ALBANY, NEW YORK

January 13, 1998

3:05 p.m.

REGULAR SESSION

SENATOR CARL L. MARCELLINO, Acting President

STEVEN M. BOGGESS, Secretary

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

ACTING PRESIDENT MARCELLINO: The Senate will come to order.

Please take your places, staff take your places. Everyone present in the chamber please rise and repeat the Pledge of Allegiance with me.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

In the absence of clergy, may we bow our heads in a moment of silence.

(A moment of silence was observed.)

Have the reading of the Journal.

THE SECRETARY: In Senate, Monday January 12th. The Senate met pursuant to adjournment. The Journal of Friday, January 9th, was read and approved. On motion, Senate adjourned.

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

We'll have the presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, offers up the following nomination: As judge of the New York State Court of Claims, Andrew P. O'Rourke, of Westchester County.

ACTING PRESIDENT MARCELLINO: Recognize Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of Andrew P. O'Rourke, of Westchester County as a judge of the New York State Court of Claims.

We received the nomination from the Governor, and the credentials of Mr. O'Rourke have been examined by the committee. He has been found extraordinarily well qualified. He appeared before the committee this morning, satisfied all of the committee's questions, and was unanimously moved by a vote

of the committee to the floor of the Senate this afternoon for confirmation, and I would most respectfully yield to my colleague, Senator Spano, for purposes of a second.

ACTING PRESIDENT MARCELLINO: The chair recognizes Senator Spano.

SENATOR SPANO: Thank you very much, Mr. President and colleagues.

It's my pleasure to second the nomination of Andrew P. O'Rourke as a judge in the state Court of Claims and for anybody who knows the, as we refer to him as the County Executive Andy O'Rourke, or if anybody has heard him speak publicly, you certainly know that he's indeed impressive. Behind his candor, behind his wit, behind his unique sense of humor that he has, is a person whose political ideology has truly underscored his 30 years that he's served the people of Westchester county.

He started on the City Council in Yonkers, was elected to the County Legislature, became the chairman of the County Legislature, was selected by his peers to be appointed as the County Executive in

Westchester County, was the County Executive of Westchester for 15 years, and in addition to the credentials in the public sector, his credentials are unparalleled in the private sector as well.

As a private attorney, practicing attorney specializing in trial work, as someone who taught law at Fordham University, someone who has got an outstanding record in the armed forces, serving as a Vice Admiral in the New York Naval Militia. His dedication to the public, to the people of Westchester, is just outstanding. So I have every -- every confidence that the Governor has made the right choice, that we can all indeed be proud of the fact that we will support the nomination of a person who's a true gentleman and will be an outstanding member of the bench, the Honorable Andrew Patrick O'Rourke.

I second his nomination.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

I'm going to join with my colleagues, Senator Lack and Senator Spano, in this nomination, in support of it.

The Governor has, over the course of the years, sent us many fine people to consider for the judiciary. This chamber today has the opportunity to consider Andrew O'Rourke. Andrew O'Rourke is someone who has served Westchester County and the state of New York with great distinction and honor over the course of a long career, serving as a legislator both at the city and county level, serving also in the arena as an attorney, someone who was well respected by the bar associations of Westchester County and throughout this state.

Andrew O'Rourke as has been noted, has also served his nation. He's served his nation as a naval officer and continues to so serve in our naval militia.

Mr. President, without question, we have before us today the sort of person that we want to come forward and serve

on our judiciary. I'm very pleased to join my colleagues in moving this nomination.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Gold.

SENATOR GOLD: Yeah. Mr. President, I wasn't too sure about this nomination hearing his background, but when I realize now that he's moved to this side of the aisle, I'm a lot more comfortable and we got a good view from this side of the aisle.

Actually the Governor has proven in the last three years that he's a Jekyll and Hyde when it comes to certain things, because while I disagree with him vehemently on some issues, he has certainly gone out of his way to maintain the quality of our judiciary and in many ways increase the quality and I think this is a wonderful nomination.

I do trial work, it's no secret, and to come into court and you find that you have a judge who is a real person, with real experience, with real compassion,

who knows what it is to not only live in the community, have the problem but knows what it is to practice law and the difficulties that lawyers go through, I think that's a marvelous quality for the bench.

I want to congratulate the Governor and I want to wish Mr. O'Rourke a healthy and a long time on the bench.

ACTING PRESIDENT MARCELLINO: Senator Marchi.

SENATOR MARCHI: Mr. President, a review of his background and if you know him personally, all the superlatives that can be used are used in describing him accurately.

He's really a renaissance man in the 20th century. Erudition, jurisprudence, academics, whatever field, when he had to beat his plowshare or his sword into a plowshare he did it and he did it very well.

Whatever he did, covering all sectors, including research and deep insight and knowledge of the law and how you do it when you apply it across a wide spectrum of fields of interest, of human interest, and his civic activities really is very difficult,

very difficult if not impossible to match, certainly not to exceed those that we can say about our distinguished nominee.

So he goes into it with our blessings and our full support and so pleased that he is here to witness all this and know that we are all part of this and the enthusiasm and best wishes.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Marchi.

Senator Larkin.

SENATOR LARKIN: Mr. President, I don't know anything judges. I see our chief Court of Claims Judge, our colleague, Chris Mega, over here but what I know about Andy O'Rourke is we've had many instances in the mid-Hudson when, during his tenure as County Executive that encompassed responsibilities for other counties, counties that had up and coming young executives who didn't know all the ropes but in the meetings that I attended and Lou Heimbach, he expressed his concern that here was an individual that didn't let the smaller counties think that they were chicken feed and big Westchester there, he was

always willing to work with them and make things happen.

Andy O'Rourke expressed his concern for others, but he provided the leadership and I think that that's what we're talking about today. We're nominating somebody who has a proven record of accomplishment, he's got character, dignity and he's a proven person interested in positive action.

Congratulations, Andy.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Any other Senator wishing to be heard on the nomination?

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I rise today. I will vote in favor of this nominee for the Court of Claims. I raised an issue in the Judiciary Committee, and I am satisfied that in looking at the facts as explained by this candidate and the law, that unfortunately our Election Law is a product of political compromise

between the political parties that may be warring over issues are not a model of clarity and I'm satisfied, based on what soon-to-be Judge O'Rourke said, he did not violate this provision of law.

I'll conclude with just one other factor that seemed to have been raised by some in the commentary around the Judiciary Committee, although not in the committee itself, and that is somehow the notion that someone who has given a life of public service, a significant time and effort and investment in public service and while doing that public service has not been practicing traditional law, such as this nominee who has served the people Westchester County as their County Executive.

