NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 14, 2003

12:35 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

May I ask everyone to please rise and join me in the Pledge of Allegiance to the Flag.

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

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

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, January 13, the Senate met pursuant to adjournment. The Journal of Saturday, January 11, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Mr. President, I'd like to hand up the following leadership positions and ask that they be entered into the Journal.

ACTING PRESIDENT MEIER: They will be entered in the Journal.

Senator Bruno.

SENATOR BRUNO: And I would also hand up the following Majority committee assignments and ask that they be entered in the Journal.

ACTING PRESIDENT MEIER: The committee assignments will be entered in the Journal.

Senator Bruno.

SENATOR BRUNO: And, Mr. President, in consultation with Senator Paterson, the Minority Leader, we hand up the

following Minority leadership positions and ask that they be entered into the Journal.

ACTING PRESIDENT MEIER: They will be entered in the Journal.

Senator Bruno.

SENATOR BRUNO: Mr. President, in consultation with Senator Paterson, the Minority Leader, we hand up the Minority committee assignments and ask that they also be entered into the Journal.

ACTING PRESIDENT MEIER: They will be entered in the Journal also.

SENATOR BRUNO: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time adopt the Resolution Calendar.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the noncontroversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 1, by Senator Bruno, Senate Print Number 1, Concurrent Resolution of the Senate and Assembly, proposing amendments to Article 7 of the --

SENATOR ADA SMITH: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay it aside.

THE SECRETARY: Calendar Number 2, by Senator Bruno, Senate Print Number 2, an act to amend the State Finance Law --

SENATOR ADA SMITH: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the

bill aside.

Senator Bruno, that completes the noncontroversial calendar.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the controversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 1, by Senator Bruno, Senate Print Number 1, Concurrent Resolution of the Senate and Assembly proposing amendments to --

SENATOR ADA SMITH: Explanation, please.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, what we have before us in Senate 1 is to prioritize what we feel here in the Majority, as we present Senate 1, which is a budget reform package. It's the first of two bills. The second bill will deal with the mechanics of putting a budget in place if we fail to do

an on-time budget.

This is a priority here in this house. It's a priority for the people of this state. And what you will see in Senate 1 are the constitutional requirements to change the budget process here in this state.

And I would urge my colleagues to participate and to vote in favor. Because when we do Senate 1 and 2, we will be putting in place a fail-safe system to get a budget in place for the people of this state.

I don't have to tell you that we have had a late budget 18 years in a row. Eighteen years in a row the people of this state have waited until early August, some years, to have a budget. That is unacceptable. We are looking at huge deficits, ten to twelve billion dollars combined, 2003 and 2004. And we as elected officials have a responsibility to deal with getting the budget in place.

We in the Senate have passed budget reform before. You have joined -- both sides of the aisle have joined in budget reform in this house. We've sent the budget reform

packages to the Assembly. They have never acted on a substantial budget reform package.

This is our number-one priority. It's our number-two priority. There are a lot of other issues that we have to deal with, but this is number one, to start the process to get an on-time budget in place and, if we can, a budget.

The mechanics are these. The budget starts -- the process starts October. We ask that the state agencies, when they submit budget requests to the Governor, they also submit them to the Senate and to the Assembly. That kick-starts the process a couple of months early.

And the next thing that normally happens, we have to deal with Medicaid and what the Medicaid judgments are, the costs, and school aid. Those are the two largest parts of the budget. They comprise about $45 billion worth of a $90 billion budget. So we're asking in October that we get our arms around, collectively, those substantial items. We've got revenue that we start with, medical expenses, and school aid.

And then we ask the Governor to move his time frame from submitting a budget February 1st to January 15th. And we ask the Governor not to take a 30-day amendment period but a 15-day amendment period so that by the end of January the Legislature has the Governor's budget, the committees start meeting, we do all the public hearings, everything that normally takes place.

And the next operative thing would be -- and this is different -- by March 1st we have trouble agreeing on revenues, the Assembly, the Governor, and the Senate. In this reform package, we will mandate that if we can't agree by March 1st, we ask the Comptroller of this state, who is elected by the majority of the people in this state, to mandate a revenue number. And that would happen by March 5th.

We then take that number, meet in conference committees -- which we've all agreed, the Assembly and the Senate, to do -- you meet in public discussion on what is available for us to budget, starting March 15th. We publicly discuss, come to an

agreement on what's avail. Then those avails get assigned to the various conference committees that will meet in public and discuss the respective issues -- the Assembly, the Senate, with most of the members in the Legislature participating in that process.

If we can't agree in that public process -- this is different -- the fiscal year would move to May 1st. If by May 1st we can't come to an agreement between the two houses, last year's budget becomes the operative budget for the people of this state.

We have a budget; it will be last year's budget. We negotiated last year's budget between the two houses and the Governor, so that would become the budget of the people in this state until the Legislature agrees on a budget. And that, when passed and signed by the Governor, replaces the budget that gets put in place automatically by this reform package.

The other caveat would be that in a year like this, we have an $89.6 billion budget. The revenues aren't expected to be there; we're going to be about $10 billion

short. This reform package takes that into consideration, allows the Governor, through his executive power, to make adjustments to match the revenue with the expenditures, through the state agencies and as he sees it appropriately.

You all know that constitutionally we have to have a balanced budget in this state. That's how it gets balanced.

We also create a fiscal stabilization reserve fund where 5 percent of the revenues that flow, excluding bonding, excluding federal money, will go into a reserve for contingencies for emergencies. If we had that in place now, we'd have about $2.7 billion instead of about $700 million in reserve.

This also puts into place a fiscal responsibility program so that we project out the ramifications of what we do for three years.

So it's very comprehensive. It's well-thought-out. It's thought out because we first passed a package like this in '85, 1985. Seventeen years ago, this chamber, with

bipartisan support, passed a budget reform package.

So those are the highlights. There may be differences of opinion on what, when, how. We welcome those. This is a package that's been put together. This would work. I urge my colleagues here in this chamber to support it.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you. If the sponsor would yield for a question.

ACTING PRESIDENT MEIER: Senator Bruno, do you yield to a question?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Senator Bruno, Mr. President.

I certainly support budget reform. I think that everyone in this Legislature recognizes that what we have been doing and where we have been going is not getting us where we need to be. And I agree with Senator

Bruno that particularly in a year where we're facing such an extreme fiscal crisis, the importance of reevaluating how we have been approaching our budget is time -- it is the right time to be moving forward.

But I have some questions, so I think it's more than one question, about this specific proposal. One, I have a concern that under this model the Legislature is in fact simply taking itself out of the process and giving the Governor almost exclusive authority to move forward with an extender of the previous year's budget.

Because rather than increasing the incentive for us to get a budget done on time, which I agree is critically important, we are actually putting ourselves potentially in a default position where, because we don't get it done on time, we remove ourselves from the process and it simply becomes the authority of the Executive branch only to move forward with the budget.

So I suppose my question is how do we address the fact that we, yes, need to have a balanced budget on time, but I don't think

that this house or our colleagues in the Assembly want to remove ourselves from the process, and I don't think that's a good model for moving forward with budget reform.

SENATOR BRUNO: Thank you, Senator. And thanks for your support for the concept of budget reform and for your recognition that it's timely and necessary. Thank you.

We only take ourselves out of the process legislatively if we fail to do a budget by May 1st. And the incentive is there for us to do a budget by May 1st for those very reasons that you point out. You're absolutely right. But if the Governor is activated, we can, on May 3rd, on May 4th, on May 5th -- any time -- collectively put our acts together and send the Governor a budget. There's no prohibition.

So, Senator Krueger, we don't take ourselves out of the process, we simply create a date certain that a budget will go in place if we're able to agree by May 1st.

SENATOR LIZ KRUEGER: Mr. President, if the sponsor would continue to

yield.

ACTING PRESIDENT MEIER: Senator Bruno, do you continue to yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President and Senator Bruno.

So I think we do agree we want to move forward with a timely budget, an equitable budget. And under your analysis, we wouldn't be taking ourselves out of the process because the pressure would be on us to make sure that we stayed in the process.

