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ALBANY, NEW YORK

January 13, 1998

3:05 p.m.

REGULAR SESSION

SENATOR CARL L. MARCELLINO, Acting President

STEVEN M. BOGGESS, Secretary

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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.

1 Messages from the Assembly.

2 Messages from the Governor.

3 Reports of standing

4 committees.

5 Secretary will read.

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

11 ACTING PRESIDENT MARCELLINO:
12 Recognize Senator Lack.

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

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

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

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

5 ACTING PRESIDENT MARCELLINO:
6 The chair recognizes Senator Spano.

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

9 It's my pleasure to second the
10 nomination of Andrew P. O'Rourke as a judge in
11 the state Court of Claims and for anybody who
12 knows the, as we refer to him as the County
13 Executive Andy O'Rourke, or if anybody has
14 heard him speak publicly, you certainly know
15 that he's indeed impressive. Behind his
16 candor, behind his wit, behind his unique
17 sense of humor that he has, is a person whose
18 political ideology has truly underscored his
19 30 years that he's served the people of
20 Westchester county.

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

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

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

21 I second his nomination.

22 SENATOR GOLD: Mr. President.

23 ACTING PRESIDENT MARCELLINO:

24 Thank you, Senator.

25 Senator Leibell.

1 SENATOR LEIBELL: Thank you,
2 Mr. President.

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

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

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

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

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

3 SENATOR GOLD: Mr. President.

4 ACTING PRESIDENT MARCELLINO:

5 Thank you, Senator.

6 Senator Gold.

7 SENATOR GOLD: Yeah. Mr.

8 President, I wasn't too sure about this
9 nomination hearing his background, but when I
10 realize now that he's moved to this side of
11 the aisle, I'm a lot more comfortable and we
12 got a good view from this side of the aisle.

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

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

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

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

9 ACTING PRESIDENT MARCELLINO:
10 Senator Marchi.

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

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

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

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

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

9 ACTING PRESIDENT MARCELLINO:

10 Thank you, Senator Marchi.

11 Senator Larkin.

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

1 always willing to work with them and make
2 things happen.

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

11 Congratulations, Andy.

12 ACTING PRESIDENT MARCELLINO:

13 Thank you, Senator.

14 Any other Senator wishing to be
15 heard on the nomination?

16 Senator Dollinger.

17 SENATOR DOLLINGER: Thank you,
18 Mr. President.

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

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

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

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

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

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

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

3 ACTING PRESIDENT MARCELLINO:

4 Thank you, Senator.

5 Any other Senator wishing to be
6 heard on the issue?

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

12 (Response of "Aye.")

13 Opposed nay.

14 (There was no response.)

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

18 (Applause)

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

22 Secretary will read.

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

1 2088, by Senator Kuhl, an act
2 to amend the Agriculture and Markets Law.

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

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

9 ACTING PRESIDENT MARCELLINO:
10 Excuse me.

11 THE SECRETARY: Senate Print
12 75, with amendments, by Senator Levy -

13 ACTING PRESIDENT MARCELLINO:
14 Excuse me. Senator Bruno.

15 SENATOR BRUNO: Yes, Mr.
16 President.

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

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

23 SENATOR BRUNO: Thank you.

24 ACTING PRESIDENT MARCELLINO:
25 Rules Committee meeting immediately in Room

1 332. Secretary will continue to read.

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

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

8 308, by Senator Skelos, an act
9 to amend the Vehicle and Traffic law;

10 339, by Senator Skelos, an act
11 to amend the Education Law;

12 699, by Senator Velella, an act
13 to amend the Vehicle and Traffic law;

14 1659-A, by Senator Wright, an
15 act to amend the Vehicle and Traffic Law;

16 2969, by Senator DeFrancisco,
17 an act to amend the Navigation Law;

18 3812, by Senator Wright, an act
19 to amend the Alcoholic Beverage Control Law.

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

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

25 5942, by Senator Alesi, an act

1 to amend the General Business Law.