I would strongly reject the notion that a lawyer who goes into public service is not qualified to sit on the bench because he hasn't necessarily practiced the intricacies of private practice over a period of time. I reject that notion. I believe that the qualities of a lawyer that will lead to a fruitful life on the bench and a productive

life on the bench are the kinds of decision making that we in public service have to make oftentimes on a daily basis and it's judgment; it's integrity; it's decision-making. Mr. O'Rourke in his experience as County Executive has exhibited those talents, and I just -- I believe that there are many competent public servants, may not have served in the traditional path of lawyers to the bench, but nonetheless are competent and qualified to be on the Court of Claims.

I note that our Chief Judge of the Court of Claims served a long and illustrious career in this body, and I certainly didn't think then that he wouldn't be a sensational judge because of his decision-making here. I think we have to look at the concept of the judiciary in a broad sense and look at the qualifications of those who are capable of making the tough decisions whether it be on the floor of this chamber or in the closed, quiet back room of a courtroom. We need people who can make good decisions. I'm confident the judgments we've made in the past about decision makers who are

public servants were the right ones and that we're right in this case as well.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Any other Senator wishing to be heard on the issue?

The question is on the confirmation of Andrew P. O'Rourke of Westchester County as judge of the New York State Court of Claims. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Andrew P. O'Rourke is hereby confirmed as a judge of the New York State Court of Claims.

(Applause)

Judge, on behalf of my colleagues we wish you good luck and God speed and we wish you the best of judgment.

Secretary will read.

THE SECRETARY: Senator Kuhl, from the Committee on Agriculture, reports the following bill:

2088, by Senator Kuhl, an act to amend the Agriculture and Markets Law.

Senator Wright, from the Committee on Alcoholism and Drug Abuse, reports:

Senate Print 45, by Senator Levy, an act to amend the Vehicle and Traffic Law;

ACTING PRESIDENT MARCELLINO: Excuse me.

THE SECRETARY: Senate Print 75, with amendments, by Senator Levy -

ACTING PRESIDENT MARCELLINO: Excuse me. Senator Bruno.

SENATOR BRUNO: Yes, Mr. President.

Can we interrupt at this time and ask for a Committee of Rules in Room 332 immediately.

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Rules Committee in Room 332.

SENATOR BRUNO: Thank you.

ACTING PRESIDENT MARCELLINO: Rules Committee meeting immediately in Room

332. Secretary will continue to read.

THE SECRETARY: Continuing with Alcoholism and Drug Abuse, Senator Wright reports:

Senate Print 75, with amendments, by Senator Levy, an act to amend the Public Authorities Law;

308, by Senator Skelos, an act to amend the Vehicle and Traffic law;

339, by Senator Skelos, an act to amend the Education Law;

699, by Senator Velella, an act to amend the Vehicle and Traffic law;

1659-A, by Senator Wright, an act to amend the Vehicle and Traffic Law;

2969, by Senator DeFrancisco, an act to amend the Navigation Law;

3812, by Senator Wright, an act to amend the Alcoholic Beverage Control Law.

Senator Alesi, from the Committee on Consumer Protection, reports:

Senate Print 1301, by Senator Velella, an act to amend the General Business Law;

5942, by Senator Alesi, an act

to amend the General Business Law.

Senator Hannon, from the Committee on Health, reports:

Senate Bill 336, by Senator Skelos, an act to amend the Public Health Law;

1815, by Senator Farley, an act to amend the Public Health Law;

5042, by Senator Hannon, an act to amend the Public Health Law.

Senator Spano, from the Committee on Labor, reports:

Senate Print 799, by Senator Stafford, an act to amend the Labor Law;

1097, by Senator Lack, an act to amend the Labor Law;

1417, by Senator Wright, an act to amend the Workers' Compensation Law;

1560, by Senator Maltese, an act to amend the Labor Law and the Penal Law;

2633, by Senator Spano, an act to amend the Labor Law;

2842, by Senator Wright, an act to amend the Workers' Compensation Law;

4143, by Senator Spano, an act to amend the Workers' Compensation Law;

5986, by Senator Spano, an act to amend the Labor Law.

Senator Maziarz, from the Committee on Aging, reports:

Senate Print 1920, by Senator Libous, an act to amend the Vehicle and Traffic law;

2338, by Senator Farley, an act to amend the Education Law.

Senator LaValle, from the Committee on higher education, reports:

Senate Print 35, with amendments, by Senator LaValle, an act to amend the Education Law;

303, with amendments, by Senator LaValle, an act to amend the Education Law;

3200-A, by Senator LaValle, an act to amend the Education Law;

3201, by Senator LaValle, an act to amend the Education Law;

4389-A, with amendments, by Senator LaValle, an act to amend the Education Law;

5592, by Senator LaValle, an

act to amend the Education Law.

Senator Saland, from the Committee on Children and Families, reports:

Senate Print 489, by Senator Saland, an act to amend the Family Court Act;

557-A, by Senator Skelos, an act to amend the Social Services Law;

1483, by Senator Spano, an act to amend the Social Services Law;

3455, by Senator Saland, an act to amend the Family Court Act;

4857, by Senator Saland, an act to amend the Social Services Law;

5372-B, by Senator spano, an act to amend the Social Services Law.

Senator Marcellino, from the Committee on Environmental Conservation, reports:

Senate Print 1391, by Senator Marcellino, an act to amend the Environmental Conservation Law;

2369, by Senator Larkin, an act to amend the Navigation Law;

4126, by Senator Marcellino, an act to amend the Environmental Conservation

Law;

4127, by Senator Marcellino, an act to amend the Environmental Conservation Law.

Senator Goodman, from the Committee on Investigations, Taxation and Government Operations, reports:

Senate Print 335, by Senator Skelos, an act to amend the Executive Law;

4249, by Senator Stafford, an act to amend the Tax Law;

5940, by Senator Volker, an act to amend the Tax Law.

Senator Nozzolio, from the Committee on Crime Victims, Crime and Correction, reports:

Senate Print 5229, by Senator Nozzolio, an act to amend the Executive Law.

Senator Holland, from the Committee on Social Services, reports:

Senate Print 480, by Senator DeFrancisco, an act to amend the Social Services Law;

2469, with amendments, by Senator Maltese, an act to amend the Social

Services Law;

4120-A, by Senator Holland, an act to amend the Social Services Law.

All bills directly to third reading.

ACTING PRESIDENT MARCELLINO: Without objection, all bills are reported directly to third reading.

Reports of select committees.

Communication and reports from state officers.

Motions and resolutions.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we now return to reports of standing committees and receive the report from the Rules Committee.