You also tie in -- I know this is a very complex bill, so I'll try to keep it coherent. And you were very helpful in explaining all the details. You propose that the State Comptroller have an obligation by a certain date to set revenues if we have not done so. And certainly that has been part of the delay process for us year in and year out, what are the revenues that we have to work with.

I'm curious: Instead of the idea of the Comptroller signing off, or in supplement to, would you imagine a model where we use something such as the Congressional Budget Office, or what's been proposed in the Assembly bill, an independent budget office to assist us in making sure that we have nonpartisan, outside analysis of our revenue situation, so that we in fact are in good stead to move forward with the budget timely? And would you imagine tying that into this constitutional amendment?

SENATOR BRUNO: Yes, I can imagine that. And that's as good a suggestion as using the Comptroller.

Frankly, with the politics of the state, we thought that the Comptroller, being the Comptroller, elected by all the people here in the state -- the other group that you mention wouldn't be elected by the people of this state, not a representative of the people of this state. So we thought it would be more operative to go with the Comptroller. But that's as good a suggestion as any. And, you know, that became part of.

It's more cumbersome, it's more bureaucratic, it would be more expensive. As my colleagues are pointing out, we already pay the Comptroller. And, you know, he has all the information before him that he would need. And if he saw fit to reach out and consult with experts such as you describe, he'd be free to do that.

SENATOR LIZ KRUEGER: Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Bruno, do you continue to yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Senator Bruno, it sounds like we're actually agreeing on many points here today, including your last reference of the importance of ensuring that the people of New York, the people who elect us, have participation in this process, have an

opportunity to find out what is going into the budget proposal so that they have an opportunity to address us, their elected officials, to ensure that we are taking into account the needs of our communities when we're evaluating our budget.

And in that light, I was curious why we don't include in budget reform, or the proposal before us, the idea that we actually have to provide specific details in a more clarified way in the context of budget reform.

There's been much discussion in the state of New York that budget reform should include a more detailed line-by-line budget analysis of expenditures and revenues in advance that is made available to the public, that gives the public the opportunity to feed in their concerns, their analysis. And also that we have formal budget conference committees that actually, piece by piece, over a reasonable period of time -- but certainly more than the one day we traditionally have given to the budget -- ensure that we have an opportunity to discuss as a house, with our colleagues in the Assembly, and with the

public the details of the budget.

So since we do seem to be in agreement on so many things here today, I was wondering whether I could also make the recommendation that this kind of resolution going forward, or technically a constitutional amendment, would include obligations for timelines for dual-house budget conferences, bill by bill within the budget, with public participation.

SENATOR BRUNO: Yes. And that's an excellent suggestion. Some of what you are suggesting I believe is incorporated. And the other things she's talking about all make sense.

The Governor details -- but you're pointing out that it's late. We're talking about moving that process into October, where the agencies now send most of their information to the budget office of the Governor. We are saying in this reform package that at the same time they send it to him, they send it to the Senate and to the Assembly. That then becomes public information as to what the requests are. And

we also talk in this package about the revenue as it's flowing in. That will all be public information.

So I think we're pretty well saying the same things. And you're talking about a little more detail, and we're certainly open to that.

SENATOR LIZ KRUEGER: Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Bruno, do you yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President, Senator Bruno.

My, my, it's a new year for us both. We're agreeing on so many things here today. So I'll continue with an additional suggestion for budget reform, particularly if we're going down the road of amending our constitution.

We take a great deal of money out

of our state budget, or off-budget each year, and we put them into authorities. We put them into the Empire State Development Corporation, the Dormitory Authority, the New York State Mortgage Agency, the Housing Finance Agency, the Battery Park City Authority, the Environmental Facilities Corporation, Long Island Power Authority, Energy Research and Development Authority. I'm sure there are more, but I think you get the idea.

In your proposal you say that under this analysis we will earlier in the year have evaluations of where we project we're going in expenditures. You talked about Medicare and education and revenue projections. I have a concern as a new legislator that each year in the budget large sums of money get voted once a year into these authorities and then we never report back to the Legislature or the people of New York how those monies were spent or if those monies were spent.

And that in a world of shrinking resources and not adequate resources, Mr. President, to address all the needs of the State of New York, that in the context of

budget reform we should also require that there be annual reports of the dollars that have gone into those authorities -- whether they have been spent, how they've been spent, or whether they should be reevaluated for the continued use of those monies that were allocated in previous years.

So I was wondering whether I could also make that recommendation and see how you felt about that idea in budget reform.

SENATOR BRUNO: Mr. President, I can't believe how agreeable we all are here. Maybe we'd better quit while we're ahead.

(Laughter.)

SENATOR BRUNO: But all of the things that you're talking about, Senator, just make good sense, all of them.

And I share with you that many of the authorities -- and there are billions of dollars that flow through the authorities of this state -- we hold accountable. The state money that gets appropriated to authorities goes through the legislative process to the Governor as part of our budget, for the state revenues.

Many of the authorities generate their own funds -- through tolls, fines, you name it. Grants. Most of those authorities, by law, report now to the Legislature and to the Governor.

But I think it's a good suggestion that we review all of the authorities and, if any of them don't report at least annually to us, that we should incorporate that they do. That's totally valid and appropriate.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if I could ask the sponsor to yield to an additional question.

ACTING PRESIDENT MEIER: Senator Bruno, do you continue to yield?

SENATOR BRUNO: Yes, Mr. President. I may run out of answers.

(Laughter.)

SENATOR LIZ KRUEGER: You're answering very well, Senator Bruno. I don't think you'll run out of answers.

Since we do seem to agree on so many of the suggestions I'm making as to how we should approach budget reform in the state of New York, I'll go back to my earliest

concern that in fact in the absence of -- failing to take the other steps that I think I am recommending today, and that I think others here might agree on, that if we just go forward with a default budget option for the Governor without mandating into budget reform specific requirements on ourselves for the process, that we will find ourselves trapped in a situation where we end up with default budgets or, in the analysis you described, in a bad fiscal year with default budgets with across-the-board cuts.

And so I wonder whether in fact you would consider, before moving forward down the road in both houses, including specifically in your legislation these other recommendations -- and I have more, but I won't spend all of our time on this today -- to reevaluate this proposal, which I understand has been put out there for quite a few years, I think you said starting in 1985.

That rather than simply going forward with the same proposal, that we really do take the opportunity of this year -- bad fiscal situation, new session, new third term

of the Governor -- to do an across-the-board look at how we could improve the budget process, rather than moving forward with this bill, which historically would end up being a one-house bill.

And I would love to see us really move forward with a complete reform of our budget process, because I think the people of New York want it from us and I think we can do better and should do better. So I'm hoping that you might consider reevaluating some of the materials you have in your bill today.

SENATOR BRUNO: Mr. President, the bill that's before us now really pertains to more the constitutional changes that are required that we give first passage to.

And the questions that you're asking don't really pertain to Senate 1. They're more germane to Senate 2.

But I think, and in all fairness, this bill, these bills are thick and wordy. And there's no way that you could have gone through all of the language in these bills unless you were up, as I was, all night. I know Senator Paterson was too, because we were

talking.

Was that last night, Dave, about 3:00 in the morning?

But, Senator, most of your recommendations are incorporated in the language -- most of them, not all of them. So I would recommend that we move forward with passage.

And you're right, presently it's a one-house -- these are one-house bills. I'm hopeful that the Assembly will see fit to join us in whatever modifications they think are warranted and valid, and then we'll either conference or we'll accept. But we'll certainly discuss.

And, Senator, you're absolutely right in that this is not a partisan issue. This is nonpolitical. All of the people of this state deserve an on-time budget. We do it collectively and together. And there's no question the suggestions that you make could make good bills better bills.

SENATOR LIZ KRUEGER: Thank you, Senator. Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator

Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

I'd like to thank our leader in stepping up. The first message that we are delivering, the Senate, in 2003 is budget reform. And why is that the first message? Because this is probably the worst budget fiscal crisis we are facing in the last 40 years: Post-9/11, poor economy, Wall Street performing lousy.

