laid out better, that Senator Diaz would have had a chance to read

it in its entirety or discussed it with the people from SUNY that would have been happy to explain all of these facts.

And as a matter of fact, after this is finished, there's a young man up front that would be happy to go over all the increases and the corresponding aid accessible for any student.

So because of those reasons and because of the fact that SUNY needs our help and this gives them a chance to stand on their own two feet and move forward and grow as a university, to be the university system that we want it to be, and to become even a better university, stronger and have more access for minority students and in-state students, I support this bill and I vote aye and hope that all my colleagues will vote yes also.

ACTING PRESIDENT SAVINO: Senator Stachowski to be recorded in the affirmative.

Senator Thompson, to explain his vote.

SENATOR THOMPSON: First I want to thank my colleagues for supporting the bill.

There's a lot of effort that has gone into working out some of the details and some of the concerns that people have related to expanding the educational opportunities but also the community development and economic development opportunities.

I think that this is a compromise bill. It does allow some of the campuses to grow. It also puts some caps in on how much tuition can increase. It also makes sure that we keep college affordable.

As someone who graduated from SUNY Brockport who was an Educational Opportunity student, who in 1988, tuition was $687.50, and my mother at that time could not afford $687.50 to send me to college. And so I cannot support a bill that I believe would deny students who come from similar backgrounds from which I have come to not go to college.

So I think that there's a lot of progress. There were a number of labor issues that were of concern that I think many of those labor issues have been worked out. No one gets a hundred percent of what they would

like, but I think this is a great step in the right direction and I vote aye.

ACTING PRESIDENT SAVINO: Senator Thompson to be recorded in the affirmative.

Are there any other Senators wishing to be heard?

Senator Foley, to explain his vote.

SENATOR FOLEY: Thank you, Madam President. I rise in strong support of this Empowerment piece of legislation.

Over a period of months we've been discussing this issue of SUNY and CUNY. As we all well know, our flagship institutions in this state system are among the finest in the country. And we think for a moment particularly of the two bookends of our state, but also the rest of the constellation of universities and colleges.

But for one moment, when we think for one moment of the University of Buffalo and the University of Stony Brook, that have students from throughout our state attending both universities, considered among the very best of our country. And they're the very best for a variety of reasons. Their

intellectual pursuits, the academic research, certainly have those two institutions at the top of their particular fields.

But it's also important for another reason -- perhaps not as important as the intellectual and academic mission, but they also are prime economic engines within their given regions. And when you think for a moment, Madam President, that on Long Island the University of Stony Brook is the largest single-site employer of any employer on Long Island, with the over $5 billion-a-year impact it has on the bi-county region.

When you think in those terms, as well as its primary mission of education and research and the like, and you also combine that with the fact that it is in a very unique geographic area, one of the few anywhere in the country where, within a short driving distance, you have two magnificent laboratories of international acclaim -- you have Brookhaven National Laboratory to the east, you have Cold Spring Harbor to the west.

When you think of these three institutions, when you think of the vision

that Empowerment will help them realize, that they can have even greater achievements going forward, greater achievements in research but also greater achievements, as Senator Stachowski said, for access for students -- and we as New Yorkers believe in equality. We as New Yorkers believe that every person of every background has an equal right to a great education.

And if and when we pass Empowerment, and hopefully the Assembly would do the same, we're going to give our students even greater access to the best higher education available anywhere in not only the State of New York but anywhere in our great Union. That's why some of us have been as persistent, have been insistent and passionate about this higher-education issue.

Because this is one of those unique opportunities, Madam President, where the door of reform opens only for a very short period of time, and it's going to slam shut pretty soon. That's why we've been doing what we've been doing for a number of months. And we hope, really hope, to the marrow of our bones,

that we will receive the support that we need to pass this today, in order to give our students and our researchers and our professors all the means they need in order to keep our state the Excelsior State.

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

ACTING PRESIDENT SAVINO: Senator Foley to be recorded in the affirmative.

Senator Breslin, to explain his vote.

SENATOR BRESLIN: Thank you very much, Madam President. I rise to join with Senator Stachowski, Senator Foley, Senator Thompson in espousing and proclaiming the benefits of this bill.

It's taken into consideration all of the different factors, particularly, as Senator Reverend Diaz pointed out, to ensure that no student, no student is not able to go to a state university because they can't afford it. The TAP monies have been increased, a revision of the bill. The additional money set aside out of tuition increases, as Senator Stachowski said, the

20 percent. The economic development that will result from these improvements and the ability of the State University system and the individual campuses to raise tuitions appropriately and not suffer the vicissitudes of the State Legislature when we raise them precipitously at times when they're inappropriate.

