

Date: 05/31/2005
Session: Regular

3009

1 NEW YORK STATE SENATE

2

3

4 THE STENOGRAPHIC RECORD

5

6

7

8

9 ALBANY, NEW YORK

10 May 31, 2005

11 3:10 p.m.

12

13

14 REGULAR SESSION

15

16

17

18 LT. GOVERNOR MARY O. DONOHUE, President

19 STEVEN M. BOGGESS, Secretary

20

21

22

THE SECRETARY: Calendar Number

16 432, by Senator Saland, Senate Print 3192, an
17 act to amend the Education Law.

18 SENATOR MONTGOMERY: Explanation.

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

21 SENATOR SALAND: Thank you, Madam
22 President.

23 Madam President, this is a bill
24 which has twice in the past three or four
25 years passed this house unanimously.

Candyco Transcription Service, Inc.
(518) 371-8910

3042

1 What the bill proposes to do is to
2 say that certain schools -- and currently
3 there are some 28 so-called consortium
4 schools, schools which belong to the New York
5 Performance Standards Consortium -- would
6 continue to have the benefit of a variance or
7 waiver which they received back in 1995 from
8 former Education Commissioner Sobel. That
9 variance was renewed for one year in the year
10 2000.

11 There was commissioned by the
12 current commissioner, Commissioner Mills, a
13 so-called blue-ribbon panel which was supposed
14 to evaluate the consortium schools, also
15 referred to in this bill as portfolio
16 performance schools, and also, at the same
17 time, to propose some type of evaluation of
18 the Regents.

19 Well, in fact, at the conclusion of
20 their deliberations, that panel of some six
21 members, four of whom I believe were
22 consultants for the Education Department, they
23 basically came forward and said there should
24 be such an evaluation and that, in effect, was
25 their recommendation.

Candyco Transcription Service, Inc.
(518) 371-8910

3043

1 And to this day, no such evaluation
2 of either these schools nor the Regents has
3 yet to occur.

4 What this bill does is to say that
5 the students currently enrolled, if they were
6 enrolled as of the 2000-2001 year, would be

7 required, as they currently are, to pass the
8 English Regents. Those who entered in 2002
9 for the 2002-2003 year would also be required
10 to pass the English Regents -- I'm sorry, the
11 math Regents.

12 And the commissioner would be
13 required to develop a portfolio
14 performance-based alternative assessment which
15 would measure, in effect, the equivalent
16 knowledge and skill for each of the Regents
17 areas. And among the conditions that would
18 have to be met would be that those assessments
19 would measure the state learning standards for
20 each of the respective content areas or
21 Regents areas.

22 This bill I guess in some respects
23 encapsulates a battle that's been going on in
24 this country for many, many years and is
25 currently certainly the source of many of the

Candyco Transcription Service, Inc.
(518) 371-8910

3044

1 concerns raised by No Child Left Behind.

2 What this bill says is high

3 stakes -- there are some students who do not
4 necessarily perform well in high-stakes
5 testing situations. Those students may choose
6 to opt to take some other means of education.
7 The consortium offers that means of education
8 by a performance-based system, what at times
9 some people refer to as a portfolio-based
10 system.

11 The results seemingly are rather
12 impressive. Many of you may have received a
13 fact sheet. That fact sheet, which members of
14 the consortium were handing out, that fact
15 sheet talks about the fact that they, the
16 consortium, their 28 schools send more
17 students to college, nearly 88 percent,
18 compared to 70 percent of so-called Regents
19 schools. They have lower dropout rates, about
20 half the dropout rate in the public school
21 system.

22 And they go on to say that only
23 15.6 percent of the students entering
24 consortium schools meet state standards in
25 English. They ultimately outperform their

1 Regents counterparts on the English Regents
2 77.4 percent to 72.7 percent.

3 I fear that this has become very
4 territorial. What has happened is those who
5 are, in effect, in a position to call the
6 shots here in the education world -- whether
7 it be the commissioner, whether it be the
8 Regents -- I think feel somewhat put upon by
9 this proposal. They feel that their Regents
10 standards should be, to the exclusion of any
11 other means of education, the tool by which we
12 educate children.

13 Many of these very same themes echo
14 in No Child Left Behind. And we certainly
15 have seen much of the criticism that has
16 surrounded No Child Left Behind, not only in
17 this state but really virtually throughout the
18 country.

19 So this is merely an effort to
20 recognize that there are other means by which
21 children can be educated other than --

22 THE PRESIDENT: Go ahead,
23 Senator. Just to get some order.

24 SENATOR SALAND: -- other than

25 so-called high-stakes, one-size-fits-all

Candyco Transcription Service, Inc.
(518) 371-8910

3046

1 testing.

2 It recognizes the fact that these
3 schools at one time actually received a waiver
4 to pursue this course of education. Assuming
5 the data is correct, and I have no reason to
6 dispute it, they seem to be doing a very fine
7 job of educating the students for whom they
8 are responsible to educate.

9 And I see no reason why we should
10 not continue to pursue this means for those
11 students who are currently taking advantage of
12 it and for those who may wish to follow. This
13 would permit this particular alternative
14 educational program or programs to continue
15 through the year 2008.

16 Hopefully we can have the kind of
17 evaluation, both of the Regents and of the
18 consortium schools, that many had thought was
19 going to be forthcoming some five or six years
20 ago. There's no reason to basically turn your

21 back on what by all appearances seems to be a
22 very successful means of educating children.

23 THE PRESIDENT: Senator
24 Montgomery.

25 SENATOR MONTGOMERY: Yes, Madam

Candyco Transcription Service, Inc.
(518) 371-8910

3047

1 President. I would like to ask if the sponsor
2 would yield to a question, just for
3 clarification.

4 THE PRESIDENT: Senator, will you
5 yield for a question?

6 SENATOR SALAND: Yes, Madam
7 President.

8 THE PRESIDENT: You may proceed,
9 Senator Montgomery.

10 SENATOR MONTGOMERY: It is my
11 understanding, Senator Saland, that the bill
12 proposes, in addition to extension of the
13 waiver, that it would direct the commissioner
14 of State Education Department to develop a
15 portfolio assessment system which would then
16 be offered to districts throughout the state.

17 SENATOR SALAND: I believe I
18 referred to that, although perhaps not as
19 extensively as you did.

20 What that assessment would be would
21 be a means of measuring that the students who
22 availed themselves or the school that availed
23 themselves of this type of an educational tool
24 would have to demonstrate, to the satisfaction
25 of the standards or assessment established by

Candyco Transcription Service, Inc.
(518) 371-8910

3048

1 the commissioner, that in fact they were
2 receiving the equivalent of the education
3 that -- the equivalent of the Regents
4 education that enabled them to attain the
5 learning standards.

6 SENATOR MONTGOMERY: Madam
7 President, if I may continue to inquire of
8 Senator Saland.

9 THE PRESIDENT: Senator Saland,
10 will you yield for a question?

11 SENATOR SALAND: Yes.

12 THE PRESIDENT: You may proceed,

13 Senator Montgomery.

14 SENATOR MONTGOMERY: Okay,
15 Senator Saland, does that mean, then, that you
16 have also included a budget item, per the
17 assessment of the commissioner, as to what
18 such a process would cost?

19 SENATOR SALAND: There will be a
20 cost.

21 Quite candidly, I will say this
22 rather unabashedly, the Ed Department has
23 played fast and loose with the facts,
24 including some of the characterizations
25 regarding NCLB and including what they view as

Candyco Transcription Service, Inc.
(518) 371-8910

3049

1 being the fiscal consequences. Their budget
2 note that they presented said there would be
3 \$7.9-plus million in fiscal impact. We would
4 say that it would be about \$3 million more
5 than that.

6 They certainly have the ability to
7 begin that process. And if for any reason
8 they don't have the adequate funds as we

9 progress through the calendar year, we
10 certainly would have the ability in the next
11 budget cycle to make those funds available to
12 them. So this would not fail for lack of the
13 ability to provide funding.

