NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 7, 2003

3:24 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Friday, April 4, the Senate met pursuant to adjournment. The Journal of Thursday, April 3, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: 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 Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator Skelos, on page number 11 I offer the following amendments to Calendar Number 101, Senate Print 1023, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On page 14, also on behalf of Senator Skelos, I offer the following amendments to Calendar Number 155, Senate Print Number 1735A, and ask that said bill retain its place on the Third Reading

Calendar.

THE PRESIDENT: Those amendments are also received, Senator, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Thank you, Senator Meier.

Madam President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Madam President, there are a series of privileged resolutions at the desk by Senator Saland. If we could have the title read on each privileged resolution and then move to adopt all of them at once.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Saland, Legislative Resolution Number 1088,

honoring Phil Miller upon the occasion of his designation as recipient of the Public Health Partnership Award by the Dutchess County Department of Health.

By Senator Saland, Legislative Resolution Number 1089, honoring Ron Osofsky upon the occasion of his designation as recipient of the Public Health Partnership Award by the Dutchess County Department of Health.

By Senator Saland, Legislative Resolution Number 1090, honoring Hudson River Community Health at Beacon upon the occasion of its designation as recipient of the Public Health Partnership Award by the Dutchess County Department of Health.

By Senator Saland, Legislative Resolution 1091, honoring Barbara Gross upon the occasion of her designation as recipient of the Public Health Partnership Award by the Dutchess County Department of Health.

By Senator Saland, Legislative Resolution Number 1092, honoring Dr. Ronald Lipp upon the occasion of his designation as recipient of the Public Health Partnership

Award by the Dutchess County Department of Health.

And by Senator Saland, Legislative Resolution Number 1093, honoring Bill Browne upon the occasion of his designation as recipient of the Public Health Partnership Award by the Dutchess County Department of Health.

THE PRESIDENT: The question is on the resolutions. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolutions are adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 100, by Senator Skelos, Senate Print 556, an act to amend the Family Court Act and the

Criminal Procedure Law, in relation to the age of child witnesses.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 162, by Senator Rath, Senate Print 1679, an act to amend the Education Law and the General Municipal Law, in relation to deleting the requirement.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 198, by Senator Marchi, Senate Print 1970 --

SENATOR SKELOS: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 204, by Senator Farley, Senate Print 2264, an act to amend the Banking Law, in relation to the confidentiality of records.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 217, by Senator Kuhl, Senate Print 743, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law, in relation to exempting farm vehicles.

SENATOR SCHNEIDERMAN: Lay it

aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 242, by Senator Skelos, Senate Print 549, an act to amend the Executive Law, in relation to permitting parents of minors to be present.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 271, by Senator Rath, Senate Print 1685, an act to amend the Penal Law, in relation to repeat offender status for petit larceny offenses.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 274, by Senator Saland, Senate Print 1914, an act to amend the Criminal Procedure Law, in relation to expanding the offenses.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 3. This act shall take effect on the first of the calendar month next succeeding.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 275, by Senator Saland, Senate Print 1915, an act to amend the Criminal Procedure Law, in relation to authorizing child witnesses to testify.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 272, by Senator Volker, Senate Print 1891, an

act to amend the Penal Law, in relation to establishing the crimes of assaulting a child in the first and second degree.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 276, by Senator Trunzo, Senate Print 2259, an act to amend the Penal Law, in relation to the unlawful sale of tobacco products to a child.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is

passed.

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

SENATOR SKELOS: Thank you, Madam President. If we could go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 217, by Senator Kuhl, Senate Print 743, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law, in relation to exempting certain farm vehicles.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Kuhl, an explanation has been requested.

SENATOR KUHL: Yes, Madam President. This is a very simple bill. It simply exempts farm-plated vehicles from a motor vehicle indemnification act which was passed by this house in 1994.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through

you, Madam President, if the sponsor will yield for a few brief questions.

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

SENATOR KUHL: I'd be happy to yield to a question.

THE PRESIDENT: You may proceed, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Madam President, is it not true that this law would result in farm vehicles whose owners do not carry umbrella policies or whose umbrella policies carry exclusions from liability for farm vehicle accidents, that these vehicles would end up with no insurance coverage at all?

SENATOR KUHL: Senator, this bill would put the farmer in the position he was in prior to 1994 ever since the existence of automobiles.

SENATOR SCHNEIDERMAN: Through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator, do you continue to yield?

SENATOR KUHL: I'd be happy to yield to another question.

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

SENATOR SCHNEIDERMAN: But lacking, perhaps, some of the historical references, is it not the case that this legislation would result in some farm vehicles having no insurance coverage for accidents whatsoever?

SENATOR KUHL: I can't answer that question with any factual basis, because I don't have the experience of how many vehicles are insured or were insured prior to 1994 or are today, Senator.

SENATOR SCHNEIDERMAN: Thank you. Thank the sponsor for his answers.

Madam President, on the bill.

THE PRESIDENT: You may proceed, Senator, on the bill.

SENATOR SCHNEIDERMAN: I think that as I read this legislation, while we don't have statistics, the implications are very, very clear. There is no requirement that farm vehicles limit their travels to

off-road activity. Farm vehicles are on the road quite a bit. Many of us pass them or attempt to pass them every week or every month.

This legislation would exempt an entire category of vehicles that travel frequently on New York's roads from the requirement that they have insurance coverage as every other vehicle has to have insurance coverage.

The reason for my questions were that it has been suggested by some of the supporters of this bill that farm vehicles are typically covered for liability purposes under umbrella policies carried by farms to insure tractors and other farm equipment.

However, there is no requirement in law that those policies insure all farm vehicles. Furthermore, there's no requirement in law that every farm have such an umbrella policy. So what we're faced with is a loophole to a series of laws which are designed to protect innocent New Yorkers who may be injured in an accident with a vehicle.