We are in a fiscal bind, and there's no room for political shenanigans. We talk of bipartisanship, we talk of unity, we talk of facing stiff challenges and getting it done. Okay?

Now, 18 years we have not had an on-time budget. Why is that? We've had a Democratic Governor, we've had a Democratic Assembly, we've had a Republican Senate. Now we have a Republican Governor, a Republican Senate, and a Democratic Assembly. That axis of three, of power, they use the budget as a weapon of extortion.

What do I mean by that? If the

Assembly wants to raise taxes, if they want to increase spending, do they want a budget come April 1? No way. They don't care if we're all stained. They don't care if the media beats us up. And you know the media beats each and every one up for not having a timely budget.

There's no statutory mechanism to make it work. There is none. And that minority house power -- in this case, the Democratic Assembly leadership -- they don't want to give up their weapon. That's the reason we can't get on-time budgets.

Accountability, public be damned, we'll take the media hits. And when you ask individual legislators, well, it requires an April 1st budget, what do they say? It's better to have a better budget than a late budget. Remember? What does "better" mean? Better means more spending, maybe more taxes for their particular -- whether it's the metropolitan area or what.

This has been going on now since I've been here, for 13 years. And really, when the people asked us to be their voice,

they asked us to run our fiscal affairs like they do. When they have a household, come the first of the month they got to pay the mortgage. They got to pay their taxes when they come due.

They say: Why can't you function in government like we have to function our household? Because we cannot get the other house to pass legislation that would be a statutory trigger in the event that we cannot legislate and agree amongst ourselves.

So that's what our leader has done. He has said we're beyond that now, we want to be accountable.

And where is the good faith? We have a Democratic Comptroller. We say let the Democratic Comptroller determine revenue forecasts. This is what the Senate Republican leadership is saying. The people voted the Comptroller, who deals with the numbers all the time, deals with fiscal consultants, deals with analysts and economists.

No, they don't want to give up the weapon of extortion in passing a budget.

And the other problem where we're

dysfunctional, when things are slower in the beginning of the year, we could be working on legislation. But there's distrust, there's distrust among the leadership. So all the legislation backs up, and it's leveraged to the budget. It's like a big dam.

So when this budget gets passed, whether it's at the end of June, tied into rent control, or we go into the summer months, we'll stay here two weeks after the budget is done and do 1500 bills and stay on this floor 10 to 15 hours and pass bills, of which many of us are numb after a while.

That's the way this culture is that I have seen for 13 years. And I can remember being on the Assembly floor as a minority member 27½ hours after the dam broke of the budget tie-in -- and I say "dam," D-A-M. That's how we work.

And what's going to change that? Because it's a matter of respect and compromise and trust with leaders. And I say as long as we don't have that trust and we don't have that respect, we are never going to have legislation for an on-time budget.

And I will say in conclusion that the Senate, in my humble opinion, can do nothing, can do no more or take no stronger action constitutionally to pass budget reform legislation. And the Assembly can take no weaker action constitutionally than to do nothing, which they have done for ten years.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: For his maiden speech, Senator Robach.

SENATOR ROBACH: Yes, Mr. President, on this legislation.

I feel compelled, because of the importance of this, to really say that it's right for us to champion these efforts. Coming from the other house, there's no question that the ideas of open and timely budget process is critically imperative to everyone in New York State, whether you're upstate or you're downstate. It is not only good public policy, it is dramatically needed and something we need to do.

And lastly, I say, one thing we all have a commonality on, we like to view ourselves as populists in being responsive to

our districts. This is something that people everywhere in this state will applaud if we can really make substantial changes.

There is no question we are in challenging times. But from challenges come opportunities. And this is the time that we need to move forward not only with S1, but S2, the ideas of joint conference committees. The idea of using the Comptroller's revenue estimate certainly cannot be pointed by anyone as something politically partisan. It's just good public policy. It's common sense.

And I don't have to tell everyone in this chamber. You know it's coming. I tried to champion this issue for ten years. But now we have a group called New Yorkers for an On-Time Budget. They're not just people in upstate New York, they're in upstate, they're in downstate, they're school districts, they're school employees, they're not-for-profit agencies, they're good government groups that want us to act.

And I'll leave you with this. Not only should we support this legislation all across the board, but we should all work to

make sure that these measures get through the entire Legislature. And it will be a memorable day of a tough, challenging time where something good was done. I encourage a yes vote on not only S1 but S2.

Thank you.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

This is a very exciting day, and it's exciting for several reasons. I think probably one of the most personally satisfying things that I can experience today is the fact that we have a conciliatory tone and we have true leadership coming from this chamber, leadership not just for this chamber but leadership for the entire state.

What better way for us to face the fiscal challenge of 2003 than to begin by cleaning up our own act. What better way than by establishing for the Assembly a standard that both houses of the Legislature should follow.

And the unanimity with which we are

hearing debate on the other side of the aisle is indeed heartening. This is another sign of the new leadership of Senator Paterson. The warm support coming from Senator Krueger is to be noted.

This is a time for all members of this chamber to use whatever power they have. And indeed, our power is great and varied in many ways. Not only are we elected to vote in this chamber, we are elected to lead in our own districts. And what better way for our counterparts on the other side of the aisle to lead in their own districts than by carrying the message to their fellow members of the Legislature who serve in the other house about how important it is that we enact these budget reforms today.

We have tried. Since 1985, under Senator Bruno's leadership -- and I remember well, Senator, when you introduced measures like that, because I can remember the conversations you and I had then across the aisle, back when I was sitting I believe where Senator Stavisky sits right now. I remember breaking ranks on many, many occasions because

it was the right thing to do. I liked what I heard, I knew what we needed a change, I understood what my constituents wanted.

And now there is an opportunity for people on both sides of the aisle in both houses to say our constituents in this state individually and collectively want meaningful budget reform, and they want it now. We can't afford to wait. This is a crisis of confidence for New York State.

And lest any of us forget that, I would be happy to pull out a few newspaper clippings that show Standard & Poor's and Moody's downgrading the bond ratings of this state and listing as the reason for those downgradings the lack of an on-time budget.

If we are going stimulate the economy of this state, we must do it by keeping the jobs that we have, by encouraging people who are investing in New York State to invest more. We must tell them that we understand sound business practices; we must demonstrate sound business practices ourselves.

And to the school districts around

the state who have already begun their annual trip into the Capitol, let us allow these people to educate and not force them to become professional lobbyists. I was embarrassed yesterday to begin my legislative session with my very first constituent meeting with several superintendents. They've reorganized; they have a little bit more structure. One of them is now elected to a position that in effect means he's the chief spokesperson for the pain they all fear. And his job will bring him here to the Capitol as often as necessary with the latest updates on teachers they are forced to lay off, classroom expansion that is already put on hold, overcrowding that they can't address.

If this is happening in upstate New York, in Madison, Oneida, Onondaga, and Cayuga County, surely it happens in New York City too. And I would hope that the Speaker realizes that we cannot be fair to these school districts if they can't put their budgets together because they don't know what the state budget is.

Yes, rent control is important to

New York City. And I don't think anybody here would be cavalier and say that we don't want to address it. We will address it. We have before. But this is not the time to raise that.

There are issues that are important to upstate New York, to an entire industry that is often misunderstood and sometimes maligned by the other house. But I won't bring up an issue like the Dairy Compact and expect action on it prior to passage of a budget, because the budget is our first priority and budget reform must happen now.

And I would ask the members of the Fourth Estate, the esteemed members of the press who work so hard to cover our activities here, to please be fair and please convey accurately and consistently the actions of these two houses of the Legislature. Nobody likes to see stereotypical tarring with the same brush of any class of people, whether it is by gender or by economics or by ethnic background or racial background.

When someone says "all you people," we're all offended as Americans. That is

wrong. That's not the way we talk in an intelligent, educated society. We treat people with dignity, and we acknowledge their differences.

Well, my friends, there is a difference here between these two houses of the Legislature. The Senate is prepared to do a budget. We have attempted before, we have tried to meet openly, we have invited the other house to meet. And this year we are passing as our first two pieces of legislation budget reform.