ACTING PRESIDENT MARCELLINO: Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bill directly for third reading:

Senate Print 2430, by Senators

DeFrancisco and others, concurrent resolution of the Senate and Assembly.

SENATOR BRUNO: Move to accept the report.

ACTING PRESIDENT MARCELLINO: The motion is to accept the report of the Rules Committee. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The the report is accepted. Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Senate Number 2430.

ACTING PRESIDENT MARCELLINO: Secretary will read.

THE SECRETARY: Calendar Number 74, by Senator DeFrancisco, Senate Print 2430, concurrent resolution of the Senate and Assembly, proposing amendments to Section 13, 14 and 16 of Article III and adding a new section.

ACTING PRESIDENT MARCELLINO:

On the resolution, the Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, can we have an explanation on the resolution?

ACTING PRESIDENT MARCELLINO: Who's going to -- Senator DeFrancisco, will you give Senator Paterson an explanation?

SENATOR DeFRANCISCO: Yes. This is a bill that was passed last year 47 to 11, which would be -- which would require second passage through another session, a consecutive session of this legislative body, and it would call for a procedure in state government that will, I believe, lead to an end of the budget process that's been broken for the last 13 years.

It's a very simple concept. The concept is basically this: If you don't have an April 1 budget, then we automatically go back to last year's budget. Now, the

beauty of it is that nobody -- Democrat, Republican, Governor, Assemblyperson or Senator -- wants last year's budget. Everybody wants something different, whether it be a tax cut, whether it be a spending increase or whatever.

There will be a true incentive, I believe, for the three parties to the process, to the budget process, to reach an agreement before April 1 comes and goes. Now, each year the budget has been later, and it's time that we get back to what's required under the Constitution, namely, April 1 and in order -- and if we have something that's a true remedy here, something that really happens, if we don't have a budget, rather than just more rhetoric, I really believe that we will have a much better chance of getting an on-time budget and, if not, and last year's budgets goes into place, then all the schools and all the contractors and all the people that rely on payments from the state will at least know they're going to be paid. They at least know in planning for their next year that we would have a budget consistent with what was passed

last year.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gold.

SENATOR GOLD: I believe there are amendments at the desk, Mr. President. I would offer the amendments, waive their reading and ask to have an opportunity to explain them.

ACTING PRESIDENT MARCELLINO: We have, the amendments are at the desk, Senator and we waive their reading and -

SENATOR BRUNO: Point of order, Mr. President.

ACTING PRESIDENT MARCELLINO: I'm sorry, Senator Bruno.

SENATOR BRUNO: I believe that this proposal is out of order without unanimous consent under Rule VI, Section 9.

SENATOR GOLD: All right.

ACTING PRESIDENT MARCELLINO: I believe it's Section 9 (c) you're looking at, Senator.

SENATOR GOLD: Yeah, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gold.

SENATOR GOLD: Yeah. I'm informed by my counsel that my distinguished leader is correct under the new rule, so let me do this. I would then respectfully ask, Senator Bruno, and I didn't mean to ignore that rule, and I appreciate your bringing it to my attention, but I would ask your consent and the unanimous consent of the chamber to offer the amendment.

SENATOR BRUNO: That's fine, Mr. President. Thank you, Senator Gold.

SENATOR GOLD: Thank you.

ACTING PRESIDENT MARCELLINO: All right. We'll waive the reading and if you want to explain it, go directly to your explanation.

SENATOR GOLD: Thank you very much.

And again Senator Bruno, I do appreciate it. I did not mean to be discourteous to you in that regard.

Firstly, Senator DeFrancisco, there's always a lot of politicking in this

house and using issues for the wrong reason. I will say this before I say anything else, that I'm convinced that your offering this amendment is a sincere one, because I know how you feel about the issue and if it was up to you, I guess we'd have an on-time budget; but the thing that bothers me the most is that whether or not this Legislature is accurately portrayed as a strong leadership Legislature or whether we as members have more power than the press thinks we have, the way to go in my opinion is not by confrontation and press release, and I know that there were two press conferences today on this issue, one by the Assembly and one by leadership in this house and I just think that's a horrible way to deal with the issue.

I think it's an issue that has certainly come into focus even more so in the last two years than over the 13-year course of late budgets. Part of that problem, in all fairness, Senator DeFrancisco, is not the fault of this chamber or the other chamber. We have had budgets submitted by the Governor that were unacceptable even to the members of

his own party in this house, and that has not, in my opinion helped the process.

When you say that some people -- you said everyone would not want last year's budgets, so there would be an incentive for everyone to get together and do a budget, and I would just disagree with you in that regard. I think there are some people who would love to have the budget never change and we would have to be cutting vital services in all kinds of fields without us having any say just to get to a bottom line that people say is fiscally responsible even though it may be socially totally irresponsible.

In explaining my amendment, though, I would just like to veer off and say that the issue of balancing a budget, the issue of getting a budget in on time is not owned by any particular party. I was very delighted to see in the last few days that the Democratic president of this country is now talking in terms of a balanced budget for this next fiscal year, and that's ahead of the time schedule that's been talked about in the Congress.

At any rate, the amendment that I'm offering does a number of things which I think really deal with the issue. I think, Senator, that -- Senator DeFrancisco, that merely saying that, if we don't do our job, we are frozen into a budget from last year is not an answer. That doesn't excuse the fact that we have a job to do. Our amendment that we are offering today, I think, helps us do that job.

For example, we ask that the Governor submit his budget by December 1st. Obviously, that gives us a crucial period of time additional to what is now the law in this state.

The second part of it deals with conference committees and my understanding is that the distinguished leader of this house said earlier today that he is not opposed to conference committees but he would like it to be only under conditions where we agree on revenues, and I made my comments very clear last year that I think these revenue conferences have not accomplished what they were supposed to

accomplish. They've become another political forum, which hasn't helped too much, and I suggest to Senator Bruno and to my colleagues, that perhaps if we had the conference committees you would get some revenue agreement, if not before, then perhaps as a result of those conference committees.

We have, in fact, used the conference committees. We've used them successfully in the speed limit 65-mile-an hour legislation, to end the practice of drive-through deliveries. It seems to me there's no reason not to use conference committees on what we debate each year as probably the most important issue of the legislative session, and that's what we're going to charge the taxpayers because that's what we do and what we're going to do with their money.

The next part of this proposal deals with what used to be called the "green book", and it just seems to me that everything we do should be out in the open and there should be a summary of legislative budget changes distributed to all of the members

prior to voting on the budget bill, and that is part of the proposal.

We also have a law in this state which says that the Governor must make a presentation to the Legislature of a balanced budget. It seems to me that the law ought to make it clear that we have to also pass a balanced budget and, while theoretically we say we do that, it's obvious that with the machinations that go on each year that we don't hold to that.