What we end up with is a loophole

that anything that is categorized as a farm vehicle, even if it's riding out in the middle of a public road, even if the farmer's son and his friends end up taking off with the car on sort of a joyride and injure someone, there would be no requirement of insurance coverage.

It's true that many vehicles would have insurance, because many farmers do carry the umbrella policies that the proponents have been speaking about. But there are many who do not.

There's no reason to pass a law like this with these loopholes. Innocent victims of automobile accidents should not have to resort to the long, drawn-out procedures to attempt to deal with bankruptcies and other things. We have a structure in place in this state to provide insurance coverage. We require insurance coverage for everyone else. Every other type of business that has vehicles that operate on the roads that could have an accident, injure an innocent person, is required to insure their vehicles.

This law is an exception. And with

all respect to all of the farmers who work very hard and need support in various ways, the way for us as a Legislature to give them support is not to create a loophole in a law that's designed to protect innocent New Yorkers. Let's find another way.

If we're going to pass a law that treats farm vehicles differently, let's require umbrella policies or some other provision that will guarantee that innocent victims of automobile accidents -- whether they be SUVs, tractors, trucks, or any other type of vehicle with a farm plate on it -- are protected and provide the same justice that they're entitled to when any other vehicle in this state causes the accident.

I'm going to vote no, Your Honor, and I -- Your Honor? Excuse me, Madam President -- and I encourage everyone else to vote no.

THE PRESIDENT: Thank you, Senator.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 217 are Senators Andrews, Dilán, L. Krueger, Onorato, Paterson, Sabini, Schneiderman. Also Senator Sampson. Also Senator Parker. Also Senator Lachman. Ayes, 44. Nays, 10.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 242, by Senator Skelos, Senate Print 549, an act to amend the Executive Law, in relation to permitting parents of minors to be present.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Thank you, Madam President.

This legislation would require that parents or guardians of a minor who is a victim in a sexual harassment incident should be informed of any proceeding and be allowed to attend.

THE PRESIDENT: Senator Schneiderman.

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

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR SCHNEIDERMAN: Thank you.

I appreciate the sponsor's efforts to deal with a very difficult situation, which is providing security and comfort for children who come forward with charges of sexual harassment, and to provide for the involvement of the parents.

I have a concern that the bill as drafted has a flaw which I think could be corrected by revising the language. And the flaw essentially is this. This bill requires that whenever a minor comes forward with charges of sexual harassment, alleges that they're aggrieved by an unlawful discriminatory practice involving sexual harassment, that the parents be notified and that they be permitted to be present at all times during any official proceedings relating to that charge.

The difficulty is this. We know that most sexual harassment of young people doesn't happen with strangers, it happens with people who are known to them, who are familiar to them, and in many cases they very well may be close friends or even relatives of the parents.

So my suggestion is this. I think the bill as drafted really leaves open the possibility that, contrary to the clear intent of the legislation, this could provide for further intimidation of a young person making an allegation by requiring and -- providing no escape clause for any tribunal requiring that a parent be present at the proceedings related to that charge.

So I am going -- I have requested that we attempt to come up, since I don't want to be critical without offering suggestions, come up with some language to address this issue, and I will be passing it along to the sponsor. This is a very serious attempt to deal with a very difficult problem. Subject to that caveat, I think we should move forward to pass legislation addressing this problem

this session.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard?

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. For so long --

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR DIAZ: On the bill, I'm sorry.

THE PRESIDENT: Go ahead.

SENATOR DIAZ: For so long we have taken away the parents' right to their children. For so long we have been dividing the family and making the children feel like they are alone in this world. For so long we have ignored the parents. We have been taking little by little that sense of family and that sense of responsibility from parents and children.

And I think that this bill gives back to the parents something that has been taken from them. This is a very important and very, very essential bill, and we should all

vote for it. Parents should be part of whatever happens to their children. If their children have been abused or their children have been interrogated, their children are being questioned, the parent should be there.

And, Senator Skelos, I am very proud that you present this bill, and I will proudly vote for it.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote?

SENATOR DUANE: Yes, thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR DUANE: I'm voting no on this bill again. As I've raised in the past, I absolutely think that the minor should be allowed to bring whatever or whoever the adult

that they wish at a proceeding.

And I certainly think that there should be an adult present, but I think that the adult should be up to the minor's choice, particularly since there are minors who may not have a parent but may have a foster parent or a noncustodial parent but the legal custody of the child may not be as definite.

I also think that if a child wants to bring a counselor in, that should be acceptable as well.

So I'm going to vote no again this year on it, in the hope -- with the hope that the bill will be amended in the future to include having an adult of the minor's choice.

Thank you, Madam President.

THE PRESIDENT: You will be recorded as voting in the negative, Senator Duane.

Senator Montgomery, to explain your vote?

SENATOR MONTGOMERY: Yes, Madam President, to explain my vote.

I'm voting no, as I have in the past on this legislation. Because while I

certainly respect and value the presence and support of parents in any proceeding with a young child, in cases of sexual abuse in particular it is very often a family member who has been involved in this kind of activity, and very often it is a close relative.

And so I think in order to protect the integrity of the proceeding as it relates to the child and the child's right to have an opportunity to testify without being intimidated by a parent or the presence of someone very close, I think that I'm voting in favor of the child's right, and I'm going to vote no on this legislation.

THE PRESIDENT: You will be recorded as voting in the negative, Senator.

Senator Hassell-Thompson, to explain your vote?

SENATOR HASSELL-THOMPSON: Yes, thank you, Madam President.

I have continued to vote yes on this bill only because I have some major concerns about the relationship of parents and children. But I also feel that I'd like to

hope that we would amend this bill at some point that would allow a greater latitude of choice for minors to choose who that adult would be.

But to this point I have a major concern that the rights of children are not always as well protected as they need to be in the absence of parents.

Thank you.

THE PRESIDENT: Does any other member wish to be heard to announce their vote?