14 SENATOR MONTGOMERY: Through you,
15 Madam President, if Senator Saland would
16 continue to yield.

17 THE PRESIDENT: Senator Saland,
18 do you continue to yield?

19 SENATOR SALAND: May I also point
20 out that there is a two-year delay on the
21 effective date. So, you know, this is not
22 going to hit them between the eyes.

23 THE PRESIDENT: You may proceed,
24 Senator Montgomery.

25 SENATOR MONTGOMERY: Yes. Does

Candyco Transcription Service, Inc.
(518) 371-8910

3050

1 this mean, then, that we would be -- since we
2 have not raised or included the funding for
3 the CFE, does that mean, then, that we're now
4 pitting CFE funding for CFE with your proposal

5 to create an alternative assessment?

6 SENATOR SALAND: I wouldn't think
7 so. It confounds me how you could come to
8 that conclusion.

9 I mean, in the scheme of the
10 comparison of CFE and this issue, you're not
11 talking pocket change, you're talking --
12 you're not even talking pennies by comparison.
13 We're not talking \$19-plus billion, we're
14 talking about the ability to provide a
15 mechanism that will evaluate students. That's
16 all.

17 And we're asking that the
18 commissioner establish the protocols by which
19 that will occur. And the commissioner has
20 said that that's going to cost nearly
21 \$8 million. We've asked Senate Finance to
22 take a look at it, and they say the number is
23 more closely aligned to \$5 million.

24 And as I mentioned before, I stand
25 prepared to assist the commissioner if that's

1 an issue in his next year's budget. But the
2 likelihood is it won't be an issue until the
3 following year's budget because of the
4 effective date.

5 SENATOR MONTGOMERY: Thank you,
6 Senator Saland.

7 Madam President, on the bill.

8 THE PRESIDENT: You may proceed.

9 SENATOR MONTGOMERY: While
10 Senator Saland says that the money is not
11 important and anyway we won't have to worry
12 about it until the effective date of the
13 legislation, clearly if, in fact, the bill
14 passes and the commissioner is instructed to
15 begin to develop this tool, I would assume
16 that the money is going to be needed to even
17 begin the process.

18 And while Senator Saland certainly
19 refers to perhaps we'll spend \$4 million as
20 opposed to \$7 million or \$5 million as opposed
21 to \$10 million, whatever, however the -- he
22 says that the commissioner is playing fast and
23 loose, we will need some money for this. And
24 it's not included in the legislation.

25 So I'm not sure that we won't get

1 to the point and then Senator Saland will say:
2 Well, you find the money, take it out of
3 somewhere else and CFE, whatever else there
4 is. You find the money, because the
5 legislation says you have to do this.

6 So I just wanted to point that out.
7 That is certainly a weakness in this bill.

8 I'm opposing this proposal. And
9 one of the things that Chief Justice Earl
10 Warren said when he issued the Brown decision
11 was that separate is not equal. So I say to
12 you, my colleagues, today, different is not
13 equal.

14 Now, I am all in favor of
15 alternative assessments. And I think that
16 there are a number of young people who
17 certainly would not be able to sufficiently
18 effectively be able to pass these assessments.
19 But as we are finding, since we set the bar at
20 the Regents diploma level, more and more young
21 people, particularly young people of color in
22 New York City, are passing the Regents.

19 diploma that was second-class to the Regents.

20 Now, we are, as the Legislature,
21 recreating the same situation. How can we in
22 good conscience be doing this in this century,
23 at this time, when our young people have to
24 compete with the whole world, not only with
25 people in their own country but people all

Candyco Transcription Service, Inc.
(518) 371-8910

3054

1 over the world?

2 And so we're creating a
3 second-class system. And the reason that I
4 say we're creating a second-class system is
5 because we are -- not only are we extending
6 the waiver for the few schools that are now
7 the alternative schools, appropriately, but we
8 are extending it statewide and making it a
9 standard of graduation while we leave in place
10 the Regents.

11 Now, I say to you either you have
12 one standard and everybody understands that
13 there is an alternative to graduation, but
14 that alternative clearly is not the same as

15 the standard that everybody else is going to
16 use to measure people -- we all should
17 understand that -- or we shouldn't have a
18 Regents, we should all have the portfolio
19 system. This way, everybody is measured by
20 the same thing.

21 I think this creates an opportunity
22 for us to once again go back to a system where
23 some people are portfolio students and others
24 are Regents and you know who is going to fall
25 under what rubric.

Candyco Transcription Service, Inc.
(518) 371-8910

3055

1 Now, I just remind my colleagues
2 that every education leader in our state and
3 city are opposing this process. And I just
4 want to read from the chancellor's memo. It
5 says: "The current Regents learning standards
6 represent an enormous investment of time and
7 human and material resources. They reflect
8 years of careful consultation by the Board of
9 Regents with a broad cross-section of experts
10 and educational stakeholders in an open and

11 transparent process."

12 They are aligned with the
13 educational standards developed by the
14 Regents. And I know that many people in here
15 don't want the Regents at all; they would like
16 to do the whole education system by politics,
17 by political fiat. But we do have the
18 Regents. And in fact, the Regents standards
19 are held by a lot of the people around the
20 country. Many educators say we have very high
21 standards, and they praise us.

22 In addition, the Department of
23 Education has done a lot of work with
24 different groups in different districts to
25 make a transition to higher standards. And I

Candyco Transcription Service, Inc.
(518) 371-8910

3056

1 suggest that if in fact the schools that we're
2 talking about that are clearly alternative
3 schools, and they have a mixed record of
4 success -- certainly some of them are very
5 successful, others are successful to the same
6 extent as the charter schools are successful,

7 to the same extent as public schools generally
8 are successful -- that the State Ed
9 Department, the commissioner has agreed to
10 work with them.

11 I would hope that we would leave
12 this important decision to people in the
13 Department of Education, in higher education,
14 the chancellor, the education leaders around
15 the state. Why don't we let them do what they
16 are paid to do and that they have the
17 experience to do? That they believe in young
18 people, that they hopefully won't be
19 politicized to the point where they are
20 willing to throw out the standards of the
21 Regents because that's no longer -- that's no
22 longer politically correct. Never mind, we
23 don't have a statewide way of comparing if my
24 students, students in my district can compete
25 with students in Senator Saland's district or

Candyco Transcription Service, Inc.
(518) 371-8910

3057

1 Senator Johnson's district or anybody in here.

2 If my students pass the Regents and

3 your students pass the Regents, then I can be
4 assured reasonably that my students are on the
5 same par with yours. But if my students pass
6 the assessment and yours do the Regents, what
7 are you going to say to me? You're going to
8 stand up and try to tell me that there's
9 something wrong with my students.

10 So, Madam President, I'm opposed to
11 this. I think that it moves us backward,
12 educationally speaking. We went through years
13 and years and years of debate and work around
14 establishing a statewide standard, especially
15 in light of the Brown versus the Topeka Board
16 of Ed. It's the same issue. As long as we
17 have a second-class standard of measurement
18 for one group or for one part of the state and
19 another standard for the other part of the
20 state or the other group, we are in violation
21 of Brown versus Board of Ed.

22 So I would ask if Senator Saland
23 and my colleagues would reassess this. At
24 least we should limit it to those schools that
25 already have the waiver, give them a little

1 bit more time. But they should be required to
2 work with the commissioner to move into the
3 standardized bar of measurement.

4 Now, if they can't do it, then we
5 can talk about what is an alternative. But I
6 do not support giving the authority to
7 districts around the state, especially to
8 broadening this so that it becomes part of our
9 educational system so, once again, we in the
10 Legislature would be responsible for
11 legislating a second-class, two-tiered
12 education system.