The amendment also says that the Governor should propose a four-year fiscal plan as part of the budget in order for all to see the long-term impact of the current budget plan. I believe, Senator DeFrancisco, that these amendments will get the job done and then we don't have to worry so much about - I'll yield in a minute -- about whether or not we are going to be stuck with what may be a stale budget. It may be in a last year's budget reenacted is what we ought to do, but I believe that the Legislature ought to make that determination, and if we were to pass your amendment, Senator, we are frozen in a

situation where one of three parties can bind the entire state.

Under existing law where we have to do the job ourselves, taken with the amendments that I am suggesting, that is the incentive to do it. Has the budget been politicized? There's arguments that say, Senator, that during some of the Cuomo years there were Republicans that were holding back the budget for political reasons. There are arguments that have been made that during the Pataki years, there are Democrats that have held back the budget for political purposes.

People ask me, because of an announcement I made, what changes I've seen over the years and, Senator DeFrancisco, the worst change I've seen over the years is that the whole process has become too political and that some place along the line we lost the people, and I think that the way you pass a budget on time is, if you stop -- I don't mean you, I mean all of us -- stop some of the politics and we get the job, we get it down and do it, and I think one way you get it done is by a program that gets the budget to us

earlier, gets us into conference committees and gets us -- really gets us dealing with the problems that are in the budget.

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Senator Gold yield to a question?

ACTING PRESIDENT MARCELLINO: Senator Gold, do you yield to a question?

SENATOR GOLD: If it's easy.

SENATOR DeFRANCISCO: What happens if we have conference committees, the Governor submits his budget earlier as he has before, it's done in the open; there's a balanced budget proposed, there's a four-year revenue, four-year budget projection, what happens when it doesn't occur on April 1?

SENATOR GOLD: Then, Senator, we look at ourselves and say we have once again failed, but that is our job to do it on time. Our job, Senator -- I think one of the problems is, and you're asking me a very fair question, but I think one of the problems is that last year I saw something which maybe has happened before but I didn't realize it

before.

After we passed April 1st, I said to myself, you know, I'm getting nervous. I see people on your side of the aisle getting nervous; I see some Assembly people getting nervous. I didn't see the Governor getting nervous, and the Governor didn't seem to get nervous, so the press didn't get too nervous, and the next thing, you know, it just went on and on. I was very disturbed last year, I think the Governor should have been calling more budget meetings. I think the Governor should have just insisted that the people sit at the table and do their work and I'm going to tell you something, if we did my bill and we had the early budget and we had the conference committees and if all of that was going on and the Democratic Majority in the Assembly, for political reasons, was sabotaging the process, I would say shame on them, and if it was reversed and we did it, I would say shame on us; but we have a job to do and by merely saying to the people that something is in place when we fail and that something affects their lives, it affects the

education of their children, it affects whether or not their children may be able to go to higher education, educational institutions, it will affect their health care and say, Don't talk to me, the budget is out there and you've got a budget, I think that's an abdication of responsibility.

ACTING PRESIDENT MARCELLINO: Any other Senator wish to be heard on the amendment?

SENATOR DOLLINGER: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I rise in support of Senator Gold's amendment. I just want to address one of them and that is the issue of the conference committees.

I served by appointment of the President on a conference committee involving the Power for Prosperity project. I have relayed to the members of this chamber before the substantial success of that conference committee in working on some very thorny

issues relating to the allocation of discounted power throughout the state, how we were going to generate it, how it was going to be allocated, which businesses would qualify, some very contentious issues, both on a philosophical level and a political level, with the other chamber.

I thought it was a very productive process, all conducted in the open, most of it conducted in the open and a good give and take on political issues that affect the landscape of power issues and energy generation issues in this state.

I believe that the conference committees is the proper way to approach the budget process as well. There's nothing that says that we can't have the conference committees meet relatively early, come up with a list of priorities for the budget, contribute to the budget formation process. The amendments that Senator Gold suggests don't necessarily suggest that we'll get to an agreement. They don't guarantee an agreement, but what they guarantee is that if you have good process, you'll have good substance. The

better the process gets, the more public par ticipation, the more public discussion, the more of an opportunity to discuss the issues in a broader context rather than just in the quietude of this building, the better the budget process will be.

I strongly endorse the idea of conference committees. Our success in the last three years with conference committees has been substantial. It is clearly the wave of the future. It's about time we looked at this atrocious budget process and realized that the solution is not less democracy, it's more democracy. You get more democracy when you bring more people into the process.

May it make a difficult -- an agreement more difficult to achieve? It might. I acknowledge that. There could be too many cooks to spoil this broth, but every one of the cooks should know what the ingredients are before we make this soup that we call the budget.

I strongly endorse the idea of conference committees. I strongly suggest that we support this amendment because it's

the right thing to do.

ACTING PRESIDENT MARCELLINO: Any other Senator wish to be heard?

Not hearing any, I would just like to remind the chamber, the members in the chamber, that a yes vote would be in favor of Senator Gold's amendment, a no vote will be in opposition to Senator Gold's amendment.

The vote is on the amendment. All those in favor of Senator Gold's resolution, signify by saying aye.

(Response of "Aye.")

Those opposed, respond by saying nay.

(Response of "Nay.")

The nays have it. The resolution fails. The amendment fails.

SENATOR DOLLINGER: We still on the constitutional amendment?

ACTING PRESIDENT MARCELLINO: Yes, we are, Senator.

SENATOR DOLLINGER: I just have a couple quick questions of the sponsor, if I could.

ACTING PRESIDENT MARCELLINO:

Senator DeFrancisco, do you yield to a couple questions?

SENATOR DeFRANCISCO: Yes.

SENATOR DOLLINGER: Through you, Mr. President: Is the phrase "entire budget" defined in the New York State Constitution?

SENATOR DeFRANCISCO: I don't know the answer to that question, but I would assume that we've been doing a budget the last how many years we've been in existence since the Constitution came in place. There must be at least a practice as what the entire budget is, but I don't know if it's specifically stated in the Constitution.

SENATOR DOLLINGER: So we don't -- when the phrase is used in this amendment, we don't -- it's nowhere defined in this amendment, is it?

SENATOR DeFRANCISCO: No, it's not defined here but as I said, just like in the practice of law where there is a practice or a precedent of what we've been doing in the past. I don't think it's in the Constitution.

SENATOR DOLLINGER: O.K. Again through you, Mr. President, just briefly. Is the issue, the budget include tax cuts, taxing authority, or is it simply expenditures?

SENATOR DeFRANCISCO: The budget would be the entire budget just like last year.