Now it is up to the Assembly to do the same. Let the people of this state understand the distinction and apply the pressure where it is most appropriate and where it is most needed.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Thank you, Mr. President. I will be brief.

In the spirit of overwhelming bipartisanship here, I want to address some of the comments made by Senator Bonacic regarding

the fact that this bill will take a weapon away from whichever of the leaders is the outsider in terms of party, if you have a -- in this case we have a Republican Governor, a Republican Senate, and a Democratic Assembly.

My concern is that this bill would in fact give a massive weapon to the governor, whatever party that governor belongs to, taking power away from us as a Legislature and transferring it to the governor. And I would urge you, in the spirit of bipartisanship -- I mean, maybe things will work out statewide in four years, but maybe they won't and we'll have a Democratic governor. This would be a massive transfer of power.

It also -- and this is a very critical point, and I think this can be addressed, Senator Bruno, I would urge, in a modification of this bill, if perhaps it doesn't become law this year, for next year.

Something that is very, very troubling about this is if we make a multiyear commitment, as we did in the Education Law, to prekindergarten programs, to expand them, expand the funding over a multiyear period,

this bill would prevent programs from receiving funding that we promised them in another area of law, because it would lock us in at the previous year's level.

So in my district we have prekindergarten programs who we promised in the Education Law would receive twice as much money in Year Two as in Year One. This bill would create chaos because they will act, as they should, on our word in the Legislature that we're going to expand the funding, and this bill would eliminate our ability to do that.

This is a flaw I believe that can be corrected. I hope that in -- I just have this feeling that maybe this won't become law this year. And I would hope that perhaps in next year's version we can address this.

And I do think it is good for us to start the year with this critical issue, and to try and move things along. We need the Governor and the Assembly to participate. And I think that it is not going to move forward on the basis that we can't provide additional funding which we've already promised. I would

urge that correction.

And I would also urge that we're not going to make this process better by strengthening the hand of the Governor at the expense of the Legislature.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: Thank you very much, Mr. President.

As I start my 25th year, I look back to my first few years here -- in the Assembly, in those days -- and we used to do three budgets. We did the regular budget we did, finished it in April. Before we went home in June, we did a supplemental. And in December we'd always come back and we'd always blame the MTA.

And I remember Senator Bruno saying back then to colleagues of mine in the Assembly: Let's start blaming ourselves.

And we blamed the MTA, and in December we'd come back and we did a deficit budget. And that's the way it was until 1983, when we said we'll only have one budget.

And that sounds excellent. But, you know, we've been passing the word around here about we ought to change this and we ought to change that. You know what you're really saying on this side of the aisle, in the other house, is "We don't really want to change."

I have members of the Assembly Democrats from my district area who say a late budget is better than an on-time budget. Well, go tell somebody who's owed money that you're not going to pay him because, you know, it's not just good policy.

But, you know, here's two pieces of paper. And I might suggest that those of you who think this is a bad idea, you ought to go and read them. There is Section 107 of the Town Law, and it tells the contents of what a preliminary budget is. Having been a town supervisor, and elected in 1975, when the town board did not adopt a budget.

And if you then look over at Section 109 of the Town Law, it says that with the exception of Westchester County, every town -- there are 935 towns -- must have this

budget adopted by the 20th of November or it's the final passage of the budget that was preliminary.

Somebody will say: Well, what does preliminary mean? There's the Comptroller's rule of what a preliminary budget for a town must include.

So we're going to tell 935 towns that you must do this by November the 20th or you will be satellited with the budget that you prepared in compliance with the comptroller. And you the supervisor gave it to the town clerk and the town board reviewed it in September, and in November you didn't adopt it.

Ladies and gentlemen, I'm telling you, I experienced it. All the people in my town were told we're getting a 28-cent-per-thousand tax. Great PR for campaigning. But when the tax bills went out in December, they were an 82-cents-a-thousand increase, and the budget had not been adopted. And I was satellited.

So if we can put this into Town Law and say you must do it, 935 towns, then why

can't we at the state say, as Senator Bruno clearly lined out for us, what we should and shouldn't do?

Now, if you want to go back to some of you who were here a few years ago, about 1998 or 1999, when we had a meeting in the Red Room -- the Governor, Senator Bruno, a bunch of my colleagues came here. The Speaker -- and it was in the paper, the Speaker was invited, and the Comptroller invited, because there were some ideas that we have enunciated here already today. And they were both asked.

Here is an opportunity for you to stand with us and say the bill that we proposed you've looked at and here's what I like and here's what I don't like. And here we are five, six years later, and they still don't like it, but they haven't submitted anything.

Now, I don't know about you in New York City, but I have 30 towns, and I go to them and the first thing out of their mouth: When are you going to get an on-time budget? Two Chambers of Commerce this morning: priorities, get an on-time budget.

We've forced the towns to do it, we've forced the villages to do it, we've forced the counties to do it, and we force our school districts. Are we showing any leadership when we start to say, well, if you add a little sugar and maybe some berries and then some cream and you stir it up, it will smell better, it will taste better?

Ladies and gentlemen, unless you want to do this and do it right, you're not going to do anything. You're going to be here for as long as you'll be here and you'll be saying the same thing.

And you know what? And I'm not trying to be smart. I served 23 years in the Army with combat units. You know what it's called? Lack of courage, lack of leadership.

We have the leadership here. We have the will to do it. Will you be with the people you were sent here to represent, or will you take a stand of saying "I just don't want to do it"?

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: The Legislature makes laws. And all those laws have to comply with the Constitution of the State of New York. It seems to me if we have the responsibility of making laws, we ought to have the responsibility of following the laws and doing what the laws say we're supposed to do.

I'm sure every one of us, no matter what political party we belong to, is totally embarrassed by the process. It's embarrassing to go home to the district and hear people treat us as if we are not good, we'll put it that way, people that can't do their job.

And every newspaper around the state has editorialized one time or another about the Legislature. We're all lumped up. Everybody is bad because we can't do our job.

Now, what's really important here is the Senate has a set of bills. They may not be the greatest. Some Minority members may have better ideas. The fact is, in good faith, year after year after year, we go through this. And there's always a criticism of the bill.

Senator Schneiderman mentioned it will give the Governor too much power. It will only give the Governor too much power if we don't pass the budget on time. If you don't have a club over somebody's head in the Legislature, there's no reason not to continue on over and over with the same process.

So I have just a couple of suggestions. If we don't want to go through the embarrassment, if we don't want to go through the inconvenience year after year of not knowing when it's going to be over, then we all have a responsibility to try to get it done.

Last year Senator Bruno had the open meetings, invited Mr. Silver, Speaker Silver to come over, start the process. It didn't work. All papers around the state editorialized: Mr. Silver, come to the meetings, let's start doing this process.

Well, all of us have a responsibility, and that includes everyone here, to go to the people that they feel comfortable with, that this is the year, let's get some realistic measure that we can both

agree on. We no longer want to be embarrassed, we no longer want to be inconvenienced over it year after year after year. And that includes the media as well.

As Senator Hoffmann mentioned -- and I think it's a very, very important point -- the first editorial in our papers in Syracuse was the Legislature, the ineffective Legislature. Well, if you're going to keep painting everyone with that same brush, there is no pressure whatsoever for the Assembly to do anything. Because the average person doesn't understand the workings of the Legislature.

And it's incumbent, I think, on the media to explain year after year that we've presented these bills, no alternatives presented in the Assembly, let alone negotiations. And it's about time that we made certain that there were alternatives and so we could work out this problem once and for all.

And it is incumbent on all of us to play our part. And hopefully, hopefully this year we'll take this issue seriously and be

respected for not only making the laws but following the laws as well.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President. I'd like to speak to the bill.

I'm not going to lecture anyone in this chamber. I think we all stand together for reform. We all have some individual ideas how that may come about. But I think what's important to note is that in this chamber we are allowed to address the issue. In this chamber, both Majority and Minority are allowed to speak on it and to vote on it.

And I don't know that this is the final version we'll ever see. Last year we passed a series of these bills, two of which I sponsored but were not taken up in the Assembly. It seems to me that we'll pass these bills today and they will go to the Assembly.