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 242 are Senators Duane, Montgomery, and Schneiderman. Ayes, 55. Nays, 3.

THE PRESIDENT: The bill is passed.

Senator Breslin.

SENATOR BRESLIN: Madam President, I would request unanimous consent to be recorded in the negative on Calendar Number 217, Senate 743.

THE PRESIDENT: Hearing no objection, you will be recorded as voting in the negative, Senator.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I also request unanimous consent to be recorded in the negative on Calendar 217, Senate Print 743.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I was out of the chamber in a Finance Committee meeting when Calendar Number 217 was debated. And in previous years, I've been an active participant in the debate on that. And I think it is pathetic that we rush through the active list while Finance is meeting when in fact our major job right now should be to do a budget.

So actually, the Finance issues before us are the most important ones. And --

THE PRESIDENT: Senator Duane, do you wish to change your vote or to be recorded

as voting in a certain way?

SENATOR DUANE: Well, I guess I would be changing my vote. Because, ridiculously, you have to be present to vote no, as opposed to you're recorded as "yes" if you're not in the chamber when you're in, like, a Finance Committee meeting.

But yes, I'm voting no on 217, with unanimous consent.

THE PRESIDENT: All right. Hearing no objection, you will be so recorded as voting in the negative.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I would like unanimous consent to be recorded in the negative on Calendar 217.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 271, by Senator Rath, Senate Print 1685, an act to amend the Penal Law, in relation to repeat offender status for petit larceny

offenses.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Rath, an explanation has been requested.

SENATOR RATH: Madam President, this bill is a fairly simple bill. It deals with repeat offenders of the petit -- crime of petit larceny.

Right now, no matter how many times you're convicted, you will still only have a misdemeanor. This bill provides that if you have been convicted twice in five years, it will become a Class E felony.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like to ask a question of Senator Rath.

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

SENATOR RATH: Surely.

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

SENATOR MONTGOMERY: Thank you, Madam President.

Senator Rath, I'm just trying to decipher the meaning of this. Is this -- this fits into the code as it stands now?

SENATOR RATH: Yes. Yes, it does.

SENATOR MONTGOMERY: And it covers any age from 16 and up?

SENATOR RATH: Right.

SENATOR MONTGOMERY: Okay. Thank you.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays,

2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following bills:

Senate Print 3935, by the Senate Committee on Rules, an act making appropriations for the support of government;

And Senate Print 3936, by the Senate Committee on Rules, an act to amend the Executive Law.

Both bills ordered direct to third reading.

THE PRESIDENT: Without objection, the bills are reported direct to

third reading.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could call up Calendar Number 404 at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 404, by the Senate Committee on Rules, Senate Print Number 3935, an act making appropriations for the support of government and to amend Chapter 17 of the Laws of 2003.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity and appropriation at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

THE PRESIDENT: All those in favor of accepting the message of necessity and appropriation please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message of necessity and appropriation is accepted.

Read the last section.

THE SECRETARY: Section 15. This act shall take effect --

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Yes, Madam President.

This bill appropriates approximately $1 billion to various agencies to pay the bills for the week ending next Sunday, from now till next Sunday. It covers all the agencies, including the payroll of your staff and other staffs, capital construction that's still going on.

New York City MAC gets $64 million of sales tax revenue to them to keep the city going. There's 400 million for -- well, 600 million, actually, in federal and state funds for Medicaid, and Department of Labor uninsurance -- $95 million for unemployment

insurance coverage.

So it just pays the bills that have to be paid for this coming week. And I appreciate you all supporting it.

Thank you.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Madam President, if the sponsor would yield for a couple of questions.

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

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: Senator Breslin, you may proceed with a question.

SENATOR BRESLIN: Through you, Madam President, I'm not concerned so much with what's in the bill but what isn't in the bill. And I was wondering if there's been any withholding of school aid to the school districts in the State of New York.

SENATOR JOHNSON: Senator, the answer is no. Last week we appropriated some money that was allowed to be appropriated to finish up the year 2002-2003. There's no

further payments required until June 1st. So therefore, there's no money in this bill for education.

SENATOR BRESLIN: Again through you, Madam President, if the sponsor would yield.

THE PRESIDENT: Senator Johnson, will you yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR BRESLIN: Relative to past years, there appears to be a reduction of $350,000 in annuities to blind veterans. I was wondering if you could speak on that.

SENATOR JOHNSON: I guess it's not an exact calendar parallel with last year, because there are no payments due at this time for blind veterans. There will be in future payments when it's appropriate.

Thank you.

SENATOR BRESLIN: Again through you, Madam President.

THE PRESIDENT: Senator Johnson,

will you yield for another question?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR BRESLIN: Then there are no blind veterans who are now due and owing any monies under the 2002-2003 budget?

SENATOR JOHNSON: That's my impression, Senator, yes.

SENATOR BRESLIN: And again through you, Madam President, if the sponsor would yield.

THE PRESIDENT: Senator, do you yield?

SENATOR BRESLIN: In the 2002-2003 budget, there appears to be remaining, in payments of school aid, $246 million which has not been passed in the budgets for 2002-2003. Can you tell us if that's correct?

SENATOR JOHNSON: I don't -- Senator, I'll try to answer this. And maybe I'll need an expert, but I understand that last year we paid in advance the June 1st

payment because the money was there and we paid it in advance.

This year we're not paying that in advance, but we will pay it when it's due, which is June 1st.

SENATOR BRESLIN: Again, through you, Madam President, if the sponsor would yield.

THE PRESIDENT: Senator, you do yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR BRESLIN: It would seem to me there's an expectation on the school districts to receive monies which, on an ongoing basis, June 1st which they generally receive. And if you take that $246 million, it comes out to over $142,000 a day that those school districts would have to pay to borrow money if they didn't receive it. Would that be correct?