2 Senator Hannon, from the
3 Committee on Health, reports:

4 Senate Bill 336, by Senator
5 Skelos, an act to amend the Public Health Law;
6 1815, by Senator Farley, an act
7 to amend the Public Health Law;
8 5042, by Senator Hannon, an act
9 to amend the Public Health Law.

10 Senator Spano, from the
11 Committee on Labor, reports:

12 Senate Print 799, by Senator
13 Stafford, an act to amend the Labor Law;
14 1097, by Senator Lack, an act
15 to amend the Labor Law;
16 1417, by Senator Wright, an act
17 to amend the Workers' Compensation Law;
18 1560, by Senator Maltese, an
19 act to amend the Labor Law and the Penal Law;
20 2633, by Senator Spano, an act
21 to amend the Labor Law;
22 2842, by Senator Wright, an act
23 to amend the Workers' Compensation Law;
24 4143, by Senator Spano, an act
25 to amend the Workers' Compensation Law;

1 5986, by Senator Spano, an act
2 to amend the Labor Law.

3 Senator Maziarz, from the
4 Committee on Aging, reports:

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

8 2338, by Senator Farley, an act
9 to amend the Education Law.

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

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

15 303, with amendments, by
16 Senator LaValle, an act to amend the Education
17 Law;

18 3200-A, by Senator LaValle, an
19 act to amend the Education Law;

20 3201, by Senator LaValle, an
21 act to amend the Education Law;

22 4389-A, with amendments, by
23 Senator LaValle, an act to amend the Education
24 Law;

25 5592, by Senator LaValle, an

1 act to amend the Education Law.

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

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

6 557-A, by Senator Skelos, an
7 act to amend the Social Services Law;

8 1483, by Senator Spano, an act
9 to amend the Social Services Law;

10 3455, by Senator Saland, an act
11 to amend the Family Court Act;

12 4857, by Senator Saland, an act
13 to amend the Social Services Law;

14 5372-B, by Senator spano, an
15 act to amend the Social Services Law.

16 Senator Marcellino, from the
17 Committee on Environmental Conservation,
18 reports:

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

22 2369, by Senator Larkin, an act
23 to amend the Navigation Law;

24 4126, by Senator Marcellino, an
25 act to amend the Environmental Conservation

1 Law;

2 4127, by Senator Marcellino, an
3 act to amend the Environmental Conservation
4 Law.

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

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

10 4249, by Senator Stafford, an
11 act to amend the Tax Law;

12 5940, by Senator Volker, an act
13 to amend the Tax Law.

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

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

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

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

24 2469, with amendments, by
25 Senator Maltese, an act to amend the Social

1 Services Law;

2 4120-A, by Senator Holland, an
3 act to amend the Social Services Law.

4 All bills directly to third
5 reading.

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

9 Reports of select committees.
10 Communication and reports from
11 state officers.

12 Motions and resolutions.

13 Chair recognizes Senator
14 Bruno.

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

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

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

25 Senate Print 2430, by Senators

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

3 SENATOR BRUNO: Move to accept
4 the report.

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

9 (Response of "Aye.")

10 Opposed nay.

11 (There was no response.)

12 The the report is accepted.

13 Senator Bruno.

14 SENATOR BRUNO: Mr. President,
15 can we at this time take up Senate Number
16 2430.

17 ACTING PRESIDENT MARCELLINO:
18 Secretary will read.

19 THE SECRETARY: Calendar Number
20 74, by Senator DeFrancisco, Senate Print 2430,
21 concurrent resolution of the Senate and
22 Assembly, proposing amendments to Section 13,
23 14 and 16 of Article III and adding a new
24 section.

25 ACTING PRESIDENT MARCELLINO:

1 On the resolution, the Secretary will call the
2 roll.

3 (The Secretary called the
4 roll.)

5 ACTING PRESIDENT MARCELLINO:
6 Senator Paterson.

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

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

13 SENATOR DeFRANCISCO: Yes.
14 This is a bill that was passed last year 47 to
15 11, which would be -- which would require
16 second passage through another session, a
17 consecutive session of this legislative body,
18 and it would call for a procedure in state
19 government that will, I believe, lead to an
20 end of the budget process that's been broken
21 for the last 13 years.