This will give the planning for each of the individual campuses to do things properly, do things for the students, and do things in conjunction with the economic development of the community.

I vote aye, Madam President.

ACTING PRESIDENT SAVINO: Senator Breslin to be recorded in the affirmative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Madam President.

I hear my colleagues talking about reform -- want to reform the educational system, want to reform SUNY. SUNY was built by taxpayers, with taxpayers' money, to educate the poor and the middle class. Those

youngsters, those young people who come from families that couldn't afford to send them to the more expensive private colleges.

If you permit, if we permit, by this legislation, SUNY to increase each and every year as they see fit, or with a schedule as proposed, sooner or later you're going to price the group of people right out of those schools that the schools were built for.

We do not need to compete with Harvard, Yale and Berkeley. We don't have to compete with them. We don't need Harvard-lite here. We need SUNY to be a quality public education system built for and to serve the young people who cannot afford to go to Harvard.

Once you exclude them, they're gone. TAP will not increase and meet the needs. You're going to see the sale of properties to private interests. Those publicly owned lands are going to be sold to private interests, and that's not good. That's not good. We're going to look at and you will see, if this bill passes, in my mind -- and I will predict it -- you will see

the destruction of SUNY and CUNY and the destruction of the public education system for higher education in this state if this bill goes forward.

This is a bad concept. This is a bad idea. If SUNY needs money, let them come to us, justify it, and we will give it to them. We always have in the past, and we always will.

We support public colleges. My wife could not have gotten an education without CUNY and SUNY being where they were. Many youngsters could not have gone to college without these public schools. We need to keep them, we need to preserve them.

This bill is not the way to go. Madam President, I vote no.

ACTING PRESIDENT SAVINO: Senator Marcellino to be recorded in the negative.

SENATOR DIAZ: [Inaudible.]

ACTING PRESIDENT SAVINO: Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: I'm sorry, did Senator Diaz want to say something, Madam President?

(Laughter.)

ACTING PRESIDENT SAVINO: Senators, please do not engage in across-the-floor discussions.

SENATOR MAZIARZ: Thank you very much, Madam President.

Madam President, I'd be remiss if I did not talk a little bit about the genesis of this bill, which really started out in Western New York as UB 2020, by a great team of educators led by Dr. John Simpson, who put together a five-year -- studied this, worked on this for a five-year period to change the face of the University of Buffalo, change the economy of Buffalo and Western New York in a very positive way.

And because of the culture of Albany and the me-tooism of Albany, you know, a whole lot of other things had to be done to get this bill to the point where it's at today. But I want to congratulate Dr. Simpson and that team at the University of Buffalo.

I think, as some of my other colleagues said, this is a very positive moment for SUNY. This is going to help

improve higher education in the State of New York. And I very proudly vote in the affirmative, Madam President. Thank you.

ACTING PRESIDENT SAVINO: Senator Maziarz to be recorded in the affirmative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Madam President. I rise because I'm not going to support this bill, and I will articulate my reasons.

I have not heard once on the other side of the aisle that State University has been stripped down $500 million. Not once, to say Governor -- and the silence on the other side of the aisle to replace a part of that $500 million that has been taken away from the State University.

State University, throughout my career, and I have said this over and over, is the economic engine for this state, whether it be because of one of the four-year schools in a community or on Long Island and in Western New York, the role it plays. Or in Binghamton, very critical, or here in Albany.

During the last two years, with this bill, the other side of the aisle has increased tuition -- not once, but twice. A $600 tuition, the Governor took it, put it in the budget. Now, again, we are increasing tuition: 2 percent, 7 percent, 7 percent, 7 percent -- 23 percent. That, off the top of my head, translates to $1,675 in tuition.

Senator Diaz is right. We have always protected those in need. Access and affordability have been the linchpins of our system. What is not here, what is not here is any coverage for middle-income students. None. They're going to bear the full brunt. Full brunt.

Lastly, last week Senator Ruth Hassell-Thompson articulated something that was on the mark. She said this bill should have been divided in three parts and we should have focused and debated and discussed, had roundtables, had hearings on this.

This change in one bill is overwhelming. I think that the tuition hikes alone, if we just focused on that, for middle-income students is devastating. I vote

no.

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

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Madam President.

I am hanging on the words of Senator LaValle because he was so much on the money in describing his concerns about the possibility of this bill passing. I share those concerns, for all the reasons that he gave.