SENATOR JOHNSON: I suppose you would expect -- or the districts would expect

to receive the money the same time they did last year. But that was a discretionary payment paid in advance because we had the money.

Now we don't have the money, and we're going to pay it June 1st. And they expect it then, they would get it then.

SENATOR BRESLIN: On the bill, Madam President.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR BRESLIN: I think the example of the Governor supplying us with a bill which -- wherein there's $246 million which the school districts have expected in the past that payment for June 1st and are now not receiving -- which means that we further burden our school districts and we further burden them without our ability to come up with a budget so they can make reliances on our work and put a budget before the voters that's fair.

And now we have a payment of $246 million withheld, which creates the distinct possibility that they'll have to go

into the marketplace and borrow, which would result in a payment of $142,000 a day in interest.

And this is only an example of what's been done in this budget that will carry us along, penalizing those people who are least able to afford it.

And in accordance with that, as well as other areas in this budget, I intend to vote against it.

Thank you, Madam President.

THE PRESIDENT: Senator Smith.

SENATOR ADA SMITH: Thank you, Madam President.

In years past, I have voted for these appropriations. But when I turn on my television set and I hear the Governor say that he's too busy to negotiate a budget because he's protecting New York State, well, I didn't know that he was the only person in the militia. I didn't know that he was the only person responsible for our safety.

Each and every one of us, on both sides of the aisle, are prepared to work hard. My colleagues on the other side have brought

forth a budget. They've worked trying to do what is right by the people that they represent. Each of us on this side of the aisle is willing to give all of the hours necessary to meet our legal requirements.

I would ask that all of you join with me in letting the Governor know that we're not happy and that he should live up to the responsibility of the office that he took the oath to preserve.

And therefore, I will be voting no.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I am going to vote no again this week, as I did last week, on this budget -- not because I do not want our state to continue doing business, but the process I think that we have been engaging in at this point in time as a budget process essentially subverts the constitutional obligation that we have as state government, as legislators and governor, to pass a budget which fulfills the needs and requirements and expectations of the citizens of our state.

It's a very disruptive process. The localities and the counties around the state cannot plan for their own local needs as government. The school districts across the state are unable to plan. We have a situation where students at this point in time don't know if they're going to be able to continue with their college education. Colleges and universities and hospitals, all of these are entities that depend on this process to plan on behalf of citizens of our state.

And certainly one of the areas that I care a lot about, as many of us do, school-based health clinics are closing as we fiddle over here in the State Legislature. That provides health and mental health services to young people in our state.

So if we say that we care about what happens to young people, how they respond, how they're able to cope with the stress and problems related to 9/11 and the war and so forth and so on, and we're allowing the school-based health clinics to shut down because we refuse to come to the table and negotiate as adults -- the Governor refuses.

I believe that the Legislature is ready to do so.

This is a shameful moment for us in our state, and it's a shameful moment for us in the State Legislature. And so I'm going to continue to vote my objection to this process.

And I think that if we all would agree to do that, we could hopefully shame the Governor into coming to the table with Senator Bruno and his conference and us and our conference and the Assembly, Sheldon Silver and his conference, we could all come together and come to some agreement on how we are going to resolve this situation.

So I'm voting no. And hopefully, if we all just bite the bullet as legislators -- we're grownups. Let's just say no to the Governor.

Thank you, Madam President.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR ONORATO: I plan on

voting no again on this allotment.

And I really am very surprised at the Governor for presenting this type of a budget bill to us, for the lack of funding for the organizations that are not included in the bill.

Many of the organizations that are not included in the bill right now are already being cut in the Governor's proposal. This, by not including them, at least a partial payment of the anticipated funds that are going to come forward in the future, will force them to start borrowing money. But there's no provisions in the budget to reimburse any of our local communities from borrowing the money and paying that interest.

For this particular reason, I believe it is a very, very irresponsible, partial budget to keep the state going. I vote -- I'm going to vote no.

THE PRESIDENT: Senator Sabini.

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

Once again we're faced with a decision as to whether or not to pass these

extenders. And some might say it's irresponsible not to do so, or at least not to vote for it. But we're left with little choice if we want to express our frustration with the way business is done in this building.

And I don't fault the other side of the aisle in this chamber. There are some that honestly want to work hard, and there's been leadership on that side of the aisle and certainly even attempts to reform the process on that side of the aisle.

But by doing these extenders, we once again sort of punt. As Senator Ada Smith said, I too am a little concerned about the Governor's position on more important business that he has to attend to.

But there's blame to go around on a bipartisan level. There's blame to go around to interest groups that participate in this process and in fact almost applaud this process secretly, that they enjoy the fact that we continue to, as a state government, procrastinate and play-act.

If there's medicine to be doled out

in this upcoming budget, and we all know there's going to be medicine, we ought to prescribe it now. Otherwise, it's going to be a harsher dosage later on.

It's unfair, as Senator Onorato said, to the people in our communities to not know where their programs are going to be.

The only people seemingly in this state who think this is a workable, good process are somehow wandering around the halls of our mall, whether they be in the Legislature, in the Governor's office, or in the interest groups that applaud this process of being delayed.

It's a bipartisan shame. It's one that the rest of the state has caught on to. And it's about time that we say it's time to stop. Games are meant to be conducted in the street and the playgrounds. As I said last week, kabuki plays belong back in Tokyo. And we ought to get real with the process.

The only way we can get real is by facing up to our obligations and moving on this. And the only way we as legislators can express that right now is by saying no to this

extender. And I intend to vote no.

Thank you, Madam President.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would yield to a question.

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

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you, Madam President. Through you.

Last week we did pass an extender bill, although I voted against it. And people voted for it in order to continue government, because we had failed to meet our obligation to have a balanced budget by April 1st. It's one week later, and we're being asked to vote on a second extender bill.

So my question to Senator Johnson is, what progress did we make in the last week on this emergency?