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

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

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

1 last year.

2 SENATOR GOLD: Mr. President.

3 ACTING PRESIDENT MARCELLINO:
4 Senator Gold.

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

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

13 SENATOR BRUNO: Point of order,
14 Mr. President.

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

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

20 SENATOR GOLD: All right.

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

24 SENATOR GOLD: Yeah, Mr.
25 President.

1 ACTING PRESIDENT MARCELLINO:
2 Senator Gold.

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

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

14 SENATOR GOLD: Thank you.

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

19 SENATOR GOLD: Thank you very
20 much.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ACTING PRESIDENT MARCELLINO:
5 Senator DeFrancisco.

6 SENATOR DeFRANCISCO: Senator
7 Gold yield to a question?

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

10 SENATOR GOLD: If it's easy.

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

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

1 before.

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

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

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

11 SENATOR DOLLINGER: Yes, Mr.
12 President.

13 ACTING PRESIDENT MARCELLINO:
14 Senator Dollinger.

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

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

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

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

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

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

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

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

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

1 the right thing to do.

2 ACTING PRESIDENT MARCELLINO:

3 Any other Senator wish to be heard?

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

9 The vote is on the amendment.

10 All those in favor of Senator Gold's
11 resolution, signify by saying aye.

12 (Response of "Aye.")

13 Those opposed, respond by
14 saying nay.

15 (Response of "Nay.")

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

18 SENATOR DOLLINGER: We still on
19 the constitutional amendment?

20 ACTING PRESIDENT MARCELLINO:

21 Yes, we are, Senator.

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

25 ACTING PRESIDENT MARCELLINO:

1 Senator DeFrancisco, do you yield to a couple
2 questions?

3 SENATOR DeFRANCISCO: Yes.

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

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

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

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

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

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

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

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

15 Senator Bruno.

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

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

6 ACTING PRESIDENT MARCELLINO:

7 We can do that. We'll lay this bill aside
8 temporarily, Senator, and at your request and
9 move to the Resolution Calendar. The
10 Secretary will read the resolution in its
11 entirety.

12 THE SECRETARY: By Senator

13 Bruno, Legislative Resolution commending
14 Raymond C. Skuse upon the occasion of his
15 retirement after many years of dedicated
16 public service.

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

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

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

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

14 Raymond Skuse ran for state
15 Assembly in the 102nd Assembly District in
16 1968 and won.

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

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

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

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

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

1 united amalgam of communities.

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

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

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

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

22 ACTING PRESIDENT MARCELLINO:
23 Senator Bruno.

24 SENATOR BRUNO: Thank you, Mr.
25 President.

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

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

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

1 are what they should be, teachers are what
2 they should be, administrators are what they
3 should be.

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

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

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

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

9 Thank you, Mr. President.

10 ACTING PRESIDENT MARCELLINO:

11 Thank you, Senator Bruno.

12 Senator Connor.

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

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

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

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

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

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

1 interests.

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

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

14 ACTING PRESIDENT MARCELLINO:
15 Thank you, Senator.

16 Senator Padavan.

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

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

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

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

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

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

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

12 ACTING PRESIDENT MARCELLINO:

13 Thank you, Senator Padavan.

14 Senator Gold.

15 SENATOR GOLD: Thank you, Mr.
16 President.

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

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

3 I was elected to the Assembly
4 in early 1970, in a special election, so I had
5 an little time there with Ray, of course, as
6 it was pointed out, he left the Assembly after
7 1970, and that was one of the reasons, Ray, I
8 left the Assembly there in '71. I wasn't
9 going to serve if you weren't there. Didn't
10 make any sense.

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

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

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

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

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

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

13 ACTING PRESIDENT MARCELLINO:
14 Thank you, Senator Gold.

15 Senator Lachman.

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

1 finished first.