SENATOR DOLLINGER: Well, but we do the budget -- again through you, Mr. President. We do it in about seven or eight pieces, including tax cut pieces and other pieces.

ACTING PRESIDENT MARCELLINO: Senator Bruno. Excuse me, Senator Dollinger.

Senator Bruno.

SENATOR BRUNO: Excuse me, Mr. President, but I would ask the indulgence of Senators DeFrancisco and Dollinger and ask at this time that we lay this bill aside temporarily and then we will take it back up when we have finished some other business that we have to do in this chamber that hopefully will be less controversial and not have people here in the chamber just standing by and waiting, Mr. President.

So can we move back to the privileged resolution calendar. I believe that there is a resolution there that I would ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MARCELLINO: We can do that. We'll lay this bill aside temporarily, Senator, and at your request and move to the Resolution Calendar. The Secretary will read the resolution in its entirety.

THE SECRETARY: By Senator Bruno, Legislative Resolution commending Raymond C. Skuse upon the occasion of his retirement after many years of dedicated public service.

WHEREAS, it is the sense of this legislative body to acknowledge and recognize the life and accomplishment of those individuals who have contributed greatly to their community, devoting their purposeful lives and careers to the bettering of their communities.

This legislative body is justly proud to commend Raymond C. Skuse upon the

occasion of his retirement after many years of dedicated public service.

Born April 28, 1920, in Rochester, New York, Raymond Skuse, formally trained in the banking industry, moved to Albany in 1955 to pursue a career in a family business. As the business grew and as he became better acquainted with the Albany community, he decided to devote time to local politics and volunteered as a committeeman in the city of Albany. He became Ward Leader of the 13th District, at that time the largest district in the city.

Raymond Skuse ran for state Assembly in the 102nd Assembly District in 1968 and won.

During his tenure in the Assembly Raymond Skuse served as chair of the Assembly Subcommittee on Higher Education. He introduced and had signed into law legislation which changed the governance of the Albany City School Board from an appointive one to an elected one.

Raymond Skuse was hired by the New York State Teachers Association as

Legislative Coordinator in 1970. After the merger of NYSTA and the United Teachers of New York, he was promoted by NYSUT's leaders, making him the union's first and, until his retirement, only Director of Legislation and VOTE/COPE.

Raymond Skuse spent 27 years building a non-partisan political action and legislative operation second to none in the state of New York. Working with four governors, five Assembly speakers and three Senate Majority Leaders, he guided the union's legislative program securing scores of legislative victories. Bellwether legislation, such as the creation of Teacher Resource and Computer Training Centers and the Mentor Intern Program was negotiated during his tenure. Also state aid to public education grew to nearly $11 billion as a hallmark of his representations to the members of the Legislature.

Through his long and sustained commitment to exemplary community service, Raymond Skuse has so demonstrably advanced the perception of New York State as a caring and

united amalgam of communities.

With him throughout have been his wife of 52 years, Lois, his son Charles and his wife Judy, and his two grand daughters, Amanda and Katherine, all of whom have been privileged to be a part of his life and rejoice in his achievements; and

WHEREAS, rare indeed is the impressive dedication shown by an individual for the benefit of his community as that which has been demonstrated by Raymond Skuse throughout his purposeful life and distinguished career;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to commend Raymond Skuse upon the occasion of his retirement after many years of distinguished service; and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to Raymond C. Skuse.

ACTING PRESIDENT MARCELLINO: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

I would like to say hello to Ray Skuse, his wife Lois, family and friends, and have them welcomed to this chamber and this chamber is a familiar place for Ray, and his family, because he spent a lot of years here, and as the Journal Clerk so ably stated in the resolution, Ray has had a lifetime of service in so many different ways to make a positive impact on the people of this state.

Ray, I wouldn't have said this other than on an occasion like this, but you will recall when we first met, I worked for you, and -- you didn't know that, and that was a few years ago, before Ray arrived in his present capacity where he has served various chairs for the last 27 years, but as you heard, Ray was in the Assembly, and I was on Speaker Duryea's staff at that time -- I think you (indicating Senator Gold) were there - and Ray -- I was assigned to Ray as one of the people that was there to be helpful to Ray, but what I found out very quickly at my tender age was that Ray didn't need a lot of help. Ray knew very well how to take care of himself, how to relate, how to communicate, to

his colleagues, to his constituents and especially to me, helping me understand that he was where he was, and we struck up a relationship and a friendship and, Ray, I remember it well in all the times that we talked and we visited about a lot of the things that were going on in your life and in our life and I treasure those times and those memories and as we have met in different capacities as a Senator and then as the leader, I have reflected on those times and I think it has held us in good stead, because you have certainly represented all of the people in this state by just being so diligent, so conscientious in the things that you have done to improve the quality of education in this state, and I'm sure all of us can agree that there isn't anything that is more important than that we look after the educational needs of young people in the state of New York; and if there has ever been a person with a mission, it has been you who have made sure, you've always made sure that we stay focused on the importance of funding the teachers, making sure that the classrooms

are what they should be, teachers are what they should be, administrators are what they should be.

And you're going to be missed, that's for sure. You're going to be missed in the process, and you're going to be followed by people that are going to have themselves one huge job, and I am confident that we are, because you're able and you're well, and thank the good Lord healthy, and you're going to live a lot more years and many more decades, and I'm sure that we are going to visit, going to talk, hopefully you may be a little more leisurely. I'll buy lunch the first time; you're up the second time, and the way Ray likes to do it, only usually he wants to go first, but we're going to do that and I'm sure that you're going to be staying in touch in your community.

It will be a blessing to you and to your wife, Lois, and your family and your friends, that you'll be more leisurely, you will be able to do some of the things that I know you haven't been able to do because you have spent just so much time doing the things

that you do so well, representing your constituency and helping us understand how important your constituency has been to all of the people in this state and we're all better for that.

So the very best to you, and we look forward to an opportunity to visit in a more leisurely way.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Bruno.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, my friend Ray Skuse, Ray, I revised my remarks as Senator Bruno was relating to something that I didn't know, that you were an early mentor of his. But I don't hold it against you, and actually, he -- may have taught him something.