And I believe these bills really say to the Assembly we're ready to do business on budget reform, send us your proposals, let us see what your ideas are. Maybe we can

conference. Maybe we can come to an agreement. Maybe we can amend. Maybe we can get reform. Maybe we can take everyone's opinion into account.

So I'm speaking to the bill, not to my colleagues in any sense of a lecture. I urge everyone in this hall, in this chamber to vote for this bill.

As to the gubernatorial powers that we may be giving or some people feel that we're giving to the Governor, let me remind you, as Senator Larkin stated, I served at the county level for many years. In a county -- in most counties, all counties in this state, a budget is prepared, where there's an executive, by his staff, and submitted to the legislature. If the county legislature does not act and vote on that budget by a certain date, I think it's usually about December 6th or thereabouts, then the original submission of the executive becomes law.

I don't know of any case in the State of New York where that really occurred. I've seen legislatures work till 5 o'clock in the morning -- and I was on one of those -- to

make the deadline, to come to accord, to make an agreement. Not everyone was happy, not everyone was angry, but we had done our job.

And I think the specter of giving the control back to the Governor would incent us to do what has to be done.

In those counties that don't have a county executive, it's even more concerning because it's put together by a budget officer who's elected by no one. And if the legislature can't adopt his budget by a certain date, then the nonelected bureaucratic budget is put into place. Not to be amended later, but put in place.

So I'm delighted that we have these bills. And I think the other message is they're the first two items of business that we're dealing with this year. And even in the best of times, when we had all sorts of money -- really there was never enough, but we had a whole lot more than we have today. But even in those years -- good years, lean years -- the budget process always was broken or derailed for other purposes.

Yes, it's important to do this,

especially this year because of what we face. But I think it's important for every year from here on out. So I'm delighted and proud that my leader has put forth these two as our first priority to tell the Assembly we mean to do business.

Send us your thoughts, Mr. Speaker, send us your thoughts so that we can review those and perhaps before this session ends, before we get to the budget process, we can have some budget reform, meaningful budget reform in place.

Thank you very much, Mr. President.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: I'll explain my vote. I defer to explain my vote.

ACTING PRESIDENT MEIER: Thank you, Senator Montgomery.

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President. I just want to make a couple of brief comments.

After serving 16 years in the Assembly, many people might suspect that the

greatest frustration you have is being in the minority. In reality, the greatest frustration that I experienced in being in the Assembly was a lack of timeliness and a lack of getting our work done in a timely fashion and frankly serving the people's interests in this state in a way that they should readily expect and be accustomed to. But unfortunately that's not the case.

And I would point out one very stark and simple difference, but it's profound, between the Senate and the Assembly. It's not the legislation. The thing that I noticed today is that the leader of the Senate, Senator Bruno, actually engages in debate. That's something you don't see in the Assembly. The leader is here and can enter into a colloquy with anyone in this house and exchange ideas and have suggestions and comments. And, frankly, I find that to be a very welcome change.

And it also underscores the fact that the Senate is actively doing business already. I am very happy that this is the number-one priority. I'm very happy that

budget reform is something that's being discussed in a meaningful way.

And it also points out that if you look over to the Assembly, that the committees are not formed yet. I mean, I sat through years of fiscal hearings as the ranking Republican on the Ways and Means Committee, and right now, while we all suspect and we all probably assume that Chairman Farrell will be the chairman of the Ways and Means Committee, those assignments haven't been made. So they can't engage in this type of debate at this stage of the game, because they don't know what their assignments are going to be.

And I can tell you that I was largely responsible for offering our suggestions and our comments for the Assembly Republicans for the last number of years, and offered suggestions on the floor -- in fact, even offered bills on the floor which were routinely voted down. And the most amazing thing is, of course, not that they were voted down but that there was never an alternative offered.

There was never any reform

proposal, whether it was a constitutional amendment or a statutory change or a call for conference committees, there was never anything offered by the Assembly Majority. And they didn't even seem to be embarrassed or shy about the fact that that wasn't taking place.

And one thing that I think in relation to the comments made about the power of the Governor, there was also some discussion and debate on a general level about the power of the Comptroller. There were some who were very concerned, saying that if the Legislature didn't come up with a revenue forecast, then all of a sudden the New York State Comptroller would have unbridled power, that the Comptroller would be the one to set the actual revenue figures for the State of New York.

Well, as Senator DeFrancisco said, the Governor would have no power if we do our job, and the Comptroller will have no power if the Legislature acts in unison and in cooperation and does its job.

I think this is a wonderful thing.

I would consider this to be a very productive session if we were able to pass reform like this. And I hope that we can pass our budget on time. This is a great start.

Thank you.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, can we call the roll on this resolution. We have two members, Senators Stavisky and Duane, who have planes to catch.

You have a plane to catch, Senator Oppenheimer?

All of us are anxious to get on our way. But if you've got reasons for leaving, you can vote now, including Senator Oppenheimer, and then we'll return to the discussion on this resolution.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: On the resolution, the Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: All right, the roll call is withdrawn then.

SENATOR BRUNO: Thank you, Mr.

President.

ACTING PRESIDENT MEIER: Thank you, Senator Bruno.

Senator Diaz.

SENATOR DIAZ: Mr. President, will the sponsor yield for a question?

ACTING PRESIDENT MEIER: Senator Bruno, do you yield for a question from Senator Diaz?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DIAZ: Thank you.

I am representing a very poor neighborhood. And I see every year that there are many groups in my community that receive money from the state budget. When the state budget doesn't come in time, there are families that have to go through three and four months without paying their bills, without paying their rent, without having the money to supply their needs.

Question. If we don't agree on a budget and the Governor instituted to continue

with the old budget, would the families on the programs in my community, would they continue receiving the money without stopping?

SENATOR BRUNO: The answer, Mr. President, is yes. Because those communities that are receiving dollars are receiving them from the authority of the budget that we've all passed. So that would continue until a new budget gets put in place. So yes.

SENATOR DIAZ: Mr. President, would the sponsor yield for another question?

ACTING PRESIDENT MEIER: Senator Bruno, do you yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DIAZ: Senator Schneiderman said that this is a dangerous thing because if you promise something to a community group for a kindergarten or education, if the Governor established to continue with the old budget, that those groups will lose their money.

Would they lose their money, or

they would get the money when the budget is approved?

SENATOR BRUNO: The Governor could, in his prerogative, withhold funds. But our experience has been that if it's of a necessity with the people who are disadvantaged, that those dollars usually are prioritized in use of the flow. The only way that that would change is if we then do a new budget and the numbers are different.

So there's as much protection -- and that's really the intent, that the normal flow take place for all of these agencies that are out there -- for school districts, for hospitals, for nursing homes -- uninterrupted.

SENATOR DIAZ: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

First I'd like to thank the Majority Leader for his leadership and for his fortitude on this issue. This legislation has been put forth for 17 out of past 18 years.

One could get a bit cynical, as we heard from one of my colleagues on the other side of the aisle, that we're putting this forward just to get a little bit of press and a little bit of publicity at the opening day.

I don't take it that way. I think we have a priority here. And I think the most important priority that this house has is to fix, once and for all, a dysfunctional system, a system that does not allow us to get an on-time budget the way we are supposed to according to the constitution.

Senator DeFrancisco was correct. We write the laws, we ought to abide by the laws. The law says we have to have an on-time budget, we should have one. We need a system of carrot and stick to get the system in.

This may not be the best proposal in the world. However, it is the best one on the table. And if the other house has a better one, put it out there. For 17 out of the past 18 years, there hasn't even been a murmur from the other house. Nothing has come forward. No alternative, no issues.

I noted that three Senators who

already voted voted no. Voted no on what? They're not in favor of reforming a system that doesn't work? They want to keep the statute quo? I don't think so. I don't think anybody seriously here does.

This system has to change. Senator Bruno has put forth a challenge to the other house. He's put forth a challenge to the leadership of the other house: Come to the table and talk. We're already there. We have been there. We want to go there.