13 I oppose it, Madam President. I'll
14 vote no.

15 THE PRESIDENT: Senator Stavisky.

16 SENATOR STAVISKY: Madam
17 President, if the sponsor would yield to a
18 number of questions.

19 SENATOR SALAND: Yes, Madam
20 President.

21 THE PRESIDENT: Senator Saland
22 will yield for a question.

23 SENATOR STAVISKY: Through you,
24 Madam President.

25

I heard you describe to Senator

Candyco Transcription Service, Inc.
(518) 371-8910

3059

1 Montgomery the fact that the State Education
2 Department would have to develop an assessment
3 program for the portfolio-based schools. And
4 yet, from what I understand, it's simply a
5 plan. There's no enforcement.

6 If they're going to have rules and
7 regulations, then they should be followed.
8 And it's my understanding that this bill does
9 not require the portfolio schools to accept
10 the SED regulations. Is that correct?

11 SENATOR SALAND: That is not
12 correct.

13 This requires -- this bill has a
14 2008 sunset.

15 SENATOR STAVISKY: I'm sorry, I
16 can't hear you.

17 SENATOR SALAND: This bill is
18 good through 2008. It requires the
19 commissioner to prepare the means by which the
20 portfolio performance schools can be assessed,

21 trying to equate apples to apples, holding
22 their assessment to the standards of the
23 learning standards.

24 Failure to do that -- failure to do
25 that, if you can't be evaluated and if you

Candyco Transcription Service, Inc.
(518) 371-8910

3060

1 can't meet the learning standards, then you
2 would be treated as would any other school in
3 any other location in any place in this state.
4 If you don't have the ability to provide the
5 education that's required either by your
6 standards as measured by the commissioner's
7 evaluation, then -- you've heard of things
8 called SURR schools? You've heard -- I mean,
9 there are consequences for failure to do that.

10 SENATOR STAVISKY: Then they'd be
11 on the SURR list.

12 SENATOR SALAND: This is not a
13 means by which accountability can be avoided.

14 And let me just add, I certainly
15 understand Senator Montgomery's passion. But
16 the fact of the matter is is that much of what

17 she was alluding to has little or nothing to
18 do with this bill.

19 And I might also add, and I'm
20 looking at a report, the demographics of the
21 students currently attending these consortium
22 schools, as provided to me in a report, nearly
23 61 percent are eligible for free lunch,
24 19.4 percent are white, 27.6 percent black,
25 43.5 percent Hispanic, and 9.6 percent Asian

Candyco Transcription Service, Inc.
(518) 371-8910

3061

1 and others. So it certainly is a very diverse
2 group of students that are attending these
3 schools.

4 And again, as a very practical
5 matter, why do people use standardized tests?
6 Why is the government -- NCLB, the government
7 gives you a choice of tests. People use
8 standardized tests because they're the
9 cheapest, they're the easiest to grade, and
10 they can be done far more efficiently than can
11 a portfolio-based type of performance
12 analysis.

13 So there would be no pell-mell rush
14 into portfolio-based performance analysis were
15 this bill to become law, simply because, in
16 part, of the fiscal constraints.

17 SENATOR STAVISKY: Madam
18 President, if the Senator would continue to
19 yield.

20 THE PRESIDENT: Senator Saland,
21 will you continue to yield?

22 SENATOR SALAND: Yes, Madam
23 President.

24 THE PRESIDENT: You may proceed,
25 Senator, with a question.

Candyco Transcription Service, Inc.
(518) 371-8910

3062

1 SENATOR STAVISKY: Following up
2 on what you just said, then there are
3 alternatives to the portfolios, the -- what is
4 it, the international baccalaureate, the SAT,
5 that special advanced placement, SAT II, the
6 Advanced International Certificate of
7 Education, the Cambridge exam. Why is the
8 portfolio program superior to these other

9 types of tests?

10 SENATOR SALAND: I'm not
11 proposing that they are. I'm merely saying
12 that they're providing, by the data given me,
13 which is not -- I have not seen disputed, they
14 provide a quality education and they do it in
15 a fashion that has a much higher college
16 attendance rate than the other schools in our
17 state.

18 And I can run off a laundry list of
19 some of the schools that they're attending,
20 and they're rather -- that the graduates are
21 attending, and it's a rather impressive list
22 of schools.

23 SENATOR STAVISKY: Following up
24 on that, in other words, we can assume, then,
25 that there are alternatives to the portfolio

Candyco Transcription Service, Inc.
(518) 371-8910

3063

1 schools, it's just that you prefer to use
2 portfolio rather than rely on these
3 alternative tests.

4 SENATOR SALAND: If it's working.

5 And the easiest way to have
6 resolved that issue would have been to do what
7 had been proposed some five or six years ago,
8 do the evaluation. That's what this panel
9 recommended. The evaluation was never
10 forthcoming. It was just stone-cold stopped.

11 Now, I would think, unless you're
12 so wedded to the idea that everything has to
13 be one size fits all and it's my way or the
14 highway, that you would consider what's going
15 on in these schools if they're delivering a
16 fine product.

17 And that fine product is a student,
18 in some instances a student who may have not
19 fared well in elementary school, who comes
20 into this new educational environment and
21 seems to blossom, blossoms well enough that
22 the vast majority of these students are going
23 off to college, a claim that we can't make in
24 all our schools.

25 SENATOR STAVISKY: Madam

1 President, if the sponsor would continue to
2 yield.

3 THE PRESIDENT: Senator Saland,
4 will you yield?

5 SENATOR SALAND: Yes, Madam
6 President.

7 SENATOR STAVISKY: You mentioned
8 the fact that the assessments are working
9 well. What is there in the program that
10 permits the assessment of a child in School A
11 and the assessment of a child in School B to
12 have -- to be comparable? In other words,
13 free of bias, et cetera.

14 SENATOR SALAND: Senator
15 Stavisky, you've raised an excellent question.

16 SENATOR STAVISKY: Thank you.

17 SENATOR SALAND: You've truly
18 raised a question that goes in part to the
19 very heart of a substantial portion of this
20 bill.

21 And that's what we're asking the
22 commissioner to do. I'm not qualified. I
23 couldn't evaluate School A and School B. I
24 believe that the commissioner, if not capable
25 of doing it himself, has the ability to

1 harness the right resources to make that
2 happen.

3 Now, understand, this is not a
4 process that we're inventing in New York.
5 This process is used in several other states
6 and used exclusively in the state of Nebraska,
7 and they comply with No Child Left Behind.
8 Their entire system is portfolio-based, and
9 they comply with No Child Left Behind.

10 So when I hear that a performance,
11 slash, portfolio-based system will not comply
12 with No Child Left Behind, I say that's a
13 little divorced from reality.

14 SENATOR STAVISKY: Madam
15 President, if the sponsor will continue to
16 yield.

17 THE PRESIDENT: Senator Saland,
18 do you yield?

19 SENATOR SALAND: Yes, Madam
20 President.

21 THE PRESIDENT: You may proceed.

22 SENATOR STAVISKY: You mentioned

23 the state of Nebraska. But closer to home,
24 the Rand Corporation did a study of the state
25 of Vermont. Are you familiar with that study?

Candyco Transcription Service, Inc.
(518) 371-8910

3066

1 Because that study showed that the portfolio
2 assessment tests were not reliable and were
3 not valid.

4 Would you comment on that?

5 SENATOR SALAND: I only know in a
6 passing fashion of reference to that study.

7 And again, one of the very reasons
8 that you see language in this bill in
9 Section 3 on page 2 is to try and deal with
10 that issue, is to require the ability to do
11 some type of an assessment.

12 I wouldn't want a student in my
13 district and a student in Western New York, or
14 one in the city and one in the Adirondacks, to
15 be gauged differently. And I do believe that
16 the commissioner should have the ability to
17 accomplish that.

18 If they can do it elsewhere, I

19 don't understand why we can't do it here.