And I would simply point out the fact that our SUNY system provides a public education for everyone. That was the original purpose behind them. And if you look not private schools, you'll see that there's a trend where they're now accepting only the best and the brightest, and even more of the best and the brightest, to try to elevate their own educational entities, so that they can demand even better students and become even more exclusive.

And I fear that if the SUNY system gets that kind of autonomy over their

operation, that those people that have an average education, who are not at the very top of the educational lists or however you want to put it, that they'll be excluded from the opportunity of going to our state schools. And that's absolutely wrong, because that's not what our state schools were established for.

People in the middle class who are drawn to the SUNY system primarily because they offer an excellent education at an affordable rate are going to be completely excluded from this. And for those people that are financially marginal, they're not even going to be able to come in at a 2 or 3 percent increase. They'll be left out of this process entirely.

I am fearful for the kind of approach, when they talk about economic development -- when it hasn't even been described as to how that will happen at all of these different campuses -- what that really means. Senator Marcellino talked about the wholesale selling off of facilities and land and things of that nature. That could

seriously devastate jobs within the SUNY system, cost people jobs, and at the same time, keeping some students out of an educational opportunity, cost them jobs down the road.

And then finally, if you look at our SUNY system, this is something that is owned, these properties are owned by the State of New York. They're owned by the people of this state. Much as our public parks, much as the Adirondack Park, much as all of the public lands. And why should they be taken out of the same kind of oversight that this Legislature has traditionally and historically had and be allowed to be sold off or marginalized in other different ways?

I'm absolutely opposed to this. I do think that when it comes to education, we have a place for private schools and driving excellence and shrinking student bodies so that they can have a more excellent school system. But for the public education at the college level, we have to maintain SUNY and we have to maintain it, as Senator LaValle said, by sustaining them with more funds where

necessary and demanding better results.

I am opposed to this. I vote no.

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

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: Thank you, Madam President.

I really wasn't going to speak, but I must respond to some of the points that my colleagues have raised.

First, TAP is going to be increased under the provisions of this bill, and that certainly helps middle-class students. The federal Pell grants have been increased, and that's going help the middle and lower-class students. We have a program here which is finally developing called New York Helps, and that's going to help middle-class students.

The question of tuition was raised. I'd like to remind my friends on the other side of the aisle that the last five tuition increases -- in 2008, the increase was 14.3 percent. In 2003, it was 27.9 percent. And in 1991 and '92 it went up 43.3 percent.

Compare that to 2 percent in the first year and 4 percent in the ensuing four years. And in fact the tuition increases at CUNY were even higher.

And lastly, we have had, over the past -- well, let's say 2006, the SUNY instructional budget next year will be less than what was expended in 2006-2007. And where is that coming from, where are the cuts coming from? The students have paid more money. The state, for the 40 years where we were in the minority, the state systematically reduced its contribution to SUNY, and more and more of the burden has fallen on the students.

So to politicize this I think is a dreadful, dreadful mistake. We are one university system with SUNY. We have CUNY. And we are one state. And I think that to politicize it is wrong. And I'm delighted that this is going to pass -- I hope in a bipartisan manner -- because young people's education, it must remain affordable and accessible and certainly not politicized.

Do I think this is a perfect bill? Of course not. There are many things here

that I do have a problem with. For example, I do not like the idea of CUNY having differential tuition by campus. I think that is wrong.

But on balance, we are showing some leadership here, and hopefully the Governor's office and the Assembly will take the better parts of this bill and we can have a three-way agreement so that the children's future, the young people's future will be enhanced.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator Stavisky to be recorded in the affirmative.

(Extended pause.)

ACTING PRESIDENT SAVINO: Senator Kruger, why do you rise?

SENATOR CARL KRUGER: Thank you, Madam President. I would like to explain my vote.

ACTING PRESIDENT SAVINO: Senator Carl Kruger, to explain his vote.

SENATOR DIAZ: [Inaudible.]

SENATOR CARL KRUGER: Thank you for my low-key chorus in the background.

Today I think we've demonstrated

something that should be abhorrent to all of us. Today what's happened is that we have taken as what we know to be a one-house bill and used and abused the system in some diabolical plot to try to extract support on other pieces of legislation. That's not fair, that's not right, that's wrong for the system and it's wrong for good government and everything that we're all about.

So today what I've done is something that I've only done one time before in my entire career here in the Senate. And although I am philosophically opposed to this legislation, I recognize that it's legislation that will never see the light of day in the Assembly, but it sends a clear and compelling message that we as the Senate, the upper house, we as the Democratic majority have a broader and more important objective and a broader and a more important plan ahead of us.