I want to address the Superfund. I want to address comprehensive brownfields legislation. I want to address the Rockefeller Drug Laws and, yes, even rent control and other issues of concern. And the Dairy Compact. I want to address a whole host of other issues. None of them can go forward seriously until we have comprehensive budget reform. Every one of these issues requires money. You can't allocate that money unless we have the process reformed.

I'm not worried about giving up some power to the governor because, as was said before, he only gets it if we don't

function. I'm not worried about giving up power to the comptroller, whichever party the comptroller is in. He's an elected official -- or she, as the case may be. An elected official. They'll exercise their duty. And it only happens if we don't function here.

And there is no excuse for not functioning here. We have an obligation, as my colleague Senator Flanagan said, an obligation to our constituents to get the job done. We're sent here to do a budget and other meaningful legislation. Everything else gets held up until we get this budget process done. How can we go home when in a few weeks -- or days, who knows -- we could have troops at war in a foreign country. Men and women serving this country could be fighting and dying on foreign soil and we're arguing over who is going to set a budget proposal.

There are, I would suggest to you, ladies and gentlemen, much bigger issues on the table of this nation and this state. And our constituents have a right to expect that we address the budget. That's the least we

can do. Our school districts need it, the cities need it, the villages need it, the rural areas need it, the suburbs need it, everybody needs an on-time budget.

Senator Bruno has offered an alternative. He's offered a process. I should think we would all support the process, get it on the table. If the other house has an alternative, put it on the table. We can meet in conference and for once and for all address the system and get on with our business in a timely way.

Ladies and gentlemen, I urge, I urge that we support this legislation so that this house and this Legislature can move forward to do the people's business.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President. I just want to speak briefly on this legislation.

As I'm reading this, to some of my colleagues who have talked about us needing to have an earlier date, I just remember that the

Governor did give us a budget, I believe, one year in December. And I don't think that we had an earlier budget, despite the fact that we received that budget early, because there was not an agreement between the three people who generally end up doing the budget.

So I'm not so sure that we are addressing that. But nonetheless I certainly agree with an attempt to try to address the issue of an on-time budget.

I do, however -- I'm very concerned and I do oppose a particular aspect of the bill that I think is -- goes against what we represent in our roles as elected officials. And that is the establishment in the constitution of this default budget process, to me, goes in the opposite of what we say that we want to do, in terms of opening up the process, making sure that we as legislators are a part of the budget discussions, a meaningful -- play a meaningful role, and are able in fact to represent fully the people that we're elected to represent.

In the legislation I want to point out to my colleagues -- I'm sure we've all

read as much as we could. But my understanding based on this bill states unequivocally that in the event that a default budget becomes law, and in a fiscal year where there are less monies and the Legislature does not come to an agreement, the Governor acquires certain specific powers.

One of those is to make any transfer of any appropriation or portion thereof for any object or purpose based on the Governor's determination. The Governor may reduce by a uniform percentage all appropriations from the general fund except those that are necessary for contractual agreements.

And when Senator Diaz asks whether or not his constituents are going to receive monies in the budget, since there will be no contractual agreements, nothing that we in the Legislature would have voted to fund the year prior would have to be -- would have to be funded. Because unless there was a contractual agreement, the Governor doesn't have to do that.

The Governor may modify the

operation of any law governing the apportionment and the allocation of appropriations. So if we pass legislation establishing a program, that Governor for that year that we have not reached an agreement does not have to honor the program or the project and in fact can remove the funding for it.

So it seems to me that we are building into our constitution a right for the Governor to override, to supersede what the Legislature -- and indeed, in agreement with the Governor, in a prior year -- can just change.

The other point that I want to make is that this proposal, by virtue of the fact that we put in the constitution now a four-to-one majority membership on the conference committees, we on this side of the aisle, for now, since we have -- we are in the minority, and we get to put one in, that means Senator Marcellino has more power, more authority in relationship to the budget process than I do, by four times at least, just simply in representation on that

conference committee. Not to mention all of the other built-in constitutional inequities in our state already.

So I am obviously opposed to this legislation. I think it makes no sense for us to give up whatever small role that we play already in the budget process. Because, in fact, our job is the budget. This is what we do, the budget. Everything else flows from it.

So I am adamantly opposed to this legislation. It builds in inequity. And forever and ever we in the Legislature will be subject to any Governor. And no matter what party that Governor belongs to, I think that is wrong. It is ridiculous for us to move out as our first action to give up more of our power.

So I'll be voting no on this legislation.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I listened carefully to much of the

debate, and I just felt compelled to rise, particularly with regard to some of the dialogue that has occurred with regard to our abdicating our responsibilities and in effect giving the Governor a blank check should we have to resort to a default budget under this constitutional resolution.

The bottom line is, is that if you read the language on the third page of the bill, it does not give the Governor unfettered discretion, as would seem to be where Senator Montgomery was pointing. In fact, that first subparagraph A only refers to contractual obligations and does not refer to merely authorizing the Governor, as he or she may see fit, to effectively undo what had been in a prior year's budget.

And then as you read further among those three subsections, what you see is that there is an apportionment system that basically says if you're going to reduce, those reductions really have to be equal. Those reductions can't be, in effect, arbitrary and willy-nilly across the board.

This constitutional resolution is

not something easily arrived at. But in a system which has failed 18 consecutive years, one which is now faced with the most enormous fiscal crisis, certainly if not within recent memory, then within our history, there is action that is required to be taken.

And as has been mentioned several times by my colleagues, in effect what we are saying is by first saying that the Comptroller, in the event that we do not have a budget consensus by the 1st of March, shall become the final and sole arbiter of what shall be those revenues, effectively becomes the person who sets the table for us.

Why does he or she set that table? Because we have failed. We have failed. Failed, failed, failed. There is a law on the books, as everyone in this chamber knows, and it's the classic case of being the toothless tiger. Nothing happens if the revenue consensus isn't in line by March as is required by law.

So this provides teeth. We don't like teeth, we'd rather have the other system that lets us go on indefinitely with no

responsibilities, lets us go on indefinitely with no ramification? I would think not. We've become the, in effect, determinants of our own future by merely coming to agreement. If we don't, a pox on our house and a pox on their house. We blew it.

Then we come up with the May 1 date. Now, this will have given us more than five months, if you want to go back into the preceding year when the process starts. If by the 1st of May people with a modicum of good faith can't arrive at a budget agreement, then we'll have to admit again we've failed. It's nobody's fault but our own. We've become the controllers of our own destiny.

And we do not abdicate our responsibility in a carte blanche fashion, as has been implied in several of the comments that I've heard today. Yes, we do abdicate some of our responsibility. Keep in mind that preceding budget would have been one that we would have actively participated in the negotiating of.

And it becomes in effect a fail-safe, no more than a fail-safe. And it

basically says the dysfunction will not be any longer. The bottom line is if we can't do it ourselves, we have to set up the guidelines that's going to make it work. And this is a very well constructed means by which to do it.

I too join with my colleagues in complimenting Senator Bruno for once again attempting to put this on the table. The fact of the matter is that Senator Bruno has, since the day he became the Majority Leader, effectively made this a more efficient place. He's tried to make this a place that operates in a more effective fashion. This is another manifestation of his desire to make this government system work more effectively.

And the bottom line is really simple. It leaves it up to us, and it's only if we fail that any other players get involved.

ACTING PRESIDENT MEIER: On the resolution, the Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr.

President. I rise to explain my vote.

This is a tremendous legislative measure. It's the most important that we will enact this year. It provides certainty to all who depend on the state budget. It provides order. And it provides a way to end the deadlock.

Mr. President, I speak not just to my colleagues here, to my colleagues as Senators, but also to my colleagues as Assemblymen. Those Assemblymen who are -- have any seriousness about reforming this budget process, they need to enact Senator Bruno's legislation.

In the next few weeks we will be meeting, particularly in the regions between Syracuse and Rochester, with a number of groups, a number of groups who are concerned about the budget, who are dependent upon the state budget. And we will hear their pleas to have an on-time budget to provide the certainty necessary so they can do their budgetary process, so they can provide -- they know it's going to be a tough year. They know the budget will face challenges. We need to

at least provide them with certainty that they will have the information they need on time.