SENATOR JOHNSON: We've made

progress in paying the salaries of people working for us and people working in all state institutions. We kept the process going.

The meetings have taken place between both houses, trying to agree on funding items and the revenue stream that would therefore pay those bills. And there's no conclusion yet to those conversations. But we're keeping conversations going and hoping that we will resolve it very soon.

SENATOR LIZ KRUEGER: Madam President, if, through you, the sponsor would continue to yield.

THE PRESIDENT: Senator Johnson, will you yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you, Senator Johnson. Thank you for your response.

Can you offer us some more detail? I'm very concerned that we're now one week into being late for the budget. We are in an emergency situation, as this is an emergency

appropriation bill. And we did not have any discussion on the floor of this Senate or, as I understand it, in the Finance Committee meeting around the specific details of how we are moving closer to resolving our deficit or passing a balanced budget.

Are there actually details that this Senate can discuss about the options before us?

SENATOR JOHNSON: Senator Krueger, I think you're aware of the fact that things have been taking place the last week or two not beneficial to the borrowing scenario which we had envisioned. And therefore that put a hole in the budget, and now people are meeting -- and my committee has been meeting daily and weekly, even with the committee in the Assembly, trying to figure out what resources we can corral in order to pay our future bills and put a budget together.

And they still have not arrived at a conclusion. We're exploring all sorts of methods of getting money, including the possibility of taxes, including the possibility of borrowing and so on and so on.

But there's no conclusion yet.

And as you know, it is a three-way discussion. And the Governor is also playing a role, contrary to what some people think here, in these discussions. But it's pretty hard to dance with two guys at the same time, you know, because you step on each other's feet. That's what's happening now.

But I think eventually we'll put it together. And everyone on this side of the aisle certainly is just as eager as that side, and is eager as really the Governor should be to have a budget before too long.

SENATOR LIZ KRUEGER: Thank you, Madam President. I'd like to speak on the bill.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Johnson's responses and his sincerity, I think, in agreeing with us here on the Democratic side when we object to the fact that we are now one week into a new budget year and we have not resolved the issues.

In fact, he highlighted that we are perhaps further away this week than we were a week ago in being able to balance our budget, particularly because of the movement or lack thereof of decisions around tobacco securitization and bonding out, borrowing of money.

Nonetheless, it doesn't change the reality for the people of the State of New York who are desperate for us to pass a balanced budget. And I do object to the fact that the weeks go on and we don't have the discussions on the floor or even in committees about what we could be doing.

I am glad to hear from Senator Johnson that there are discussions around the revenue side of the budget and that there are discussions about the concept of taxes. Because in fact I do believe that that is a reality that we must face in this state.

But I would argue that as I am disappointed that we have not had discussion in this chamber about what we can be doing to balance our budget and move forward because we are in an emergency situation, I'm equally

disturbed that we continue still not to discuss a third part of the budget formula for the state, the tax expenditure budget.

I hear vague references in the newspapers about the idea of closing corporate loopholes. But I would argue that until we also look at the third piece of the New York State budget -- not just revenue, not just expenditures, but also the decisions we make not to look at our tax expenditure budget and our tax code -- that we choose to ignore the potential for billions of dollars of revenue that this state desperately needs right now and that could be drawn in a fair and an equitable way from individuals and corporations in the state.

I will vote no on this bill, as much as I am desperate to help our communities be assured that they have the money to continue running their programs. But as we already heard from my colleagues, we don't have the money for our local school districts, and they will end up having to borrow money at exorbitantly high rates to continue to pay for their systems.

We don't have the money going out to community-based organizations and groups who contract with the State of New York, to reference what Senator Onorato highlighted before.

But in fact it is worse that Senator Onorato analyzed it, because not only are organizations continuing to run programs absent payment from the State of New York, as of April 1st, for many of them, their decision to continue to run their programs is a gambling game. Because if we do not continue to put them into the budget when we pass it, any monies they have expended to continue their services for the people of New York will be unreimbursable. And that could put many of them in a situation of fiscal deficit where they go under because they expended money that the State of New York then chooses not to allot to them.

So it is critical for us to stay on time with a truly balanced, fair and equitable budget. And so while I know that it is considered in many camps to be irresponsible not to continue to vote for extenders, I will

join many of my colleagues today in continuing not to vote for this extender.

Thank you very much, Madam President.

THE PRESIDENT: Senator Schneiderman.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I just wanted to briefly point out I can't imagine my community, my county is the only one facing this.

But it isn't something of the future, it is something of the present, right now. We are seeing hospitals having to lay off -- one of my hospitals laid off a hundred people two weeks ago. Another laid off 32 people. One of my community health centers has just laid off 10. My home health care agency, the largest one, has just laid off workers.

I mean, it's happening because they were in such tight straits before. Many were in the red before. And that's what we've done to our healthcare, the business of healthcare in the State of New York.

Because they were in such dire straits before, having these payments not come to them in a timely fashion, they're already over the top. They are already starting to disband.

So, I mean, for those agencies that can hang on -- and I know a few small agencies that will probably not be able to hang on, that will be in the future, and we'll have to see how that goes. But I can tell you that right now there are many, many agencies, particularly in the healthcare industry, that are fatally wounded now.

And the longer we hold off, and the uncertainty of not seeing so many of these items funded -- and God knows what that means for the future -- we are in very dire straits, and we have to move. And as has been said before, I think it is the political will that has resisted moving ahead.

We all know that the economy is not doing well. It is probably doing worse every week we're up here. And therefore, the sooner we can get to a resolution, that's the best for all of us. It isn't that I'm faulting the

other side of the aisle or that I'm faulting my friend, but -- but we just have to move ahead.

And I'm therefore going to be voting no, because every day we don't move ahead is a serious loss for my community.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes, I had misgivings about this last year. I have misgivings about it this year. But I believe now, when we see this coming up year after year after year, that I will not be fulfilling my obligations as a free and independent legislator, responsible to my conscience and my constituents, if I did not vote no on this.