So as we move forward with that plan, what we should be doing is not using and abusing the privilege that's been given to us by the voters of this state by being part of a Democratic majority. We should respect that

majority, we should respect each other, and we should respect what is right in governing and in being governed.

So, Madam President, I would ask permission to change my vote to yes, with a clear understanding --

SENATOR DIAZ: [Inaudible.]

SENATOR CARL KRUGER: Just a second --

ACTING PRESIDENT SAVINO: Senator Diaz -- Senator Kruger, you may -- Senator Diaz --

SENATOR DIAZ: [Inaudible.]

ACTING PRESIDENT SAVINO: Senator Diaz --

SENATOR DIAZ: [Inaudible.]

ACTING PRESIDENT SAVINO: Senator Diaz, you can take your private conversation outside the chamber.

SENATOR CARL KRUGER: Senator Diaz --

ACTING PRESIDENT SAVINO: Senator Kruger --

SENATOR CARL KRUGER: -- I have the floor.

ACTING PRESIDENT SAVINO: Senator Kruger, you have the floor.

SENATOR CARL KRUGER: Senator Diaz, I have the floor and I'm explaining my vote.

So what I am doing today is I am recording my vote in the affirmative. And by recording my vote in the affirmative I want to send out a very, very clear and compelling message to my colleagues on both sides of the aisle that they should not abuse and use the gift that's been given to them, their right to sit in this chamber and to vote their conscience and the prerogative and the pragmatic vote of the communities that they represent.

So in that regard, I vote yes, knowing this is a one-house bill, knowing that it will never become law, and knowing that we can come back and do a better bill, a better bill that addresses the needs of the SUNY as well as the CUNY community, that addresses the community of the students and the faculty that make up one of the strongest and best university systems in this state.

This is a bad bill. It's a flawed bill. But it's a bill that should not be used to extract votes on other pieces of legislation. I vote yes.

ACTING PRESIDENT SAVINO: Senator Kruger to be recorded in the affirmative.

Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: I'm going to vote yes, but I'd like to interpret what happened today to the general public.

Number one, this is a one-house bill, and it's going nowhere. In fact, the Assembly has adjourned already subject to the call of the Speaker.

What I don't understand, for the life of me, you either -- you have a position on a vote, you vote your conscience and you vote your position. How changing your vote from the way you thought it should be because of undue influences that others are going about so that the bill will pass, and how that shows something positive for the system, I don't get it. I mean, I truly don't get that.

So I think we should be voting like

we used to in the past. You debate a bill, you vote your conscience, it goes up or it goes down. This bill is going to go up, apparently, now. It's meaningless in view of the fact that the Assembly is adjourned.

Thank you, Madam President. I vote aye.

ACTING PRESIDENT SAVINO: Senator DeFrancisco to be recorded in the affirmative.

(Pause.)

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, would you withdraw the roll call and lay the bill aside for the day, please.

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

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 5, Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 11A and substitute it for the identical Senate Bill Number 11A, Third Reading Calendar Number 5.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 5, by the Assembly Committee on Rules, Assembly Print Number 11A, an act to amend the State Finance Law.

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

SENATOR FLANAGAN: Madam President, which bill --

ACTING PRESIDENT SAVINO: Senator Flanagan, this would be Calendar Number 5, Print Number 11A.

SENATOR FLANAGAN: Madam President, on the bill.

ACTING PRESIDENT SAVINO: Senator Flanagan, on the bill.

SENATOR FLANAGAN: Thank you, Madam President, on the bill. A little tough act to follow just in light of what happened on that last bill.

But the bill that is before us is commonly referred to as the FMAP bill, and I think there are some grave concerns with this

piece of legislation, not only on its own, but as it relates to the context of the overall budget that we have been working on for now over four months.

I'm going to explain my misgivings on this bill and I'm hopefully going to be consistent with the positions that I've taken relative to the budget that's before us. I'll repeat and reiterate that this is another step forward in the process that has not worked. We did not have fair and open dialogue. We did not have conference committees. And I know that keeps coming up and up again, but when you're talking about --

SENATOR LIBOUS: Madam President, could we have some order in the chamber, please.

ACTING PRESIDENT SAVINO: Yes, we can, Senator Libous.

I would ask all members to please take your private conversations outside.

Senator Flanagan, continue on the bill.

SENATOR LIBOUS: Thank you, Madam President.

SENATOR FLANAGAN: Thank you, Madam President. Thank you, Senator Libous.