20 SENATOR STAVISKY: Then, Madam
21 President, my last question.

22 THE PRESIDENT: Senator Saland,
23 will you yield for a final question?

24 SENATOR SALAND: Yes, Madam
25 President.

Candyco Transcription Service, Inc.
(518) 371-8910

3067

1 THE PRESIDENT: You may proceed
2 with your final question.

3 SENATOR STAVISKY: The final
4 answer.

5 You're relying on the Commissioner
6 of Education to do so many of these
7 assessments to provide for the ground rules
8 for assessing the portfolio --

9 SENATOR SALAND: Excuse me,
10 Senator. I heard you as far as "you're
11 relying on the commissioner," and then I
12 didn't hear what you said after that.

13 SENATOR STAVISKY: I'm sorry.
14 I'm sorry.

15 You're relying on the Commissioner
16 of Education to perform -- to provide the
17 ground rules, the background, the basis for
18 which to judge the various schools. And yet
19 from what I understand, the schools are not
20 required to follow the commissioner's rules
21 that he's going to promulgate. And yet you're
22 relying again and again upon the commissioner
23 to do these things at a cost to be determined.

24 How can you -- why, in your
25 judgment, has the Commissioner of Education

Candyco Transcription Service, Inc.
(518) 371-8910

3068

1 been leading the charge against this bill?

2 SENATOR SALAND: Would you like
3 me to answer that tactfully, or would you like
4 me to answer that question?

5 (Laughter.)

6 SENATOR SALAND: I'll give you A
7 or B.

8 SENATOR STAVISKY: Excuse me,
9 Senator. This is a multiple choice test
10 and --

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Laughter.)

SENATOR SALAND: Let me be polite

and say there's a bit of territoriality
involved here.

The commissioner is committed to
his vision, which is a one-size-fits-all
vision. Everybody takes the same test.

I believe, Senator Stavisky, you
may have attended at least one of the hearings
I held in '03 when we looked at the Regents
standards. We held three hearings around the
state, and there was some very interesting
testimony which went to the very heart of does
that type of high-stakes testing really
educate a child or teach a child to pass a

Candyco Transcription Service, Inc.
(518) 371-8910

3069

1
2
3
4
5
6

test, and is the child any better off when he
or she comes through that process than they
might have been if they went through a system
such as a portfolio-based system.

Now, the commissioner at one time
was an advocate of the portfolio-based system

7 when he was in Vermont, and now he's an
8 advocate of this far more rigid
9 standards-based system. And I don't know why
10 the two can't coexist.

11 I think, for practical reasons,
12 most will probably continue -- practical being
13 financial -- to use the type of Regents exam
14 or any type of high-stakes exam. And in no
15 small part, the advent of No Child Left Behind
16 requires us to pursue that as well.

17 But where students can flourish
18 under another system, why not give them that
19 opportunity? Particularly if the commissioner
20 continues to have oversight. And if I didn't
21 think the commissioner would have oversight,
22 this bill wouldn't be here, because he should
23 have oversight.

24 And there are students -- there are
25 only 16,000 students in the whole system in

Candyco Transcription Service, Inc.
(518) 371-8910

3070

1 this type of system right now.

2 SENATOR STAVISKY: Thank you,

3 Madam President.

4 Let me -- very briefly on the bill.

5 THE PRESIDENT: You may proceed.

6 SENATOR STAVISKY: I still have
7 misgivings about this. I think the cost, this
8 is money that could be used for the CFE
9 decision, certainly. We really don't know
10 what the cost is going to be.

11 Secondly, studies have shown that
12 the alternative assessments are often of
13 dubious value.

14 Third, that there are alternatives,
15 as I said, to the portfolio assessment
16 program.

17 And lastly, I believe, along the
18 lines of what Senator Montgomery said, I
19 believe that every child can learn and every
20 child can pass these exams. And to think
21 otherwise is to almost demonstrate that
22 children don't deserve an education, when they
23 do deserve one, they deserve the very best.

24 The children in the portfolio
25 assessment schools can do as well or better

1 than young people taking the Regents exams. I
2 think Senator Saland indicated that.

3 I think we're insulting the whole
4 educational system when we don't demand the
5 very best. I think it's up to us to ask that
6 the students do well. We're spending a lot of
7 money to help them, and it seems to me that
8 these are kids who can learn and they should
9 learn because when they graduate they're going
10 to have a diploma that's worth something.

11 Thank you, Madam President.

12 THE PRESIDENT: Senator LaValle.

13 SENATOR LaVALLE: Thank you,
14 Madam President. I'm going to speak on the
15 bill hopefully in a very succinct way.

16 The first question that we should
17 as members ask ourselves is why is a bill like
18 this before us. Why is a bill that deals
19 primarily with a matter, an administrative
20 matter before an agency, that they should be
21 dealing with what kinds of tests are being
22 used in this state?

23 As we all know, because we've
24 discussed this in our committees, both in

Candyco Transcription Service, Inc.
(518) 371-8910

3072

1 by, is whether a measure can be developed
2 where all students could at the same time get
3 over the bar.

4 And this is a matter that the Board
5 of Regents and the commissioner have doggedly
6 said, We are not going to change the standard,
7 we are moving ahead, and it's more important
8 that we have a standard of success.

9 And by the way, all the members
10 here have individually, collectively said we
11 support higher standards. In one of the
12 memoranda, it talks about New York raised
13 standards to make sure students get the
14 knowledge and skills they need for jobs,
15 college, and a more complex world.

16 We believe in that. We've said
17 that. We've written speeches on that. It is
18 at the core of our existence in why we support
19 education, so that students can be competitive
20 in the marketplace and have a good job and

21 raise a family. And we don't move away from
22 that.

23 But the department has been
24 unwillingly to move in a rapid way to
25 understand that not everyone learns at the

Candyco Transcription Service, Inc.
(518) 371-8910

3073

1 same level. We didn't all walk at the same
2 time. We didn't learn to read at the same
3 time. We weren't potty-trained at the same
4 time. There are differences. And so our
5 education system must accommodate those
6 differences.

7 Albeit it's not something that I'm
8 in agreement, but our society is moving
9 towards standardized tests. That's the way it
10 is, and I accept it. But I don't accept, as
11 the sponsor, and I've devoted my whole life to
12 truth in testing -- that I believe, and we've
13 shown this empirically, that standardized
14 tests are not free from bias. They have
15 gender bias, ethnic bias, racial bias. They
16 are biased.

17 But the testing people say
18 everything's fine, there's no bias in our
19 tests. And then, after having said that, they
20 change their mind and they say, Well, we're
21 doing a better job in removing those biases.

22 Oh, wait a minute. You said some
23 years ago that there was no bias. Now you say
24 you're doing a better job.

25 And so I think that while we are on

Candyco Transcription Service, Inc.
(518) 371-8910

3074

1 a pathway to have certain standards, have
2 standardized tests, but I think we're really
3 fooling ourselves if we believe that everyone
4 at a point in time can go over that bar in the
5 same way.

6 This is something that should not
7 really be decided statutorily, legislatively.
8 But you know something? Senator Saland is
9 going to have a wake-up call. He was very
10 gentlemanly in his response to Senator
11 Stavisky's question. This is something that
12 the Board of Regents and the commissioner

13 should be working out, not the Legislature.

14 But I am going to support this
15 legislation because I think we need to send a
16 message to the department and say: Wake up.
17 Treat children who may be different in a way
18 that they can get over the bar and achieve and
19 be successful.

20 I'm going to support this
21 legislation. Thank you, Madam President.

22 THE PRESIDENT: Senator
23 Oppenheimer.

24 SENATOR OPPENHEIMER: Thank you.

25 This issue has raised a lot of

Candyco Transcription Service, Inc.
(518) 371-8910

3075

1 passion, and I think that it's wonderful that
2 we're able to have this kind of discussion
3 openly between ourselves.

4 I think some of the things I've
5 been listening to -- and I've been listening
6 very carefully to what everyone's been
7 saying -- I think that this bill probably
8 would be the answer to some of the things that

9 we're talking about.

10 You were talking about learning
11 differences, Senator LaValle, and you're
12 right, this would accommodate to that. There
13 are people who learn at different times in
14 different ways. Surely myself; I'm dyslexic.
15 I learned in a different way. Not that I
16 wasn't able to achieve, but I had a different
17 way of learning.