We have taken much too long. Our prime responsibility now -- as it was last month, as it will be next month -- and the fiscally conservative position is to get a budget passed. Not an extender, but a budget.

To say that the $120 million earmarked for education in March will be paid in June, at the same time there's a $142,000 interest payment for each school district, is outrageous.

The total budget has been cut by 3 percent. Education has been cut by 8.5 percent and higher education by 11.1 percent. This is not the way that a legislature should be involved in the governing process. We must be an equal partner, Democrats and Republicans, and we must pass a budget immediately.

I vote no. Thank you.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I find it so hard to believe that year after year it comes as such a surprise to the leaders of the Legislature and the Governor that April 1st is the budget deadline. And year after year, they are incapable of meeting that deadline.

Now, it's terrible that all bets are on whether or not those three guys are getting along or not. It's a little bit like, you know, when the cardinals get together to elect a new pope. Are they getting along, is there white smoke? You know, if they're not getting along, it's black smoke. I mean,

it's -- you know, everyone tries to read the signals: Oh, you know, did they have a good meeting? Did they have a bad meeting?

And everyone's attention is rivetted on whether or not they're getting along. And nobody seems to see that that is a terrible way to run state government.

You know, there are school districts in the state who have to guess how much they should borrow, what they should be doing. There are agencies that have to decide whether or not they should lay off people now or if they can gamble on waiting a little bit longer. There are pundits who will be trying to decide whether, because this is an off-year election, does that mean it will happen faster or that means it will happen slower or because there isn't any money, does that mean -- and all of that should not be of any importance at all.

Now, as many of you know, I've put in a bill on term limits to throw the bums out. It would take a little while for that to happen, because we'd have to go through some major legislative changes in this state for

that to happen.

But in the meantime, I do have a few suggestions. Perhaps we could add a woman or 15 women to that three men in a room. Maybe that would help things out. We could sprinkle those three men with a little bit of diversity. Maybe that would shake things up a little bit.

We could -- remember conference committees? Who remembers conference committees here? Remember conference committees? Boy, were they fun. Right? People actually sat around -- although if you notice, they actually would make the decisions before they actually sat down in public. But let's face it, it was a step in the right direction.

Now even, you know, the good government groups, last year they said: Gee, it was, you know, better in the old days when we had three men in a room, before we had conference committees.

So, you know, we can, you know, sort of sit around and bemoan what's going on and wait for the signals. I know there was

allegedly going to be a meeting earlier today of the three guys, but I haven't heard yet. Did anybody hear? How did they get along? How'd it go? Anybody know? Good news, bad news, any closer? Pathetic. Absolutely pathetic.

You know, I know I make light of it. But you know what? Shame on us. Shame on us.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Madam President, I can't tell you how comforting it is to sit in this chamber and hear all of the debates, the same type of debates that we've heard for, I guess, the last decade. At least when I was in the Assembly we talked about the same kind of things.

And what's comforting about that is that though the problem persists of our inability to get a budget, it means at least in what might be called this fantasy land we've gone back to normal. Nothing's happened. The worst attack in our nation's history never really occurred.

Yes, a budget being late is

horrible. But can we just for a moment truly look at where we are in history? Not only the massive loss of life, but the economic consequences that occurred as a result of that attack in this state, in your city and my city, was the worst we've ever had. And yet here we are today bemoaning the fact that people aren't getting along.

Senator Duane, I don't want to be insensitive to your concern, because your concern is my concern. We need a budget, you're absolutely correct. But at least let's characterize it against the backdrop that exists.

First of all, let's take a look at last year. You know, last year, while the rest of the nation was suffering under the burden of a malaise in the economy -- just look at California and many other jurisdictions that had to raise taxes again and again -- in New York, we were able to draw down on $4 billion of reserves, the most reserves we ever had.

And for any of us who had been in that negotiation when we were developing those

reserves, beginning in 1995, under Governor George Pataki, we had to bring the Assembly kicking and screaming to that reserve table. Year after year, they said spend the money, spend the money, don't put any away. I recall that as if it were yesterday.

But there's no credit given for that. Because you know what that $4 billion did? It got us to where we are today without having to do these changes, these horrible changes.

The situation today is obviously the most serious and grave we've ever faced in this state. This is not about an on-time budget as much as it is about people being able to afford to live here, and how do we recover as an economy. That's what this is about. The moves we make today, I will argue, will be the most significant moves we will make in a decade as to where this state goes from here.

Every part of the state is affected. On Long Island there was a wonderful article yesterday in Newsday, in the "Living" section, that broke out all the

different costs for suburbanites in Nassau and Suffolk County. When you consider the increase in the fuel costs and the increase in commuting and the real property taxes and all the other things, we have to take a look at what's happening to the people we represent. Whether it's in the city, Westchester, upstate, there's a huge wave of taxes that has already hit them. What's our response going to be?

Well, whatever it is, if there's any time to be thoughtful and to consider all of the options, it's this year. Now, I'm not going to justify a late budget. But we have set this thing up. Let's look to what we've done and where we've been and realize that this is something that we have to do together.

So I would ask my colleagues on the Minority side, if you've gotten a chance to take a look at programs and ways to save money, more efficiencies, well, get them in to Senator Johnson. I'm serious. That's what we need. That's the dialogue that all of us need. Because you know what? In every facet of government we may know something more than

somebody else of how it affects our community, of how it affects the programs we pay attention to.

Get those ideas -- I brought them. I've given to Senator Johnson several programs. That's what we ought to be doing. Contribute in that way.

Yes, conference committees might have been a better forum. But you know what? The forum still exists. Because that's how serious this year is.

And just one comment. The Governor doesn't need anybody to defend him, but let me just make one observation. I've had the opportunity to spend some time with the Governor talking about security stuff. And it is very, very difficult issues that he has to deal with. Enormous amounts of pressure. I would say more pressure than I've ever seen him under. Remember, we have to be right a hundred percent of the time; terrorists have to be right once. Enormous pressure.