The point being that we are acting on a bill that I think has some serious problems. And I'm going to start off by just saying that this is now referred to as FMAP, it's over a billion dollars, and there's been a whole discussion about the contingency nature of this funding.

I believe that even when the federal government has been helpful to us, that they are largely to blame for the predicament that we find ourselves in relative to this bill.

I am probably out of step with some of my colleagues in suggesting that I don't think that we necessarily should be taking this action. I believe that the federal government, largely through our senior elected officials in the State of New York, made representations not only to the Governor of this state but to the mayor of the City of New York, and I think Governor Paterson and Mayor Bloomberg acted in good faith reliance on representations in particular by Senator

Schumer that this money would materialize. And now we find ourselves in a predicament and in a mess that was largely not of our own making.

Even as we are discussing this legislation, this issue has arisen on at least three separate occasions at the federal level -- I think as recently as yesterday or today, and it potentially may be taken up as early again as tomorrow -- and it has gone down each successive time. And again, I'll repeat, while I believe our colleagues at the federal level have tried to help the State of New York, they have fallen far short on this issue.

Now, the Governor put a billion dollars in his budget. This is about $600 million to the City of New York. And I believe, if we pass this bill, that we're sending a message that what has happened is okay. To me, that's bad public policy, it sends the wrong message and allows people at the federal level who made serious representations to step back from what I think is their obligation. So that's problem number

one.

Number two, there's language in here that provides exemptions for certain areas of the budget. And I'm going to make a distinction now between CUNY and SUNY. We are setting up a diametrically opposed system, and here we just had a whole lengthy discussion about SUNY Empowerment.

Under this bill, CUNY is exempt from any potential reductions, but not SUNY. That's bad public policy, it's bad government, and it's bad politics. SUNY in particular over the last couple of years has taken more of a disproportionate hit than any section or any part of the state budget. Now we're going to exacerbate that by allowing for the opportunity for CUNY to be held harmless but not the State University of New York.

That's not good for me, that's certainly not good for my constituents, and it's not good for the people who are here in the State of New York, most notably our taxpayers.

So it's a bad distinction and a distinction that can and should have been

changed, and there were discussions about it, but frankly it hasn't happened. So that sets up a bifurcated structure that pits areas of the state against one another when that's not what we should be doing.

Third, we have given and are potentially giving extraordinary authority, latitude, and discretion to the director of the Division of the Budget. Now, Mr. Megna is a career public servant. He's a good guy. He's a hard worker. But he's not elected. And if this money doesn't materialize, we're now giving him -- not the Governor, because the language in the bill says the director of the Division of the Budget. Not the chief executive of the state, but rather the director of the Division of the Budget.

We are abdicating our responsibility to an unelected official. That's not what the public expects, that's not what the public deserves, and it continues to set a bad precedent for how we're doing business in the State of New York.

There could be all kinds of pressures brought to bear on the director of

the Division of the Budget, things that I don't think would necessarily be appropriate in the context of the fiscal dilemmas that we're facing.

And there is language in the bill that, while it talks about uniform reductions for various portions of the budget, it says that the budget director has to do that, make uniform reductions, to the extent practicable. What the heck does that mean?

If it's going to be uniform, it should be uniform. If it's going to be a piece for education or a piece for higher ed or a piece for the environment or transportation, it should be uniform. We should not be giving that kind of discretion, again, to someone who's unelected.

And I'll close on this point. And I'm giving my own opinion, I'm speaking for anybody else. There's a section in this bill which provides an exemption for the MTA payroll tax. I voted against the MTA payroll tax, and if I had a chance to vote against it again, I would. And frankly I'm getting a chance to do so now.

This provides an exemption and protects the continued existence of that tax while we are giving discretion to the director of the Division of the Budget to potentially cut up to $400 million in aid to education. It doesn't say exactly how that might happen, but it certainly gives that one individual -- not the Senate, not the Governor, not the Assembly -- the wherewithal and the authority to take actions that could be detrimental to our constituents and our property taxpayers and we don't have an appropriate say.

We should not be abdicating our responsibility. I understand that this is part of the overall budget, but this is a contingency plan that has a number of faulty aspects to it. This is going to come back to haunt us, and I think it's going to happen as quickly as possible because the federal government is either going to walk away from the money that they promised or earnest, or they're going to reduce it considerably, which would be abdicating their responsibility.

Madam President, I will be voting no.

ACTING PRESIDENT SAVINO: Senator Flanagan to be recorded in the negative.

Senator Hannon, on the bill.

SENATOR HANNON: Thank you, Madam President.