18 I think the statement that we want
19 to see, that everybody -- we know that
20 everybody can learn. That is a basic
21 foundation of our education system in New York
22 now. And if you say that everybody can learn,
23 then you have to look at what has been
24 produced by these schools.

25 These schools are largely

Candyco Transcription Service, Inc.
(518) 371-8910

3076

1 occupied -- the few schools that we have in
2 New York State now that offer alternative
3 assessments, they are largely in lower-income
4 areas. They are children that probably would

5 not have fared well in the normal school -- in
6 other words, the general school system -- but
7 because they went into this type of a school,
8 they came from disadvantaged backgrounds and
9 have yet turned around to have higher
10 outcomes, higher outcomes than most of the
11 rest of our school systems are producing.

12 They're sending more children to
13 college. What more applicable standard or
14 maximum line would you have than that these
15 children are going to college at a greater
16 rate than the lower-income children who are
17 not served by them in those districts?

18 The question I have -- and I guess
19 I should ask Senator Saland a question, if you
20 would. Will the Senator yield?

21 SENATOR SALAND: Yes, Mr.
22 President, I yield.

23 ACTING PRESIDENT MEIER: Senator
24 Saland yields.

25 SENATOR OPPENHEIMER: I went from

1 on the bill to a question.

2 In developing an accountability
3 standard, which I think is absolutely
4 essential, I guess the question I would have
5 is, how applicable will it be generally to
6 education?

7 Do you think there will be a mass
8 move towards this in spite of the fact that it
9 is more complex, more time-consuming for the
10 school districts to have them assessed? Do
11 you think that there would be a mass movement
12 towards this and away from the more simple
13 Regents standards? I mean more simple in the
14 evaluation of them.

15 SENATOR SALAND: I can only offer
16 you my own opinion. It's based purely on
17 conjecture.

18 My sense is that it would be
19 something that would not be significantly
20 subscribed to, simply because it is a far more
21 costly system, I would believe, to administer
22 and also to create the kinds of evaluations
23 that you would have to do.

24 I just -- I would assume that for
25 many, particularly in the world in which we

1 live now, when you're talking about
2 independent school districts that have budgets
3 that are constantly, every year, put to the
4 challenge, I would think that they would be
5 hard-pressed to go into a system that had the
6 potential to be that much more costly.

7 SENATOR OPPENHEIMER: Thank you,
8 Senator Saland.

9 So I think I'll just say a couple
10 more things on the bill.

11 Certainly all of us would be
12 alarmed and horrified to think of Regents
13 standards being thrown out. They have done so
14 much good for our state. And we see children
15 that in the past would have been cast away and
16 now, lo and behold, they are passing the
17 Regents standards because we have said that
18 this is something that we require in our state
19 to graduate.

20 But if we can create accountability
21 standards for alternatives, I think that is
22 something -- as a humanist, that is something

23 that all would want. Because we are all
24 different. If we can all at least measure up
25 to the accountability that is necessary to

Candyco Transcription Service, Inc.
(518) 371-8910

3079

1 require -- that would be required for
2 graduation from high school, then we could see
3 that people who are different and learn
4 differently will be able to achieve and go on
5 to college.

6 Which is really what we are hoping
7 for, that we can send our young people to
8 college. Because we all know that a college
9 education is what's going to be required for
10 them to work in this 21st century.

11 So I think in no way do we want to
12 see the Regents standards in any way
13 diminished, but we want to see an alternative.
14 So far the alternative has really just been --
15 mostly, at least -- in our low-income areas.
16 But I can assure you that I represent some
17 school districts that are definitely at the
18 opposite end of that spectrum, and there is

19 nothing that Scarsdale would not like better
20 than having alternative assessments where they
21 think it is appropriate.

22 It isn't appropriate in all
23 circumstances. But where there is a need for
24 those of us who are not enormously fond of
25 charter schools, principally because of the

Candyco Transcription Service, Inc.
(518) 371-8910

3080

1 way they are funded -- the fact that they're
2 innovative and creative I do appreciate. I do
3 not appreciate that they are being funded out
4 of my property tax dollars.

5 But this is a way, in my mind, to
6 have an alternative to a charter school within
7 a school district. And I think this is really
8 an answer for us. So I will be supporting
9 this.

10 ACTING PRESIDENT MEIER: Senator
11 Liz Krueger.

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

14 I want to thank Senator Saland for

15 the work he's done on this bill, because it
16 has been controversial, as we've seen today,
17 but it is critically important.

18 And many of my colleagues have
19 spoken passionately on both sides, and so I'll
20 just highlight some of my own feelings, having
21 visited these schools, having several in my
22 own district.

23 Parents are choosing portfolio
24 schools because they're working. They're
25 working for their children. They are being

Candyco Transcription Service, Inc.
(518) 371-8910

3081

1 successful, they are moving on, graduating,
2 going to college, staying in college, and, in
3 fact, meeting all of the standards we say we
4 hope for for all of our children.

5 Not every child is the same. They
6 don't learn the same way. All of us in this
7 room, if we sat here, would admit if we were
8 the good test-takers in our lives or the bad
9 test-takers. We now know as adults it didn't
10 necessarily mean anything in relationship to

11 our ability to accomplish, to become elected
12 officials in the State of New York. But we
13 know who we are. We know which of us did will
14 on tests and which didn't, which of us figured
15 out other ways to move through the educational
16 system, which of us specialized in taking
17 classes in college where you wrote papers
18 rather than having to take exams.

19 Which of us would admit, even if we
20 were good on tests, that we forgot the
21 information within three days after taking the
22 test? And what is the real test of education?
23 Whether you know how to learn how to learn.

24 And what we're finding from the
25 data in the portfolio schools is that these

Candyco Transcription Service, Inc.
(518) 371-8910

3082

1 children are learning how to learn, and how to
2 move on and figure out ways to continue their
3 own education through college and through
4 careers. And that's the real measure of
5 education.

6 I empathize with State Education

7 Department's desire to have a
8 one-size-fits-all system. It's easier to
9 administer. It's easier to measure. But it
10 doesn't reflect the reality of the fact that
11 our children are not one size fits all or one
12 way to learn is the only way to learn.

13 These schools deserve the
14 evaluations that will show that they are
15 successful, because they are. I come from a
16 city where we encourage small schools. We
17 encourage charter schools. We encourage
18 magnet schools. Portfolio schools are one
19 other model that is being successful for
20 children in my city and in other cities around
21 the state.

22 And I also want to raise the point
23 that we should not have the illusion that
24 because it appears on one piece of paper that
25 more children are getting higher scores on the

Candyco Transcription Service, Inc.
(518) 371-8910

3083

1 Regents exams every year, that that's the
2 right measure of success. Because if you look

3 at the data, we know that we have a dropout
4 rate that is increasing every year. We know
5 that New York State's graduation rate is
6 appalling, and that three independent studies
7 put the graduation rate at approximately
8 60 percent of the children in the cohorts
9 entering high school.

10 We know that New York State has the
11 lowest graduation rate in the Northeast and
12 the Midwest combined. We know, at least in
13 the City of New York, that teachers and
14 principals in some schools counsel their
15 students to drop out rather than flunk the
16 tests and lower the passing averages in those
17 schools.

18 So in fact, portfolio schools are
19 working, while the system is broken. We
20 should be evaluating everyone carefully. We
21 should not be lowering the standards for any
22 child, because that's flunking them and
23 flunking ourselves. But these schools have so
24 much to contribute to the education of our
25 children. They are proving themselves every

1 day. It is our job to make sure that we
2 successfully evaluate and measure.

3 But you don't need everyone
4 teaching to test, and you don't need
5 high-stakes testing as your only measure to
6 establish that you are accomplishing your
7 goals of providing the children of this school
8 good quality education.