He's fully engaged in this budget, but he's also juggling a lot of other balls in the air, trying to make the best decisions,

again, against the backdrop of the worst budget calamity we've ever had.

Madam President, I'm going to choose today not to stop government and give us a chance to continue this dialogue, realizing that the news gets worse every day. So I'm going to vote aye on the bill.

Thank you very much.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Well, let me -- give me just a moment. Senator Diaz first.

SENATOR DIAZ: I'm just going to take one minute to say that I'm new. But before I came here, I overheard every year the same thing.

And then I received a letter this week telling me that I will not be getting paid until the budget is passed. I had nothing to do with it. Why is it that I'm getting punished?

Only three guys are the ones responsible. They are the ones that should be getting punished. Because it's like a

criminal action what we do every year here. So why don't we pass a law telling them if the three of you don't get together and don't pass the budget on time, we're going to send you to jail. And put them in a room in a jail and say: You will not leave the room until you pass the budget.

So to my colleagues here and to Senator Duane, I will say that I agree with him on some things, like yes about the three guys. But I have to say here too that I do not agree with Senator Duane where he compares what's happening here with the Catholic Church and the way they choose their pope. I hate to believe that Senator Duane is making a mockery of the Catholic Church, of any other religion.

I think that we are doing serious business here, we are professionals here. And if we want respect, we should respect others. And I don't -- I will not -- I will not -- I will not keep quiet when somebody is trying to compare or make a mockery of religion for anything.

So I don't think -- I think that I take it seriously. And I will not support any

kind of comparison of the way we do business and the way the Catholic Church chooses their pope. Thank you.

On the bill.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR DIAZ: Oh, how do I vote on the bill? I'm voting no.

THE PRESIDENT: Senator Brown.

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

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR BROWN: I think all of us are beginning to experience some serious frustration that this budget has not passed. And in the words of a famous song -- which is old now -- that we've all heard: What have you done for us lately? I think that's what the citizens of this state are saying to us: What have you done for us lately when it comes to passing this budget?

Now I and I'm sure nobody else in this chamber wants to see the operation of state government stop. We don't want to see

people go unpaid. But if there was any year, any year for us to pass this budget on time, this was it.

In the face of a budget deficit of over $11.5 billion, and larger than that -- and as members have alluded to, with each passing day the magnitude of the deficit gets larger. So the longer we go, the deeper the fiscal crisis gets, the deeper and deeper it gets.

Our school districts, local governments, and community-based organizations and the needed programs and services that they provide can't afford this delay.

And I think what this debate is about is putting more pressure on the system. It's putting more pressure on this process. We've got to say that this budget has got to be passed sooner, not later. We all know that April 1st was our deadline. April 1st was our deadline. This budget should have been passed. And the longer we delay, the deeper the problem gets.

Now, I know that the school districts in my district, in Buffalo and

Niagara Falls and Grand Island, in the city of Tonawanda -- particularly in Buffalo, the school district is on its knees. The ability for that school district to provide the resources to educate the children of that community is severely hampered.

They're looking at hundreds of layoffs of teachers in that school district. They're looking at class sizes grow to over 30 children in the classroom. We all know that we're looking at cutting kindergarten and pre-K in that community.

I am imploring whoever is listening to this debate that we have to get this budget passed, and we've got to get it passed quickly, because the delay is damaging this state in so many ways that it is sad to contemplate what we will have in the wake of this budget continuing to extend.

I am forced, as others have been forced to do today, to express my protest with this budget process by voting no to this extender legislation. I lament having to do that. But to press for some change, I feel obligated to vote no.

Thank you, Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

Madam President, I know that everyone in this chamber shares the grief and the sadness and the horror that underlies the awful attack on the Trade Center on September 11th.

And I don't question the Governor's commitment and hard work on the issue of making our state safe, nor those members who are working hard on homeland security here in our own chamber. I know that they in particular and all of us in general are working hard to make sure that a horrible tragedy like this does not happen again. I don't question those motives at all, not for one second.

But I do take exception to using that tragedy as justification for our dysfunctional budget system. Our budget system was dysfunctional before September 11th, and it's dysfunctional today. And perhaps it's even more glaringly

dysfunctional in light of the terrible tragedy that befell our great state.

And again, I think that we have to take responsibility, all of us collectively, for our not being able to have a functioning and productive budget system for the state.

Thank you, Madam President.

THE PRESIDENT: Senator Schneiderman.

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

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: Let's move from small misrepresentations upwards towards larger misrepresentations. The difficulty some of us have with the piece of legislation we are being asked to vote on right now is, quite simply, this is a bad bill. We have a gun to our head, we're told they're going to shut down the government if we don't vote for this.

And yet we're also told that when the Governor, to close the 2002-2003 budget gap, delayed $1.3 billion in payments to

school districts and promised that as soon as we got to the new fiscal year he would pay -- when we're told that the Governor now is administratively withholding those funds and that this bill would not force him to make those payments, a lot of us have a problem.

It's not true to say that this bill will not hurt school districts. Let's get the fact out on the table. All over the state, school districts are laying people off. This bill we're voting on today will hurt school districts.

There are other programs that have been referred to by my colleagues that are not funded in this bill. The rationale apparently is that the Governor says this is a bare-bones bill. But now the Governor is the only person apparently deciding what's bare bones.

And if he decides that we're not going to make payments that have been in every other extender in the last few years for annuity payments to blind veterans, payments that are excluded from this bill, the Governor decides it, we still have to vote for it or we'll be accused of shutting the government

down.

Senator Balboni said things are back to normal. They're not. We're now down to one man in a room. In fact, I don't think he's in the room. I think he's phoning it in from wherever he is defending the state of New York. So we don't have anyone in the room anymore.