Somewhere in September 2010 there will be some program, some agency, some school that will receive a cut in funds and everybody will say "How in God's name did that ever happen?" Well, it happened or will happen because of this extraordinary power that is in this bill, a bill which is more complicated than I have ever seen. And why? Not because it's very long. It's six pages. But it uses constantly a phrase I always tell people I'm adamantly against, and that's the phrase "notwithstanding any other provision of law."

This has at least two and maybe three phrases that contradict each other and wipe out everything else. We not only -- not only that, we start as a premise of this bill with something that I don't even know exists. It talks about the 2010-2011 financial plan. Where is that plan? There is no budget. It's not a state of art. It's not a defined term.

Every now and then the Budget Office puts something out, but we haven't seen anything since the 21-day amendments in February.

So we're starting off with a premise that we're going to be making a cut based on a projected federal Medicaid payment that back in sometime -- and we don't even know that number as a base.

Then we have exemptions. And the exemptions, as Senator Flanagan already discussed, only exempts CUNY, it does not exempt SUNY. Well, why not? In the Finance Committee I was told by the secretary, "Well, it's because this bill doesn't deal with the General Fund of the state, it only deals with aid to localities." But I pointed out and got no answer that on line 4 of page 2 that it talks about undisbursed General Fund revenues.

Well, we're either dealing with the General Fund of the state or we're not dealing with the General Fund of the state. Once again, we do not have a premise for the actions that are supposed to take place in this bill.

Another exemption seems to be that

any Medicaid payments that would be affected are subject to the receipt of all necessary federal approvals. That's ridiculous. We pay a billion dollars a week, but the federal Medicaid is under an approved Medicaid program that the federal government approves every year. To get it changed, you have to make an application. Then the application has to be approved. Six months, 12 months, 18 months -- those are the normal order of things. Trying to get it done between September 1 and March 31st of 2011, that's not workable.

Why was I talking about programs that are going to be cut back? Because of two of the "notwithstanding" provisions. Page 3 talks about notwithstanding inconsistent provisions of law referring to hospital payments, referring to home care payments, referring to workers' comp, referring to personal care.

It says that "The time frames for notice, approval or certification of the rates of payments are hereby suspended and without force or effect for purposes of implementing this act." Any one of the provider payments

for those purposes can be changed unilaterally by the Division of Budget if they send a note to the head of the fiscal committees. That's an awfully powerful power.

And the next is the "notwithstanding" concerning school aid, and it talks about delaying the school aid that could be able payable in the month of September. All on page 4, starting on line 30. You start doing the movement of the school aid, you make all of that school aid subject to the uniform reduction earlier referred to.

Folks, this is an extraordinary piece. Yes, this state has to cut. Yes, if we don't get a billion dollars from the federal government we're not going to be able to make payments. But you know what? It ought to be done in a democratic fashion with a notice of what's going to be done, a public discussion of what's going to be done, and let people make the decision accordingly.

This is not the appropriate vehicle, and I'm going to be not supporting it.

ACTING PRESIDENT SAVINO: Senator Hannon to be recorded in the negative.

Senator Saland, on the bill.

SENATOR SALAND: Thank you, Madam President.

I'm not going to dwell on the comments of Senator Flanagan and Senator Hannon. I certainly am very concerned about the really unfettered autonomy and authority that we're giving to the budget director here.

I truly anticipated, prior to reading this bill, being supportive of the concept and supporting the idea that we needed a contingency to deal with the $1.1 billion in FMAP money. It harkens back to the horrible reality that this budget was built on some rather faulty revenue presumptions -- not only the FMAP presumption, but the Indian sales tax presumption, the Aqueduct presumption.

Cumulatively, you're probably talking about $1.8 billion. So even if and when we manage to deal with the FMAP issue, we will not be out of the woods, regardless of what action may be taken later today.

But what concerns me is that

$1.1 billion or $1.085 billion is really going to have a far greater impact than that number just staring us in the face would seem to imply, because this kicks in around September 16. Now, we will be nearly halfway through our fiscal year, and we are going to have to -- not we, the budget director to whom we're defaulting and giving this autonomy is going to have to figure out how to deal with the reality of this $1.1 billion shortfall and also with the reality of hundreds of millions of dollars in other make-believe revenue that's not going to be in our revenue stream.

So what we've done may get us through the day, and what we've done may in fact be enough that we can vote on whatever remains to be done in what will certainly be one of the most slipshod, unruly, undemocratic budgets ever to have been witnessed in this house or perhaps any other house of any legislature in the country. But it's not going to resolve our problem. It is at best a Band-Aid over what is a gaping wound.