We will hear at those meetings from the Assembly particularly, how they believe they want to reform the process. We will hear back home how they will support reform of the budget process. But what will happen is they'll come back to Albany and turn their backs on reform.

That's something that is a tragedy, something that I believe Senator Bruno and all of us in this chamber who support this legislation want to stop. We're providing that with this vote. And, Mr. President, I ask permission to vote aye.

ACTING PRESIDENT MEIER: Senator Nozzolio will be recorded in the affirmative.

Senator Fuschillo, to explain his vote.

SENATOR FUSCHILLO: You know, I've listened to this discussion. It's certainly spirited and informing. And I keep hearing about we're giving up power, we're giving up authority.

And I think about Joe Bruno, one of

the most powerful political and governmental leaders in the State of New York, not saying to these chambers: "I'm not afraid to give up any authority or power that I may have in this Legislature. I'm frustrated." And I often wonder what's in his mind to get to this point to start off the year with this type of reform. But if it takes this, then so be it.

But what is it going to take to bring the other party to the table? Hopefully this. Because this man isn't saying "I'm not afraid to give up my authority. What I want to do is allow us to do our job."

Well, let's do this for all the right reasons. And let's not forget those who fall through the cracks. And as somebody who ran a nonprofit agency before he got elected to the Senate, we had to stop taking in clients who needed to be treated for alcohol or substance abuse, we had to shut down the child abuse center and work within our means and go to the banks and start looking for loans at great interest rates.

Let's do it for the school systems, so they know how to budget for the upcoming

years and they don't have to cut back on buying schoolbooks. Let's do it for the people who will get affected the most.

You know, we blame everybody. And we're doing it here. And I'm hearing the arguments on both sides of the table. And the Assembly will not come, because they say a late budget is a good budget if we get all that we agree.

Look what happened last year. We got our Majority Leader and the conference committees, the mother ship, going to an auditorium in the LOB saying: Shelly, where are you? Shelly, can you hear me? Shelly, come down, do your job.

It's absurd, it's ridiculous that it has to get to that point. Let's pass the budget, as John DeFrancisco said, because we have a law in the State of New York that says you have to do it by April 1st. And then nobody will get hurt by it.

I vote aye.

ACTING PRESIDENT MEIER: Senator Fuschillo will be recorded in the affirmative.

Senator Little, to explain her

vote.

SENATOR LITTLE: Thank you, Mr. President.

This is the first vote that I will take as a member of the New York State Senate. And I believe that it's a very appropriate first vote for me to take for the people that sent me here.

Late budgets have a negative effect throughout this state. They negatively affect the over 100 towns and villages that I represent, as all of you represent towns, villages, and cities. They have a negative effect on the 53 school districts that I represent.

This is something that we tried to do when I was a member of the Assembly for seven years, to get a bill like this on the floor, and we were never able to do so.

So it is with a great deal of enthusiasm that I vote in the affirmative on an aggressive way of attacking one of New York State's major problems, the late budget.

Thank you.

ACTING PRESIDENT MEIER: Senator

Little will be recorded in the affirmative.

Senator Montgomery, you will be recognized in order.

Senator Lachman, to explain his vote.

SENATOR LACHMAN: Yes, thank you, Mr. President. I've been recorded no on S1. I will be recorded yes on S2. They're two different bills.

First I'd like to commend the Majority Leader for bringing this bill back from last year. It is a one-house bill and last year I thought was a first step towards a more comprehensive budget reform bill.

Everyone in this chamber, everyone in this chamber believes in an on-time budget. Everyone in this chamber believes in meaningful budget reform, whether we're Democrats or Republicans or upstaters and downstaters. That is not the question. The question is how do we best achieve that objective, and what is in the bill.

Now, last year's bill was a first step. And I thought that when this bill came before this chamber, even without the approval

of the other chamber, you'd have a second step and a third step in terms of improvement.

Now, I would suggest that we have a bill similar to this, but that it should not only be a compromise involving the minor issues but really major issues. I believe in an independent budget office. I don't believe in a congressional budget office where legislators participate.

I've never served in the City Council, but at least their independent budget office is independent of the mayor, is independent of the comptroller, and independent of the City Council members. That, to me, means total independence from the political process in the budgetary process.

I also strongly believe, strongly believe in a totally transparent budget where we know exactly where everything is and where everything goes, and that this transparent budget should also include discretionary items where we don't know what is happening with them or an evaluation of them.

So if we're producing a bill that is supposed to be comprehensive, and all of us

want it to be comprehensive and all of us want it to be on time, let's take that second step which we have not taken. I vote no on S1.

ACTING PRESIDENT MEIER: Senator Lachman will be recorded in the negative.

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

As I debated before, I think I highlighted that there were many things in this bill that I thought made sense. And I certainly understand and hear the frustration of so many of my colleagues on both sides of the aisle, about years and years -- 23 years, more than 23 years -- of Assembly experience and frustration as well as Senate frustration with the fact that we don't get our budgets done on time.

And there is no doubt that our failure to do so causes harm and pain throughout the State of New York at the very local levels of our towns and communities.

But I also would argue -- and my reason for voting no today is this -- we can

do better, and we need to. This is the year to move forward with budget reform. But it's not just a question of do we get a budget done on time, it's a question of do we have a better budget process and come out with better budgets. And I think that the proposal before us today, S1, only starts to move us down part of the road.

And I heard a great deal of frustration that the Assembly has failed to do this and the Assembly has failed to do that. I don't represent the Assembly; I represent my community here in the Senate. And I would argue that this house can do better.

And perhaps one of the reasons that we have not been able to sit down with our colleagues in the Assembly to move this forward year after year is because we need to come up with a model that is better than S1 and is more inclusive.

I share the concerns of my colleagues that we shouldn't fall into a default budget scenario where we do lose the power of the Legislature to speak for our communities in the context of the budget.

I do argue that while I am pleased to see the Comptroller playing an important role, and I think that would go a long way to addressing revenue issues, that we still have obligations in the context of the budget to ensure that that budget is itemized and detailed and that that information is provided to the public in such a timely way that we can have public discussion and debate.

That we need to, if we're going to expose ourselves to changing the Constitution of the State of New York to change our budget process, that we need to ensure that we have real budget conferences mandated in the context of that, so that we are in some way forced to do our job rather than finding ourselves in the position of failing to pass a budget on time or moving to I believe the mistake of default budgets and the power of the Governor.

We need to ensure that not only are our budgets timely, but that we don't fall into continuing extender bills and in fact --

ACTING PRESIDENT MEIER: Senator Krueger, speaking --

SENATOR LIZ KRUEGER: -- the proposal -- thank you -- for the default timeliness --

ACTING PRESIDENT MEIER: -- of timely, the chair notes that the rules provide for two minutes.

SENATOR LIZ KRUEGER: -- the default --

ACTING PRESIDENT MEIER: Could I ask you -- and you've exceeded that.

SENATOR LIZ KRUEGER: Thank you. I'm sorry I couldn't continue on.

ACTING PRESIDENT MEIER: Could I ask you to announce your vote.

SENATOR LIZ KRUEGER: My vote was no, Mr. President.

ACTING PRESIDENT MEIER: Thank you. Senator Liz Krueger will be recorded in the negative.

Senator Hassell-Thompson, to explain her vote.

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

The only comment that I want to make as I vote no on this resolution is that

there seems to be this assumption, because we argue and debate the fine points of the bill, that we are not in favor here on the Democratic side for a timely budget.

There is no one who has more programmatic concerns for the people in my district than I. Even -- even to my new Senator, who believes he has the poorest district, I have the highest statistics, negative statistics in the numbers of programs for people where HIV and AIDS, the numbers of young, teenage pregnant women. I can go the gamut and tell you the numbers of the programs that are going to be dependent upon this budget.

But even having said that, and certainly one who has attempted to articulate in this chamber the concerns that I have for the people that I represent, a timely budget is critical, for all the reasons that we've stated. But please do not believe because we argue for a better process in this budget that we are not as concerned as you that the budget be on time.