But, Mr. President, I served in this body now 20 years and someone whom I've regarded as a friend for many years is Ray Skuse, and I say "friend" because Ray had a job to do, and he did it so very, very well,

indeed he did it better than just about anybody else, his job of representing his client to this Legislature, and he did it by force of -- by the quiet force of persuasion where he always told the truth, he always told the position. He'd tell you the couple of little minuses to his position because he never wanted to mislead you, and then he would advocate on behalf of his client, not just his client, a union, but the greater interest involved in many of the issues dealing with the schools, with education, with teaching, with quality in the schools, with funding that have come up over the years; and he was so very, very effective because he had a universal, a well deserved universal reputation among the membership of the Legislature as a truthsayer, as a quiet-spoken but incredibly knowledgeable advocate and also someone who would never lead a member astray just to persuade him to vote, him or her to vote in a certain way, but would also said it as it was, and I don't think he really needs my testimony or anybody else's here to add to his legend because Ray Skuse is a legend, he

is a legend, an acknowledged legend in the state of New York because of so -- so many accomplishments; because he did his job so very, very well, and the one thing that I have certainly benefited from is his wise counsel, because the fact is, and I made a joke before, but Ray Skuse is someone that leaders -- new leaders, people who hope to be leaders, people who are members -- have over the years taken counsel from him because he is a patient man. He's certainly pleasant company, and he's a very, very wise man who is not selfish with sharing his insights with members of the Legislature, not just about the things he's concerned about or his client is concerned about, but by the state in general, the Legislature in general, and so many, many other things that come before us.

I have valued his friendship. I have valued his loyalty. I have valued the fact that he is the straightest of the straight-shooters in this Capitol. As always has been, I wish him well. He deserves the time with his wife, his family. He deserves the time to pursue his many other talents and

interests.

Something tells me we will not go long without seeing his pleasant smile and friendly voice around this Capitol. And so I do look forward, Ray, to an ongoing friendship but I wish you well as you go into this new level of activity.

So, Mr. President, I'm delighted to join with Senator Bruno and I assume the whole body will co-sponsor this resolution, and to join with Senator Bruno in honoring a truly remarkable, wonderful, enjoyable person, Ray Skuse.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. In the 26 years that I've had the honor of being a member of this body, I don't recall ever having felt the need or the desire to reach out to a lobbyist for help, guidance, counsel, except one case, and that is with Ray Skuse.

Asking him to come to meet with me and discuss an issue involving education

was a very pleasant exercise. It was almost therapy, good therapy, because he's the type of individual who, when he sits with you and you enter into a dialogue on whatever the matter may be, as complicated as it may be, as contentious as it may be, or whether you agree or don't agree, you had the sense that this was an individual who not only cared about his basic mission, which is education, which has been his life for so many years, but he cared about you and how you approached the issue and what you thought of the problem, and how you sought to solve it.

There's one phrase that I think identifies this charming individual is that he's a perfect gentleman, has always been a perfect gentleman in every way, shape or form, in the most trying, the most stressful situations that you could imagine. He represented his principals with clarity and with fidelity, but he also represented us. He would listen. If we took a position that was contrary to that he was representing, he would come to you after the fact and say, You know, I heard what you said. You might have a

point. I will go back, discuss it, see if we can come up with some way to resolve it.

That's a very rare experience that any of us have ever had. With all due respect for all the fine men and women who represent legions of entities throughout the state and come here to Albany and lobby, I don't think I would miss any of them with this exception.

So, Ray, we wish you Godspeed, good health, and happiness.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Padavan.

Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, it's funny how people are out there working, and we don't even -- don't even know sometimes what's happening around the corner, because as Senator Bruno mentioned that in those Assembly days he was assigned by Perry Duryea to work with Assemblyman Skuse and, of course in '68, those days I was counsel to the Majority Leader of the Assembly and my job was to see

that Ray didn't go astray, pay attention to those crazy Republicans.

I was elected to the Assembly in early 1970, in a special election, so I had an little time there with Ray, of course, as it was pointed out, he left the Assembly after 1970, and that was one of the reasons, Ray, I left the Assembly there in '71. I wasn't going to serve if you weren't there. Didn't make any sense.

I want to, first of all, adopt for myself the comments that were made by Senator Connor, and as Guy Brewer of blessed memory used to say, not only the logic but I'll accept his English. That's the ultimate compliment, as Senator Marchi knows.

But just to add to it the bottom line that everyone knows in this Legislature is that if you had to very briefly describe Ray Skuse, it's easy; he is the ultimate gentleman. If you look in the dictionary under "gentleman" you will find his picture. He is the ultimate gentleman, and I have seen Ray discuss issues that were tremendously emotional and significant, and he

would speak to the individual he was speaking to in a gentlemanly direct way and there was no doubt about it but that behind that soft spoken gentleman was a total firmness and commitment to the principles that he was espousing. You knew he believed it. You knew that if he said it, he believed it, if he didn't believe it, he wouldn't say it. Might hear it from somebody else, but you wouldn't hear it from Ray Skuse, and to his great credit, there are a lot of pressures in this Legislature put on people who lobby, and whatever there is that makes certain people yield in one way or another, I can tell you that one of the reasons Ray Skuse is admired so much is that he has always been right down the middle in terms of respecting every member of the Legislature.

There are too many people up here who are very snobby about the way they react to legislators and if you're in the Minority, if you're in the Assembly, if you're this, you're that, you get a different treatment. Ray Skuse, to everyone in this Capitol, be it the Majority Leader of this

house, be it the Governor, be it the people who run the elevators, everybody, behind his back would tell you that that man is the ultimate gentleman.

I am delighted to be a sponsor of this resolution, one of 61. Makes me very proud. Ray, I only wish you from the bottom of my heart the best of health to enjoy these years and that your family should have good health to enjoy them with you. Every good thing that happens to you from here on in, you have earned. God bless you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Gold.

Senator Lachman.

SENATOR LACHMAN: I rise also to praise Ray Skuse, but not only as a New York State Senator who has served briefly but as an educator who has been an educator almost as long as Ray Skuse has been in his present position. Ray Skuse is living proof that Leo Durocher, the manager of the Brooklyn Dodgers, one of the greatest baseball teams of all time, was dead wrong when he said that nice guys finish last, because this nice guy

finished first.

Now, before coming to Albany Ray Skuse was a living legend to the teachers and the academics of New York State, and I met this living legend and I verified that everything I had heard was true. But in praising Ray Skuse, the individual, we can not forget the time when Ray Skuse assumed his position as the legislative director, that he held for 28 years and the implications of those times to these times.

Ray assumed his position shortly after an unheralded merger of two major labor unions in New York State, the AFT, the American Federation of Teachers, and the National Education Association. It was tried in other states; it didn't work as well. It was tried in this state and it succeeded, and God willing, it will shortly succeed nationally because of the work that Ray Skuse has done making it the most powerful labor union in the nation.

Two, Ray Skuse came into his present position shortly after teachers gained the right to collective bargaining. I

remember the time when teachers could be presumptuously fired, laid off if they dared do anything that the officials at the board of education -- of course, before I arrived at the board of education, Ray -- deemed to be inappropriate, and that right is a major right that we should preserve into the future.