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

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

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

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

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

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

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

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

11 Thank you.

12 ACTING PRESIDENT MARCELLINO:

13 Thank you, Senator Lachman.

14 Senator Spano.

15 SENATOR SPANO: Thank you.

16 Thank you, Mr. President.

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

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

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

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

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

22 So, Ray, I wish you the best.

23 You know, it was just this week that we had
24 the sad opportunity to stand here and to talk
25 about our good friend and colleague, Mike

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

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

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

13 (Response of "Aye.")

14 Opposed nay.

15 (There was no response.)

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

22 (Applause).

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

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

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

9 Can we return now to the -
10 SENATOR BRUNO: Third reading
11 calendar, Mr. President, and Senator
12 DeFrancisco.

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

16 SENATOR BRUNO: And thank you.

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

20 SENATOR DOLLINGER: Thank you,
21 Mr. President.

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

24 THE SECRETARY: Calendar Number
25 74, by Senator DeFrancisco, Senate Print 2430,

1 concurrent resolution of the Senate and
2 Assembly.

3 ACTING PRESIDENT MARCELLINO:
4 Senator.

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

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

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

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

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

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

16 SENATOR DOLLINGER: Could you
17 just explain to me -

18 ACTING PRESIDENT MARCELLINO: He
19 yields, sir.

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

1 budget of the Governor?

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

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

25 SENATOR DeFRANCISCO: It

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

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

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

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

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

15 ACTING PRESIDENT MARCELLINO:
16 Senator Dollinger, on the amendment.

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

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

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

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

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

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

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

18 ACTING PRESIDENT MARCELLINO:

19 Thank you, Senator.

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

24 (The Secretary the roll.)

25 ACTING PRESIDENT MARCELLINO:

1 Senator Nozzolio to explain his vote.

2 SENATOR NOZZOLIO: Thank you,
3 Mr. President.

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

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

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

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

24 ACTING PRESIDENT MARCELLINO:
25 Read the results, please.

1 THE SECRETARY: Those recorded
2 the in the negative are Senators Connor, Gold,
3 Montgomery, Paterson and Smith. Ayes 50, nays
4 5.

5 ACTING PRESIDENT MARCELLINO:
6 The resolution is adopted.

7 Senator Bruno.

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

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

18 (Response of "Aye.")

19 SENATOR DOLLINGER: Mr.
20 President.

21 ACTING PRESIDENT MARCELLINO:
22 Opposed nay.

23 Senator Dollinger.

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

1 approval vote? That's Resolution Number
2 2213. Just like to raise a question about
3 that resolution, if I may. Resolution 2213
4 sponsored by, I believe, Senator Wright.

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

8 SENATOR BRUNO: Without
9 objection.

10 ACTING PRESIDENT MARCELLINO:
11 With the exception of Number 2213.

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

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

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

25 SENATOR MARKOWITZ: Mr.

1 President.

2 ACTING PRESIDENT MARCELLINO:

3 Senator Markowitz.

4 SENATOR MARKOWITZ: I'd like to
5 be recorded in the negative, please, on Senate
6 02430.

7 ACTING PRESIDENT MARCELLINO:

8 Without objection, you'll be recorded in the
9 negative.

10 Senator Dollinger, have you
11 withdrawn that motion, then?

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

17 ACTING PRESIDENT MARCELLINO:

18 All right. We will move the Resolution
19 Calendar. The Resolution Calendar with that
20 exception in place is adopted.

21 Senator Bruno.

22 SENATOR BRUNO: Is there any
23 housekeeping at the desk?

24 ACTING PRESIDENT MARCELLINO:

25 Yes. We have, Senator. Senator Maziarz.

1 SENATOR MAZIARZ: Thank you,
2 Mr. President.

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

8 ACTING PRESIDENT MARCELLINO:
9 So ordered.

10 Senator Bruno.

11 SENATOR BRUNO: Mr. President,
12 there being no further business to come before
13 the Senate at this time, I would move that we
14 stand adjourned until 3:00 p.m., on January
15 20th, that is next Tuesday; intervening days
16 to be legislative days.

17 Thank you.

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

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

24

25