I want a budget that's fair. I

want a budget that's much more equitable. I do not believe that the bill in front of us offers us that opportunity. And so therefore, Mr. President, I will be voting no.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson will be recorded in the negative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I would just -- this budget proposal that Senator Bruno has made for us seems to have a tablespoon full of sugar, which I accept happily, but it also has a cupful of poison.

And I want to point out that in Senator Bruno's own memo which explains his bill, it says that the Governor would be allowed to modify the operation of laws that drive increased spending for a new fiscal year in order to reduce spending to the prior year's level.

So essentially the Governor has the authority that we now write into the constitution, based on this proposal, to take

money from this year's budget to fill gaps in last year's budget.

In his memo it also says the Governor would be allowed to transfer unneeded appropriation authority to meet contractual obligations for which appropriation authority is insufficient. So the Governor can transfer money from one place to another based on his determination -- or perhaps someday her determination -- as to where it is most needed.

Finally, in Senator Bruno's memo, it says the Governor would be allowed to uniformly reduce all appropriations not necessary to meet contractual obligations or statutory requirements.

The Governor we have given an entirely new set of powers and authority based on a whole new budget process, which we call, in this legislation, the default budget. I think that this is unconscionable for us to be allowing ourselves to discuss the possibility of giving up our authority to participate meaningfully in the budget process, and I'm voting no.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1 are Senators Andrews, Breslin, Brown, Dilán, Duane, González, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Schneiderman, A. Smith, M. Smith, Stachowski, and Stavisky. Ayes, 41. Nays, 20.

ACTING PRESIDENT MEIER: The resolution is adopted.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 2, by Senator Bruno, Senate Print Number 2, an act to amend the State Finance Law, in relation to changing the state fiscal year to May 1st through April 30th.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect upon the effective date

of the amendments.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno, that concludes the controversial calendar.

SENATOR BRUNO: Mr. President, can we return to motions and resolutions. I believe that there is a privileged resolution at the desk. I would ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: Motion and resolutions.

The Secretary will read the title of the privileged resolution.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 65, amending Section 1 of Rule VII of the Senate Rules, in relation to the composition of standing committees.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in

favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Can we ask for an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in the Majority Conference Room.

SENATOR BRUNO: Mr. President, while the Rules Committee is meeting, I believe there is a privileged resolution at the desk by Senator DeFrancisco. I would ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the privileged resolution.

THE SECRETARY: By Senator

DeFrancisco, Legislative Resolution Number 50, congratulating the Onondaga Central High School "Tigers" Football Team and Coach Bill Spicer upon the occasion of capturing the Class C Championship.

"WHEREAS, It is the sense of this Legislative Body to commend and pay tribute to those who, by achieving outstanding success in athletic competition, have inspired others and brought pride to their community; and

"WHEREAS, It is acknowledged that excellence and success in competitive sports can be achieved only through hard work and the demand of rigorous practice, teamwork and team spirit, fostered by dedicated coaching; and

"WHEREAS, It is further acknowledged that athletic competition enhances the ethical and physical development of the young people of this State, preparing them for the future by instilling in them the value of integrity, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of sportsmanship; and

"WHEREAS, Through its exceptional

teamwork and talents, Onondaga Central's football team, known as the 'Tigers,' located in Nedrow, New York, won the State Class C title on November 29, 2002, at the Carrier Dome in Syracuse, New York; and

"WHEREAS, Having moved from last year's Class D competition to Class C, the capture of the State crown was the second for the Onondaga Central High School football team, and concluded an outstanding record, the only State champion to finish the season unbeaten; and

"WHEREAS, In all that they have accomplished, the athletic talent and superb spirit displayed by this team is due in great part to the efforts of Coaches Bill Spicer, Paul Taylor, Jeff Pierce, Victor Zampetti and Rick Bailey, Volunteer Coaches Dave Pierce and Steve Louis, and the loyal and active support of Onondaga Central's student body and community; and

"WHEREAS, One such valuable part of the talented team, with his extraordinary speed, strength, and agility, is junior tailback Mike Hart, who scored the 58th, 59th

and 60th touchdowns of the season and finished with 29 carries for 199 yards; and

"WHEREAS, This extraordinary team consists of the following gifted young men: Hodges Sneed, Andrew Abbott, Ryan Hotaling, Justin Graham, Richard Bova, Adam Legg, Don Cummings, Matt Popov, Carl Runge, John Manley, Chad Amidon, Ryan Clifford, Dakota McCann, Mike Hart, Kyle Martin, Robbie Cormier, Dan Germain, Zach Carrington, Zach MacCollister, Brian Beacham, Todd Amidon, Marty Brunner, Jacob Cummings, Cory Dill, Richard Beak, Todd Gardner, James Sanford, Matthew Majewski, Thomas Brownell, Caleb Golombiewski, Dan Willis, Scott Campbell, Pat Neuman, Kurt Wasilewski, Aaron Johnson, Steven Tiss, Felipe Diaz, Brad Glaister, Adam Goodman, and Jesse Schneider.

"They have proven themselves to be an outstanding combination of athletic prowess and discipline, reflecting favorably upon their school, their parents, their friends and their community; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to

congratulate the Onondaga Central High School Football Team and Coach Spicer on their successful season, overall team record, and capture of the State Class C title; and be it further

"RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to the members of the Onondaga Central High School Football Team and to Coach Spicer."

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'm proud to rise on this great occasion. This is becoming an annual tradition for this team to win the state championship.

I first am sorry that you had such a difficult time -- I understand there was a fatality on the Thruway and you've been on the road five hours, is that -- that's not good. And I bet you're all hungry at this point. And we've got lunch for you after we get done, so this will be brief.

Many of the Senators are in meetings now. We expected you a lot sooner. But they I know express the same appreciation

and congratulations that I express today for the wonderful achievement you've done. It's amazing to have a team undefeated; but to win two state championships in a row is just outstanding.

The D division didn't want you anymore, so they moved you up to C. And you took everyone on in the C division and won the championship. I think you probably should just go straight to A at this point and don't pass go and don't pass the B division, because it's just a waste of time.

I read the resolution, I've looked at it carefully, and I know all the achievements of Mike Hart. And I actually saw the run that it's being called in the city of Syracuse. A friend of mine actually e-mailed it to me. And what was phenomenal about the run was not only the athleticism of Mike Hart, but there were some blockers out there too. And the people that were blocking were just as important as the wonderful run and the great success that you've had.

So it's a team effort. You should be congratulated. And I'm sure that each one

of you do as well with your grades as you do on the football team, because that's just as important.

So congratulations again, continued success, and lunch is on.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Gentlemen, we congratulate you and your coaches on your accomplishments, we welcome you to the Senate today, and we wish you well with all your future activities and endeavors.

(Applause.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please return to the reports of standing committees. I believe there's a

report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading:

Senate Print 528, by Senator Johnson, an act to amend the State Finance Law.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I move to accept the report of the committee.

ACTING PRESIDENT MEIER: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please take up Calendar Number 26, Senate Print 528, which was just reported from the Rules Committee.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 26, by Senator Johnson, Senate Print 528, an act to amend the State Finance Law, in relation to variable rate debt instruments.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR FUSCHILLO: Move to accept the message of necessity.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted. The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR ONORATO: Explanation, please.

ACTING PRESIDENT MEIER: Senator Johnson, Senator Onorato has requested an explanation.

SENATOR JOHNSON: Senator, the purpose of this bill is to save approximately $51 million of the taxpayers' money --

ACTING PRESIDENT MEIER: Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, will the -- to expedite matters, will Senator Johnson yield to a question?

SENATOR JOHNSON: Oh, sure.

ACTING PRESIDENT MEIER: The

Senator yields.

SENATOR ONORATO: Senator Johnson, is this bill agreed to by both houses?

SENATOR JOHNSON: Yes, it is, Senator.

SENATOR ONORATO: Thank you.

SENATOR JOHNSON: It's a tough question. Glad I had the answer.

SENATOR ONORATO: Explanation satisfactory.

ACTING PRESIDENT MEIER: Explanation satisfactory.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: There's no housekeeping, Senator.

SENATOR FUSCHILLO: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until Tuesday, January 21st, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, January 21st, at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 2:25 p.m., the Senate adjourned.)