9 I encourage my colleagues, those
10 who will vote yes today and those who will
11 vote no, go visit portfolio schools. Go talk
12 to the teachers, the principals, the parents,
13 the students. Go look at the data of what is
14 happening in those schools. They are being
15 successful. We are not failing these
16 children. We are not throwing them away. We
17 are recognizing that one size does not fit all
18 and this is a model that is working.

19 I hope my colleagues will vote yes.
20 Thank you, Mr. President.

21 ACTING PRESIDENT MEIER: Senator
22 Diaz.

23 SENATOR DIAZ: Thank you, Mr.
24 President.

25

Mr. President, would the sponsor

Candyco Transcription Service, Inc.
(518) 371-8910

3085

1 yield for a question, one or two.

2 ACTING PRESIDENT MEIER: Senator
3 Saland, do you yield for a question?

4 SENATOR SALAND: Yes, Mr.
5 President.

6 ACTING PRESIDENT MEIER: The
7 sponsor yields.

8 SENATOR DIAZ: Senator Saland, do
9 you know that the worst students -- I mean,
10 the ones that does poorly -- are the black and
11 Hispanic, especially in the City of New York?

12 SENATOR SALAND: I'm sorry?

13 SENATOR DIAZ: Do you know that
14 our students, black and Hispanic students,
15 they are all the time doing worse than other
16 students?

17 SENATOR SALAND: I know that the
18 predominant number of failing schools are
19 located in the City of New York.

20 SENATOR DIAZ: Mr. President,

21 should I go ahead or --

22 ACTING PRESIDENT MEIER: Do you

23 want Senator Saland to yield for another

24 question?

25 SENATOR DIAZ: Yes.

Candyco Transcription Service, Inc.
(518) 371-8910

3086

1 ACTING PRESIDENT MEIER: Senator

2 Saland, do you yield for another question?

3 SENATOR SALAND: Yes, Mr.

4 President.

5 ACTING PRESIDENT MEIER: The

6 sponsor yields.

7 SENATOR DIAZ: Senator Saland,

8 would you agree that we always should be

9 trying to do the best for those students that

10 are left behind, especially black and Hispanic

11 students?

12 SENATOR SALAND: I think your

13 question was we should do the best for --

14 SENATOR DIAZ: Do you agree that

15 we all should be doing the best we can to be

16 sure that black and Hispanic students do

17 better in school?

18 SENATOR SALAND: We certainly
19 should be doing all we can for students of all
20 colors and all ethnicities.

21 And based upon what you said
22 previously, black and Hispanic students are
23 not performing as well in some instances as we
24 would like, particularly in the city.

25 SENATOR DIAZ: Thank you.

Candyco Transcription Service, Inc.
(518) 371-8910

3087

1 If -- I have some statistics here
2 that was handed to me by Senator Krueger. And
3 it shows that the African-American students
4 are doing better and the Latinos are doing
5 better in consortium schools than public
6 schools, than regular schools.

7 If that is so and these schools are
8 working, especially -- schools should be
9 working for every student, for everyone. But
10 I'm concerned with the black and Hispanic
11 students in my district. So if these
12 consortium schools are doing as good as I see

13 in these statistics, Senator Saland, could you
14 please tell me, why are we discussing this?

15 SENATOR SALAND: Why are we
16 closing this?

17 SENATOR DIAZ: Discussing this.
18 Discussing.

19 SENATOR SALAND: Oh, discussing.

20 Earlier in my remarks I made some
21 reference to the demographics of the student
22 population in these consortium schools. And a
23 little less than 20 percent of the students
24 are white, and the balance of the students are
25 African-American, Hispanic, and what was

Candyco Transcription Service, Inc.
(518) 371-8910

3088

1 termed Asian and others.

2 These are the same students who are
3 going to college, according to the data, which
4 is yet to be disputed from any source, at a
5 rate of some 87 percent. That's an astounding
6 number.

7 So that bespeaks, I would think,
8 volumes for the fact that they are doing a

9 very good job with those that they are
10 educating. So I would concur with the
11 conclusion that you've brought me to.

12 SENATOR DIAZ: Mr. President,
13 will the Senator yield for another question.

14 ACTING PRESIDENT MEIER: Senator
15 Saland, do you continue to yield?

16 SENATOR SALAND: Yes, Mr.
17 President.

18 ACTING PRESIDENT MEIER: The
19 Senator yields.

20 SENATOR DIAZ: If these
21 consortium schools are doing so good,
22 especially to minority students, why would you
23 think anybody would go against this bill?

24 SENATOR SALAND: That -- that's a
25 very difficult question to answer.

Candyco Transcription Service, Inc.
(518) 371-8910

3089

1 As I said earlier, I think some of
2 it relates to territoriality. I think some of
3 it relates to interpretation of data, which I
4 find troublesome. I mean, to infer that

5 somehow or other this does not comply with No
6 Child Left Behind, I find that extremely
7 troublesome.

8 There's some other data that I've
9 seen in some of the materials that have gone
10 out over the course of the past week or so
11 that I find equally troublesome.

12 The long and the short of it is, is
13 that this challenges the model that the
14 Regents and the Commissioner of Education
15 believe to be the appropriate model. It gives
16 no credence to the fact that children,
17 students do learn differently, and some of
18 them have obviously flourished under this
19 system.

20 Why you would want to eliminate
21 this alternative, particularly in the absence
22 of the evaluation that had been recommended
23 back in the year 2000, is beyond me. If you
24 don't believe it works, then do the evaluation
25 and establish as a matter of fact that it

Candyco Transcription Service, Inc.
(518) 371-8910

1 doesn't work. I think that would probably fly
2 in the face of the data that will be produced.
3 But why don't you put it to rest by having the
4 evaluation?

5 And at the same time, as has been
6 previously recommended, why don't you evaluate
7 the Regents standards? Do them both
8 simultaneously. And do it with a panel of
9 experts that will not come to the table with
10 any degree of what I'll call parochialism or
11 prejudice.

12 SENATOR DIAZ: Thank you.

13 Mr. President, on the bill.

14 ACTING PRESIDENT MEIER: Senator
15 Diaz, on the bill.

16 SENATOR DIAZ: When we campaign
17 to get elected, we promise our communities
18 that we will do our best to improve education,
19 we promise our communities that we will do our
20 best to be sure that our children are not left
21 behind, and we promise that we will do our
22 best to be sure that we do whatever is
23 possible so our children get a good education.

24 It is strange to me -- it is
25 strange to me, and I cannot understand why

1 every time that something works, something
2 that works on behalf of our minority students
3 gets opposition.

4 When there is a push for charter
5 schools -- charter schools have proven to be
6 good for our students, for our communities.
7 Some people don't want that to happen. They
8 don't want our students in the black and
9 Hispanic community to find and have the equal
10 opportunities for them to improve.

11 When it comes to consortium
12 schools, they're doing good for our
13 communities, for our children. Some people
14 don't want that.

15 So some of the people that don't
16 want what's good for our students, they always
17 cite, they always bring the question of money.
18 Oh, because money, because we're here.

19 Well, ladies and gentlemen, I think
20 that if we are going to educate the black and
21 Hispanic children -- every children. But
22 again, I'm concerned with the black and

23 Hispanic children in my district. If we are
24 going to educate them, money should not be an
25 issue. Money should not be questioned.

Candyco Transcription Service, Inc.
(518) 371-8910

3092

1 Whatever it takes, whatever it takes to
2 educate and to get them to be educated should
3 be done.

4 So I suggest that we should stop
5 this debating here and let's vote for this
6 bill that has been good to our communities.
7 And anything else that comes to this floor
8 that is in favor to our children, we should
9 stop debating. If it's good, let's do it.

10 Thank you.

11 ACTING PRESIDENT MEIER: Senator
12 Hassell-Thompson.

13 SENATOR HASSELL-THOMPSON: Thank
14 you, Mr. President.

15 It is very rare that I'm -- that I
16 will ever speak, probably, in opposition to
17 some of my colleagues, particularly to Senator
18 Montgomery. We started out together in

19 childcare, in early childhood education back
20 in the 1970s. And we have pretty much always
21 been in accord in terms of how we see
22 education.