And there's a third thing that I'd like to mention. Ray Skuse came into his present position shortly after several dozen teachers and professors in New York State were summarily dismissed because of political positions that were deemed to be inappropriate during the period known as McCarthyism. That was ruled to be unconstitutional by the U. S. Supreme Court. Unfortunately, many of those teachers never received their back pay because they had died in the interval between the case being brought to court and the court adjudicating.

That reveals to us the importance of the due process rights that every educator in the state of New York deserves to have and deserves to continue in the future. These are the principles that Ray

Skuse stands for, and these are the principles that have developed into a professional organization of educators that is the leading organization in this nation.

So in saluting you in your active retirement, Ray, we salute your organization and I hope that your organization will have the good sense and wisdom, if it is legal and ethical, to have you back as a consultant in the future.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Lachman.

Senator Spano.

SENATOR SPANO: Thank you. Thank you, Mr. President.

You know, when I was first elected to the Legislature 20 years ago, one of the first people I had an opportunity to meet and speak to was Ray Skuse. Then I was a young member of the Assembly representing the city of Yonkers, represented that city of Yonkers through its darkest days in the fiscal crisis of the late '70s and '80s and one person who was always there to reach out and

talk to me when, frankly, I couldn't really do a lot for him then as a minority member of the Assembly, but it was Ray Skuse.

Someone through the years and I was elected to the Senate and became the chairman of the Senate Labor Committee, was always someone I knew I could turn to, you would get a straight answer from him. You could talk to him and he has the most comfort ing style. He was like father confessor where he would look at you, look you right in the eye and putting his hand on your shoulder and say, "I know, I know, we'll work through this problem."

Even when he had some unreasonable people maybe within his own organization and he had a responsibility to represent, he would always find a way of coming right down the middle road and it's a style that was a very effective style, a style that was welcome at a time when sometimes you meet people who are -- who feel their self importance in the halls of this Legislature and he's someone who, while we knew the numbers of the hundreds of thousands of people

that he spoke for and particularly not only teachers, but our young people that they have responsibility to educate in our state, he was always someone who always kept that comforting style, so in the -- this reputation, Ray, is one that will live and I mean very often we see hundreds and hundreds of people, and Senator Marchi mentioned yesterday seeing hundreds of people in the days -- the years since he's represented the people of New York State in the Senate. Every once in a while, though, you see someone who really will leave their mark, will leave their mark in this Legislature, will leave their mark for the people he's represented in terms of the people he's represented in this state, leave their mark in the house of labor for someone who can be looked up to for those of us who represent the people of this state and for those who are embodied with the responsibility to represent the working men and women of this state.

So, Ray, I wish you the best. You know, it was just this week that we had the sad opportunity to stand here and to talk about our good friend and colleague, Mike

Tully, when he was not here to really smell the roses, and it's really nice that we have the opportunity here today to say thank you for the job you continue to do, to say that we all look up to you and we all wish you the very best in your retirement.

ACTING PRESIDENT MARCELLINO: Any other Senators wish to be heard on this resolution?

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is passed and as one, Mr. Skuse, who taught in the New York City school system for 20 years and benefited from your representation here personally, my family and I thank you very much on behalf of all my colleagues and wish you well.

(Applause).

Senator Bruno, the Chair is aware that you would like to open the resolution for co-sponsorship.

SENATOR BRUNO: Yes, please do, Mr. President, and hopefully everyone I'm sure in the chamber wants to be on the resolution, so we'll add every name.

ACTING PRESIDENT MARCELLINO: The Chair will accept the fact that all members will be placed on the resolution unless otherwise notified.

Can we return now to the -

SENATOR BRUNO: Third reading calendar, Mr. President, and Senator DeFrancisco.

ACTING PRESIDENT MARCELLINO: -- third reading calendar and to the ongoing -

SENATOR BRUNO: And thank you.

ACTING PRESIDENT MARCELLINO: Senator Dollinger, you were eliciting an answer from Senator DeFrancisco.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Oh, I'm sorry. Could we recall Senate 2430.

THE SECRETARY: Calendar Number 74, by Senator DeFrancisco, Senate Print 2430,

concurrent resolution of the Senate and Assembly.

ACTING PRESIDENT MARCELLINO: Senator.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator DeFrancisco would just yield. I think we were talking about the issue of tax cuts, about we pass multi-year tax cuts which are not part of the budget, which have effective dates at specific times. We've put many in place in the past four or five years.

How do those affect this amendment since there would be insufficient revenues to support a budget, if we simply rolled over the budgets, the spending part of the budget but we had tax cuts going into effect that would throw the budget out of balance?

SENATOR DeFRANCISCO: Well, the budget bills are one-year bills. If there is a permanent bill such as a three-year tax cut those would be law, and you're presuming that there would be not enough money to pay for those tax cuts, but assuming it's a surplus

year, there probably would be and if there isn't, then we're no different than any year that we've passed a one-year budget that we get to the end of the year and find out we don't have enough money and we got to come back as has been done in the past in this body although, fortunately not since I've been a member, come back and have to pass amendments to the budget in view of what's happened, there being insufficient funds.

SENATOR DOLLINGER: A final question, Mr. President, if you yield.

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco, do you continue to yield?

SENATOR DOLLINGER: Could you just explain to me -

ACTING PRESIDENT MARCELLINO: He yields, sir.

SENATOR DOLLINGER: -- where in the language of this amendment it says that if there's no budget by April 1st, the last year's budget takes effect but if we reach agreement on April 2nd, that that budget supersedes the rehabilitated or the extended

budget of the Governor?

SENATOR DeFRANCISCO: It doesn't say that, but if we had a three-way agreement on a budget by April 1 and a miracle took place and that happened without a bill such as this, without a constitutional change such as this, just like I mentioned with respect to your prior question, in the event that something changed, that doesn't prevent the Legislature or the Governor to come up with a three-way agreement to amend the budget. It would just be, in this situation, with this bill, it would be last year's budget. In the situation where we come up with a three-way agreement, the amendment would be amending the three-way agreement that became the budget.

SENATOR DOLLINGER: O.K., but there is nothing specific -- again through you, Mr. President -- nothing specific in this amendment that says the Legislature has the power to extend the extend the budget created by this -- by the operation of this amendment.

SENATOR DeFRANCISCO: It

doesn't say that. It just -- it doesn't have to say that. There's no provision in the Constitution that says that, if we have a three-way agreement and eight months down the road or six months down the road something changes, there's nothing that says you can, therefore, amend your budget, and this simply would be last year's budget, now becomes this year's budget and we're in the same position if it was a three-way agreement or it was imposed upon the April 1 budget.