And we serve no public policy by doing what we're doing other than the ability

to mercifully get out of town. And that's pretty much what the people of the State of New York would like us to do, is get out of town, get out of their way, do something that actually is meaningful. And this certainly gets us out of town, but it's not anything that's particularly meaningful.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator Saland to be recorded in the negative.

Are there any other Senators wishing to be heard on the bill?

Seeing none, debate is closed. The Secretary will please ring the bells. All members will return to the chamber.

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Winner, to explain his vote.

SENATOR WINNER: Thank you, Madam President, to explain my vote.

I would ordinarily be inclined to support a bill like this because just generally I believe it's the right thing to do to provide for a contingency to make up for a stopgap in funding that you don't have, and it's responsible budgeting.

However, notwithstanding the fact that we had nothing on this side of the aisle with regard to negotiating the provisions of this bill, I think that the problem here is the fact that we're leaving such unfettered discretion up to the Division of the Budget to make these cuts, actually very devastating cuts to education and healthcare, that ordinarily members of your side of the aisle would never even consider to be agreeing to, more or less authorizing this.

I just think it must be somewhat a little bit of guilt, probably, for passing a budget that contains $1.085 billion worth of the money that you didn't have any real expectation of being able to receive and only felt that you were going to get it somehow by accident. So, you know, I can understand you're guilty and therefore perhaps this is

the easy way out.

But to give this type of discretion to the Division of the Budget to make the types of cuts that ordinarily you wouldn't have even considered making yourselves I think is disingenuous at best.

And while I supported the measures to cut the budgets in the DRP in the past and support reductions in state spending, I just think we need to be responsible and to put up those cuts to let the public know what is specifically going to happen to them, and taking responsibility and ownership for them rather than hiding behind the skirts of the Division of the Budget to be able to take whatever heat there is for the reduction making these reductions.

For those reasons, Madam President, I vote in the negative.

ACTING PRESIDENT SAVINO: Senator Winner will be recorded in the negative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Week after week, as we debated the various budget bills,

the Republican conference kept presenting various amendments where cuts could be done, and each one was ignored summarily. And then the budget was prepared behind closed doors, without any public debate, and we end up with an imbalanced budget, as we've said week in and week out on this floor.

Now, if the imbalance is because of Medicaid money not coming in, it seems pretty logical that if you're going to cut, you would cut in the Medicaid area. And we provide more optional coverages than any state. We spend more than the states of California and Texas combined. That's where the cuts should be made.

If we're responsible, we don't give the discretion to somebody else to fill a budget hole that the Senate majority created, unfettered discretion, and then hope for the best and end up cutting the groups that have already been cut -- education, hospitals, healthcare and the like. It's just the wrong way to go.

For that reason, I'm going to vote no.

ACTING PRESIDENT SAVINO: Senator DeFrancisco to be recorded in the negative.

Are there any other Senators wishing to explain their vote?

Seeing none, announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 5 are Senators Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Hannon, Huntley, Lanza, Larkin, LaValle, Marcellino, McDonald, Padavan, Parker, Peralta, Robach, Saland and Winner. Recorded in the negative also Senators Diaz, O. Johnson, Leibell, Perkins and Seward.

Absent from voting: Senator Duane. Excused, Senator Golden.

Ayes, 36. Nays, 23.

ACTING PRESIDENT SAVINO: The bill is passed.

Senator Klein, that completes the reading of the controversial extraordinary session calendar.

SENATOR KLEIN: Madam President, can we please stand at ease.

ACTING PRESIDENT SAVINO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:47 p.m.)

(Whereupon, the Senate reconvened at 5:51 p.m.)

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, can we withdraw the lay aside for the day on Calendar Number 2 and put the bill before the house.

ACTING PRESIDENT SAVINO: The Secretary will remove the lay aside for the day on Calendar Number 2 and put the bill before the house on the controversial extraordinary session calendar.

THE SECRETARY: Calendar Number 2, by the Senate Committee on Rules, Senate Print Number 6, an act to amend the Education Law and the State Finance Law.

ACTING PRESIDENT SAVINO: Debate is closed. The Secretary will ring the bells.

The debate is reopened. Senator Diaz, on the bill.

SENATOR DIAZ: Thank you, Madam President. Are we on?

ACTING PRESIDENT SAVINO: Senator Diaz, I said you may speak on the bill.

SENATOR DIAZ: Thank you.

Here we go again, the second time in a day where a bill that was not supposed to be, a bill introduced by the Governor, a Democratic governor, and pushed by a Democratic chamber, a bill that will take away the opportunities for black and Hispanic and poor people in the State of New York to get an education.