23 Some of the Senators are saying
24 that they don't understand the need for
25 discussion. On something as important as

Candyco Transcription Service, Inc.
(518) 371-8910

3093

1 this, there's always a need for discussion.
2 Primarily because regardless as to what side
3 we're on, somewhere in the middle of the
4 debate is where truth lies. And hopefully,
5 with enough debate, we can find it.

6 I don't try to look for things that
7 are wrong with bills. I always try to look
8 for what's right. And at the heart of it and
9 on the face of it, at least, the face of it
10 says to me that the results of the consortium
11 schools show that our youngsters are doing
12 better. That they enter with scores lower
13 than those citywide, but that at the end and
14 their performances in college shows that this

15 is an alternative that works and tends to work
16 for a significant number of students.

17 And I, like Senator Diaz, have to
18 be very concerned about what happens in our
19 public schools, because in my district they
20 are predominantly children of color.

21 Having said that, I become
22 concerned that I continue to be bombarded by
23 people -- by parents, particularly, as well as
24 associations -- who are looking to put their
25 children into alternative school

Candyco Transcription Service, Inc.
(518) 371-8910

3094

1 methodologies. Last week several, at least
2 20 parents came from the district to talk
3 about different charter schools that are
4 working for their kids.

5 Now we're having the discussion
6 about consortium schools, portfolio schools.
7 What I have said to them, and what I want to
8 say here, I'm not sure whether the
9 Legislature, as Senator LaValle says, should
10 be the driving force. But I can tell you that

11 parents are asking the State of New York to do
12 something different for their children,
13 because their children are failing.

14 And one of the reasons that we
15 don't see the kind of lowered scores on the
16 Regents in terms of failures is because most
17 of our kids are dropping out before they take
18 the Regents exams. And if you were to factor
19 those dropouts, you would see that the numbers
20 are skewed.

21 Our children are failing. An
22 example that I continue to use that disturbs
23 me -- and I feel when we have these kinds of
24 discussions, we push our school districts to
25 believe that one methodology works for all

Candyco Transcription Service, Inc.
(518) 371-8910

3095

1 children, and I know that it does not.

2 There were children in a particular
3 school district where only DISTAR was being
4 taught. And the results said that 70 percent
5 of the children who studied the DISTAR method
6 were successful, they passed. The question of

7 those of us as parents of children who were
8 not doing as well and were failing was, what
9 happens to the 30 percent of the children that
10 don't do well?

11 And they said that this school
12 district is only prepared to spend money for
13 one system, and so therefore all children must
14 learn under that system. And they were
15 satisfied that the 70 percent who were passing
16 could pass. But that meant that that was the
17 process by which we were already leaving
18 30 percent of the children behind.

19 There were not these kinds of
20 alternative programs to put those children in,
21 and many of those children continued to fail.
22 And by ninth grade, many of them were being
23 socially promoted because they could not read
24 and they could not spell at all.

25 When we believe that one system is

Candyco Transcription Service, Inc.
(518) 371-8910

3096

1 the only way in which we can help our
2 children, we do a disservice. I am, on the

3 face of this, supportive of this bill. But I
4 am telling you that in the State of New York,
5 we must begin the dialogue that says that
6 public school as we have known it is failing
7 our children in the 21st century. And we must
8 begin to talk about what is it that we are
9 prepared to do to change it.

10 And we cannot do it one bill at a
11 time. We cannot do it one system at a time.
12 There has to be a discussion that says if we
13 are committed to the success of our children,
14 then we cannot take the public school that was
15 developed in the 18th century and apply that
16 methodology to the 21st, because the
17 requirements of our children into the future
18 are very different. And I am tired of jobs
19 going to India and the Far East because our
20 children have to be retaught in order to be
21 successful.

22 We have a job to do, a big job. I
23 will support you, Senator Saland, on this
24 bill. But I would like all of us to begin the
25 dialogue that says that the State of New York

1 is failing its children and has to do
2 something different from what it does.

3 ACTING PRESIDENT MEIER: Senator
4 Schneiderman.

5 SENATOR SCHNEIDERMAN: Thank you,
6 Mr. President. Briefly on the bill.

7 This has been one of the best
8 debates that we've had since I've been here,
9 both on the floor and the discussions off the
10 floor. But in my mind, we're really talking
11 about, looking at this bill and listening to
12 my colleagues, three separate issues. And I
13 think we should keep them in mind as distinct
14 issues.

15 First, we have 28 schools in this
16 consortium, not 44 -- for some reason, the
17 Education Department is including in it other
18 schools who have dropped out or are no longer
19 in the consortium -- 28 schools that, if you
20 look at their statistics, are doing a good
21 job. Should we preserve these as alternative
22 schools within the public system for students
23 who opt in? That's question one.

24 Question two is, should those

25 schools, the existing portfolio schools, be

Candyco Transcription Service, Inc.
(518) 371-8910

3098

1 required to submit to a state -- standardized
2 state measurement of the portfolio-based
3 schools that will be developed by the
4 commissioner? That's in Senator Saland's
5 bill. That's the second issue. Now they have
6 their own assessments that each school is
7 doing somewhat differently.

8 And the third question is, should
9 we make this portfolio system available to
10 other school districts and expand?

11 And I would submit to you, my
12 colleagues, these are three separate questions
13 that must be kept separate. Because I think
14 what we're in danger of doing here today, if
15 we vote against this bill, is putting out of
16 business some schools that perform a very good
17 function for thousands of students who
18 otherwise might drop out of school who are
19 opting into an alternative school, as Senator
20 Hassell-Thompson pointed out, with scores, at

21 the time they go from regular schools to the
22 portfolio schools, lower than the standards,
23 and they graduate uniformly with scores that
24 are higher. Higher graduation rates, higher
25 college-bound rate.

Candyco Transcription Service, Inc.
(518) 371-8910

3099

1 So I would suggest that preserving
2 these 28 schools is important. There is no
3 dispute as to the data. They are doing a good
4 job. And in particular, I mean, it's -- I
5 find the thing that bothers me in some
6 respects the most is this. I went to some
7 high-stakes schools, and I assure you of this.
8 The children of the rich have a lot of
9 alternative schools available to them. There
10 is no rich kid who doesn't test well who can't
11 find some fancy prep school with the flakiest
12 proposals imaginable to get you into a fancy
13 college.

14 In the public school system, which
15 is under attack -- it has been accused of not
16 being creative enough -- we have a set of

17 schools that are doing this, that are
18 providing for poor children the kinds of
19 alternatives that, if we get rid of these
20 schools, will only be available to the
21 children of the very rich. That, to me, would
22 be a great failure on our part if we put these
23 schools out of business that are performing
24 this service. The statistics are
25 unassailable.

Candyco Transcription Service, Inc.
(518) 371-8910

3100

1 It also seems to me that the second
2 part of Senator Saland's bill is pretty hard
3 to argue with. I think the portfolio schools,
4 if they want to stay in this business, should
5 have a standardized state test. And the
6 portfolio schools, showing their good faith, I
7 suppose, are telling us to pass a bill that
8 empowers their arch-enemy, the commissioner,
9 to develop the standards. So you know he's
10 not going to develop trivial standards for
11 them. He wants them all to fail. He's going
12 to have much tougher standards than the

13 Regents.

14 This bill lets the commissioner
15 develop standards, but Senator Saland requires
16 that the alternative assessments shall be at
17 least as rigorous as the corresponding
18 required state assessment. So that part of
19 the bill I think is also pretty hard to
20 dispute.

21 I really think that when we come
22 down to it, most of the concerns I've heard
23 are about the third part of the bill, which
24 allows alternative assessments, as meeting the
25 commissioner's rigorous standards, to be

Candyco Transcription Service, Inc.
(518) 371-8910

3101

1 available for other school districts.