SENATOR DOLLINGER: Again through you, Mr. President. So that doesn't necessarily agree that the budget would be done by April 1st, just means that the Governor's budget carries over. Isn't that pretty much what we do with the continuing resolutions every year that we've been here in the past?

SENATOR DeFRANCISCO: Absolutely not. There is a substantial difference, and the difference is that continuing resolutions we could do a one-weeker, we could do a two-monther; we could do a one-dayer. We could do all kinds

of different gimmicks which provides no assurances to anybody that there's going to be any funds coming week to week to week. At least for planning, for example, for school districts we know the April 1 budget is going to be the budget this year unless it's later amended, and I think it's a very, very, very substantial difference, and secondly, if one house, for example, says, Enough is enough, August 5th is plenty, I'm not coming back any more for any budget, there is a budget in place, April 1 budget from the prior year.

SENATOR DOLLINGER: Mr. President, on the -- on the amendment.

ACTING PRESIDENT MARCELLINO: Senator Dollinger, on the amendment.

I voted for this amendment last year; I'm going to vote for it again. I do believe it needs a little more clarity. I would define the phrase "entire budget" to specify exactly what's included in the budget package, whether it includes both appropriations and tax cuts. I think to use a phrase like "entire budget" which is probably, my guess is, Senator, different from the

phrase which is now used which is simply "budget", that's going to put the courts in a position where they're going to have to try to weed out what's actually affected by this amendment.

I would also put in a specific provision that says that the Legislature shall have the power, in the event that this amendment is triggered by the failure to arrive at an agreement by April 1st, that any subsequent time the budget may be amended by the Legislature in any way that it deems appropriate, to clarify that problem of what happens after April 1st, and I would also think that you have to include some language with respect to the tax cuts, because otherwise we're going to have a budget agreement which is defined as our budget, and we're going to have tax cuts that are triggered April 1st and we're going to immediately run into a deficit problem. You may have a surplus; you and I have both been fortunate to be here, I think the entire time we've been here there have been extra monies available, a wonderful thing for this state, a

wonderful thing for budgeters to have more money, but there are members in this chamber the year before we got here, couple of years before we got here who ran into a problem where there suddenly wasn't enough money and obligations that had to be paid and we had to substantially cut back some of those payments to school districts and do other things that disrupted communities and created the kind of uncertainty that our lack of budget agreement has also created.

So we end up with an impact on the state, whether we don't get the budget done on time or whether we do get it done on time and then run into a deficit situation later on in the year. I would be afraid because of the automatic triggering of the tax cuts that this amendment may run into a problem; so I would suggest in the negotiations with the other house if we get to that point, that a little more draftsmanship in defining the phrase "entire budget", defining what you mean by the tax cuts which, as you know, we've used multi-year approaches to the tax cuts, and then specify exactly what

happens when the Governor's budget is extended to give the Legislature -- make sure it's clear that the Legislature has the ability upon agreement of all the houses and the Governor, to go back, make the changes and even, if necessary, make them retroactive to April 1st.

Then I think you have a package which really does what the amendment tries to do. I'm voting for the concept, Mr. President. My hope is that Senator DeFrancisco will return to the drafting board and deal with some of these definitional questions, and that we'll end up with a better amendment which passes the Senate and the Assembly on two consecutive occasions and then goes to the voters.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Is there any other Senator wishing to be heard on this resolution? On the resolution, the Secretary will call the roll.

(The Secretary the roll.)

ACTING PRESIDENT MARCELLINO:

Senator Nozzolio to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, I rise in support of this excellent measure and congratulate its drafter, Senator DeFrancisco, because for years we have been fighting for this reform that establishes an on-time budget.

Passing this will eliminate the fiscal uncertainty and disruption that late budgets do cause across the state, to local governments, school districts and entities that rely on state aid.

We're doing the right thing at the right time and that this measure we hope will be sent to the Assembly and accepted because, frankly, we get nothing from them relative to real reform. This measure is a step towards that reform that will create stability in our fiscal situation.

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

ACTING PRESIDENT MARCELLINO: Read the results, please.

THE SECRETARY: Those recorded the in the negative are Senators Connor, Gold, Montgomery, Paterson and Smith. Ayes 50, nays 5.

ACTING PRESIDENT MARCELLINO: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to the order of motions and resolutions, and adopt the Resolution Calendar.

ACTING PRESIDENT MARCELLINO: Yes, we can, Senator. Return to the order of resolutions, and read the -- so we can adopt the Resolution Calendar. All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT MARCELLINO: Opposed nay.

Senator Dollinger.

SENATOR DOLLINGER: Can I have one of those resolutions excepted from that

approval vote? That's Resolution Number 2213. Just like to raise a question about that resolution, if I may. Resolution 2213 sponsored by, I believe, Senator Wright.

ACTING PRESIDENT MARCELLINO: Without objection, we can adopt the Resolution Calendar.

SENATOR BRUNO: Without objection.

ACTING PRESIDENT MARCELLINO: With the exception of Number 2213.

SENATOR DOLLINGER: Mr. President, I have just one objection to this proposal from Senator Wright and I don't know whether the Majority Leader or the Deputy Majority Leader would take a question. I notice Senator Wright is not in the chamber. It's purely a procedural question, Mr. President. There -- and I don't know whether this is in order or not.

ACTING PRESIDENT MARCELLINO: I don't think it is in order, Senator.

SENATOR DOLLINGER: I don't think it is either.

SENATOR MARKOWITZ: Mr.

President.

ACTING PRESIDENT MARCELLINO: Senator Markowitz.

SENATOR MARKOWITZ: I'd like to be recorded in the negative, please, on Senate 02430.

ACTING PRESIDENT MARCELLINO: Without objection, you'll be recorded in the negative.

Senator Dollinger, have you withdrawn that motion, then?

SENATOR DOLLINGER: No, because I think a motion to ask for an exception to a resolution on the Resolution Calendar is in order, and I would simply ask for an explanation from Senator Wright.

ACTING PRESIDENT MARCELLINO: All right. We will move the Resolution Calendar. The Resolution Calendar with that exception in place is adopted.

Senator Bruno.

SENATOR BRUNO: Is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: Yes. We have, Senator. Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Number 1800, by Senator Maltese.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, there being no further business to come before the Senate at this time, I would move that we stand adjourned until 3:00 p.m., on January 20th, that is next Tuesday; intervening days to be legislative days.

Thank you.

ACTING PRESIDENT MARCELLINO: On motion, the Senate stands adjourned until Tuesday, January 20th, at 3:00 p.m., intervening days to be legislative days.

(Whereupon at 4:18 p.m., the Senate adjourned.)