This is a bill that was -- that is taking away what the Democratic Party organized and did many years ago to create an opportunity for poor people, black and Hispanic, to go to the University of the State of New York at a lower cost because blacks and Hispanics cannot compete and cannot -- some of them, some of them -- many people in the State of New York, even white people in the State of New York cannot send their children to a private college. They cannot afford it.

So the state universities were created to give the opportunity to parents, poor people, that they could send their

children to get a college education at a lower cost.

But now, today, we defeated this bill before. We defeated the bill. The bill didn't have the votes. Some of my colleagues, their arm has been twisted. And it is a shame, it is a shame for a Democrat in the State of New York to allow their arm to be twisted and to change their votes.

It's a shameful thing to call themselves Democrats and then come here to say they want to kill the opportunity of black and Hispanic and poor children, poor youth, poor children in the State of New York to get a college education because somebody says oh, we got to do this and we got to please the Governor.

Their arm has been twisted. Now we are bringing the bill back to the floor because somebody changed their vote, because somebody got something for it. It's shameful, it's a shame that we do this today. This bill, this bill has no reason to be on this floor today.

And I'm calling on all my

colleagues -- especially, especially the Senators from the City of New York, the ones that represent neighborhoods where black and Hispanic and poor people are -- don't come here to vote for this bill and tell me that you are not selling out your community. If you vote for this bill, you are selling out your community. And then you go "Vote for me because I'm a Democrat"?

But anybody from the State of New York to vote for this, believe me, believe me, people will know. Because you voted no before and now you're changing your vote, people will know. People will know. Because you represent poor people. You go there campaigning saying "Vote for me, I'm a Democrat" -- and then you come here to do this? What more are you afraid -- you're going to go back to your neighborhood and say "Oh, I'm protecting you." Protecting whom?

Madam President, to be a Democrat, it is not just to say "I'm a Democrat." To be a Democrat is to fight for the poor no matter what, no matter what the issue. As long as you fight for the poor, the needy and the

oppressed. "Oh, I cannot support a Republican because he's Republican." But I heard some Republicans here today, I heard some Republicans here today in this chamber fighting for our people. I heard some Republicans here fighting for us while I heard some Democrats killing us.

So I'm asking you guys, this is a bill against black and Hispanic youth, black and Hispanic students in the majority. And poor. But the majority are black and Hispanic, and this is a bill against them.

So, ladies and gentlemen, I'm asking you, stop this. This bill was already done, cooked, and was taken away. Now you're bringing it back. You're bringing it back because they went there and whatever they did, somebody changed their mind. Carl Kruger changed his mind before. The second time on the floor that Carl Kruger changed his mind. Last time he changed it because after he voted no, he changed it to give another vote. Now today he did it again.

And I'm tired of these so-called Democrats, and then they call me to tell me --

they tell me because when I do my philosophy and what I believe, what I believe because of my Bible or my beliefs, they tell me that I'm not a Democrat. Show me today that you're a Democrat.

Thank you, Madam President. I'm voting no.

ACTING PRESIDENT SAVINO: Senator Diaz to be recorded in the negative.

Are there any other Senators who wish to be heard?

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

(Pause.)

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

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

SENATOR DIAZ: Yes, thank you, Madam President.

Again, I'm standing over here to ask my colleagues to vote no. The only Democrat that I heard speaking today on this bill were Democrats in favor of the bill. I have not heard one Democrat to stand up here speak against this bill. Not one, except me, to stand here and speak against this bill.

You know why? Maybe because if we do this, we could get paid today. It's immoral. It's immoral to do this because we're going to get paid, go home to sell out the community.

So I don't hear those big Democrats, those big Democrats, liberal Democrats standing here talking about this bill against the bill.

Thank you. I'm voting no.

ACTING PRESIDENT SAVINO: Senator Diaz will be recorded in the negative.

Any other Senators wishing to explain their vote?

(Extended pause.)

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President,

can we please withdraw the roll and lay the bill aside for the day.

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

Senator Klein, that completes the controversial reading of the extraordinary session calendar.

SENATOR KLEIN: Madam President, is there any further business at the desk?

ACTING PRESIDENT SAVINO: No, Senator Klein, the desk is clear.

SENATOR KLEIN: There being no further business, I move that we adjourn at the call of the Temporary President, intervening days being legislative days.

ACTING PRESIDENT SAVINO: There being no further business to come before the Senate, on motion, we stand adjourned at the call of the Temporary President.

(Whereupon, at 6:30 p.m., the Senate adjourned.)