2 And there is a concern that is not
3 a trivial concern, because it's based on some
4 substantial history that has been raised by
5 Senator Montgomery and others. This is not to
6 be dismissed lightly. This is a tendency in
7 this country, and we've seen it in special
8 education, we've seen it a lot of places.

9 But I would suggest to you, ladies
10 and gentlemen, that we're better off keeping
11 these alternative schools, preserving the
12 28 schools that are working, getting a
13 statewide assessment that will be guaranteed
14 to be rigorous because the commissioner is
15 going to be putting it together, and then
16 dealing with this issue of how rapidly these
17 are allowed to expand in a different context.
18 I think that's something we should be able to
19 address separately.

20 But it would be a shame to adjourn
21 this session not having passed this bill or an
22 alternative bill that deletes the requirement
23 for this to be available in other schools in
24 New York State. We can revisit that at a
25 later date. Because that would put out of

Candyco Transcription Service, Inc.
(518) 371-8910

3102

1 business schools that are clearly doing a good
2 job and providing to the children of the poor
3 alternatives for kids who don't just fit in
4 into the one-size-fits-all system that are

5 currently only available to the children of
6 the very rich in some states and would be only
7 available to the children of the very rich in
8 New York were we to reject this legislation.

9 So I'm going to vote yes, Mr.
10 President. I encourage everyone to vote yes,
11 with the understanding that this issue of
12 expansion should be addressed at a later date.

13 Thank you.

14 ACTING PRESIDENT MEIER: Does any
15 other member wish to be heard on the bill?

16 Debate is closed, then.

17 The Secretary will ring the bell.

18 Read the last section.

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

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT MEIER: Senator
25 Montgomery, to explain her vote.

1 SENATOR MONTGOMERY: Yes,
2 briefly, Mr. President, to explain my vote.

3 I've listened to my colleagues, and
4 I certainly do agree -- I'm very happy to hear
5 particularly Senator LaValle, because the
6 principles that he espoused are certainly my
7 principles.

8 I have two degrees in education.
9 Certainly early childhood was my special
10 consideration. And in my years and years of
11 experiences with young children that I've
12 worked with, I found very, very, very few that
13 were not bright on an equal par with any child
14 anywhere in the world.

15 But it was once they went into this
16 huge place, like a dark or a white hole,
17 whatever you call it, however you -- it used
18 to be the black hole. It's now the white
19 hole.

20 ACTING PRESIDENT MEIER: Give me
21 a second, Senator Montgomery.

22 SENATOR MONTGOMERY: They went in
23 there, and they came out different.

24 And part of the problem was that
25 people had low expectations of these children.

1 And I know plenty of people, even up until
2 today, who say that they go to their so-called
3 college counselor or they go to the counselor
4 in the school and they're told, "You're not
5 college material, so you don't worry about
6 getting ready for college."

7 This is still happening.
8 Unfortunately, none of us want to deal with it
9 or admit it, but it's the truth.

10 And I've gone to high school
11 speak-outs where I'm speaking to high school
12 students, and the first thing they ask: Why
13 do we have this affirmative action program
14 when we get ready to go to college? We don't
15 agree with that.

16 These are high school children who
17 didn't yet get out to become bigoted in their
18 way of thinking, but yet they don't like
19 affirmative action. They don't like the
20 concept of it.

21 So we have all of these forces
22 moving against certain children. Why don't we

23 have these alternative schools in all of the
24 districts of the Republican members over
25 there? Which one of them will hold their hand

Candyco Transcription Service, Inc.
(518) 371-8910

3105

1 up and say, I have these schools, I want these
2 schools in my district?

3 Why don't they have them? What
4 happens to your children who can't pass the
5 tests? What happens? Do you mean to say that
6 everybody in this room -- nobody over on the
7 Republican side has any of these children who
8 can't pass the tests and they need these
9 alternative assessments so that half of their
10 children won't have a high school diploma that
11 anybody recognizes?

12 No, they don't have them. They're
13 not asking for them. They're not supporting
14 them. So this is not for everybody. This is
15 for children who are in my district.

16 ACTING PRESIDENT MEIER: Senator
17 Montgomery, how do you vote?

18 SENATOR MONTGOMERY: I know, my

19 two minutes are up.

20 But you see, I want to point out to
21 you, Mr. President, that I believe this is not
22 for every child. It's not for every district.
23 It's for districts like I represent.

24 And I don't want my children, the
25 children that graduate from my schools to be

Candyco Transcription Service, Inc.
(518) 371-8910

3106

1 any less prepared and to have any kind of
2 assessment that is looked upon in any way that
3 is different from anybody else in this room.

4 I vote no.

5 ACTING PRESIDENT MEIER: Senator
6 Montgomery will be recorded in the negative.

7 Senator Balboni, to explain his
8 vote.

9 SENATOR BALBONI: Mr. President,
10 in explaining my vote I'd like to make two
11 quick observations.

12 One, this debate has a lot of very
13 positive comments for Senator Steve Saland. I
14 think the point of that is that here in the

15 Legislature you get a chance to become an
16 expert in something. And Steve Saland has
17 become an expert in education. He has taken a
18 look at this program, he's put forward a very
19 good idea and concept, and everybody I think
20 has recognized it one way or the other.

21 The second observation is that
22 there is a lot of disdain in this room for the
23 Regents. A lot of people don't trust the
24 Regents. And maybe it's because a lot of
25 their actions borders on arrogance, that they

Candyco Transcription Service, Inc.
(518) 371-8910

3107

1 think they know it all and will tell
2 everybody.

3 And I would argue that many of us
4 in this room have a lot better feel for what's
5 going on in our school districts than the
6 Regents do. And, frankly, Commissioner Mills
7 would do a lot better to pay more attention to
8 what Steve Saland says.

9 Having said that, in 2000 there was
10 a program that was created for waivers. And

11 during -- since that time in 2000, standards
12 were supposed to be developed for those
13 programs that were going to be outside of the
14 standard testing. They were not developed.

15 Likewise, there were assessments
16 that were developed that were standardized.
17 And when they first came in, particularly two
18 years ago, people in my district were very
19 nervous. They said, What does this mean? Are
20 we going to be able to truly judge people on a
21 standard across the state?

22 Well, two years later the people in
23 my district are very comfortable with the
24 standards. As a matter of fact, I've received
25 information from my neighbors who say, You

Candyco Transcription Service, Inc.
(518) 371-8910

3108

1 know what? At least we know now some gauge of
2 how our schools are doing across the board and
3 for everybody. And so as much as it pains me,
4 I think we should give this program a little
5 more of a chance.

6 So I am going to reluctantly, in a

7 very close call that should not be interpreted
8 by anybody in this legislature or outside of
9 it as a supportive statement of the Regents
10 generally, I'm going to vote against the bill.

11 Thank you, Mr. President.

12 ACTING PRESIDENT MEIER: Senator
13 Balboni will be recorded in the negative.

14 Senator Stavisky, to explain her
15 vote.

16 SENATOR STAVISKY: Mr. President,
17 the responsibility for setting the standards
18 and for the programs -- for the assessment of
19 alternative programs lies with the Regents.

20 I agree with what Senator LaValle
21 said. But because the policymaking part of
22 the State of New York, we have vested the
23 power in the Regents and not in the
24 Legislature, I vote no.

25 ACTING PRESIDENT MEIER: Senator

Candyco Transcription Service, Inc.
(518) 371-8910

3109

1 Stavisky will be recorded in the negative.

2 The Secretary will announce the

3 results.

4 THE SECRETARY: Those recorded in
5 the negative on Calendar Number 432 are
6 Senators Balboni, Brown, Gonzalez, Marcellino,
7 Montgomery, Morahan, Padavan, A. Smith,
8 Stachowski and Stavisky.

9 Those Senators absent from voting
10 on Calendar Number 432: Senator Sampson.

11 Ayes, 50. Nays, 10.

12 ACTING PRESIDENT MEIER: The bill
13 is passed.