And I would like to suggest that we're not back to normal in a much more fundamental sense. We're not back to normal because twenty years of spending increases, through ups and downs, but of a basically steady climb, and twenty years up and down but basically on a steady climb of tax cuts for the wealthiest New Yorkers and the wealthiest Americans, have produced a structural deficit the likes of which this country has never seen.

Other states are suffering from the same problem. This is not just because of the tragedy that occurred on September 11th. Before September 11th, the Governor's own analyst projected a $3 billion budget deficit for the next year.

He did preserve some reserve funds, as Senator Balboni pointed out, reserve funds to get him through his reelection campaign. And they did. Those funds are gone, and now we're faced with the reality that was facing us before September 11th and would face us whether or not that tragedy occurred.

We have restructured the state of New York so that the wealthiest New Yorkers are paying less, the poorest New Yorkers are paying more, and that after years of tax cuts that overwhelmingly benefit the wealthy, the Governor refuses to even put on the table the notion that they should give back.

We are now talking about something that in propaganda, discussions of propaganda is called a big lie. This is the big lie: Raising taxes, even taxes that support good schools and good healthcare and good transportation, hurts economic growth. That's the big lie that has paralyzed us. That's why we are here with my Republican colleagues pulling me off the floor and saying: We know we have to raise taxes, but we don't want to talk about it publicly.

We all know. Everyone in Albany is talking about the fact that we have to raise taxes. We can't talk about it publicly because of the big lie. Let's start getting real. We're going to raise taxes. We're going to have massive tax increases. We all know it.

So we're not back to normal, Senator Balboni. We're in a situation where political debate is at a worse level than it's ever been. And I would respectfully submit that it is an utterly incoherent argument to suggest that raising taxes to preserve critical services hurts the economy.

In fact, I know constituents from my district who move into Senator Balboni's district, where they have relatively high tax rates, because they know those tax rates afford great public schools.

People don't flee jurisdictions that have high tax rates that support good levels of public service. That assertion -- demonstrably false, economically incoherent -- is paralyzing the state of New York because we all walk around saying we got to raise taxes,

we got to raise taxes, but we don't want to talk about it in public.

And I would suggest that, instead of elbowing each other out of the way to stand with every advocacy group that opposes spending cuts, that we spend a little time focusing on the tax increases that are going to enable us to prevent those spending cuts.

Things are not back to normal. Things are worse than ever. Every day it gets worse. They just laid off a whole group of paraprofessionals in my daughter's school; I don't think we're ever getting them back. And they're not going to get better if we continue to say whatever lousy bill the Governor sends us we will vote for and go along as though nothing is going on.

Something very serious is going on. The state is facing a structural deficit that can only be solved by tax increases that we are not even talking about.

I'm voting no. I think everyone here should vote no. And I hope that the next time we discuss this we will have some serious proposals to raise revenues as a part of this

discussion.

Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, I was just curious if there's a substitution at the desk.

THE PRESIDENT: Yes, there is, Senator.

SENATOR SKELOS: So to the best of my knowledge, having been here now my 19th year, that means the Assembly has passed this bill. I believe that Speaker Silver then has agreed on passing this bill.

I also believe that there would have been an opportunity for the Speaker, if he so desired, to amend the bill that was sent by the Governor. He opted not to do it. This is the bill that is now before this house.

Now, a couple of things. To say that the Governor doesn't care about the budget process I think is incorrect. The Governor is engaged, as is Senator Bruno. I'm sure the Speaker is engaged. And everybody, quite frankly, is disappointed that there is not an on-time budget.

But let me ask my colleagues on the other side of the aisle: If we put the Governor's budget bill to a vote, how many of you would support it? How many would vote for it? Nobody.

So I think really what it's about, although there is disappointment that there is not a budget, we are working as a Legislature. And I would ask the members of the Minority, rather than carping and complaining, that you be part of the process, that you work through your Minority Leader, who has a great relationship with Senator Bruno. Come up with your ideas.

If you as a conference feel that taxes should be raised, come up with a proposal as a conference. As a conference, a united conference proposing tax increases.

But the bottom line here is we are working as a Legislature, diligently, to try to pass a revised budget. And to say that the Governor is not engaged, that the Speaker is not engaged, that Senator Bruno is not engaged or that members of the Legislature -- I know that members of the Majority are engaged.

We've supported reforms that would encourage an on-time budget. We haven't heard anything -- many of you opposed those reforms. We haven't seen the Speaker take up one of those reforms and pass them to encourage an on-time budget.

I recall, whether it was last year or the year before, sitting hours upon hours trying to get joint conference committees activated. The Speaker refused to send his members. Not only refused to send them, refused to appoint members as members of the conference committee.

So I think what we should recognize today, the bill that's before us that Senator Johnson so eloquently debated is a matter of keeping government going. As we do, as we perform our legislative functions in amending and changing the Governor's budget as we see fit.

So, Madam President, I support this bill and I ask that it be brought to a vote at this time.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I think that it's important for us to acknowledge the fact that an amendment to the Governor's proposal in fact would not have been able to have been passed in a timely manner because an amendment by the Assembly would not have matched up with the Governor's message of appropriation or message of necessity.

So we have a situation where the Governor really does have control of this process, unless the Legislature chooses to take it away from him and we decide that we're going to negotiate with the Assembly our own extenders and our own budget and be prepared for an override.

I do acknowledge that Senator Skelos's points relating to our colleagues in the other house have some merit. As far as I'm aware, the only person who's had the courage, actually, and leadership to step up and call for specific tax increases is our leader, Senator Paterson.

We are hopeful that our colleagues

in the Assembly will join us in discussing this issue in the course of the next week. And we urge simply that everyone on both sides of the aisle and both parties face up to what we're doing here.

But there is no way we could have -- we're in a situation with one-week extenders -- that we can change the Governor's change absent our own ability to deal with a message of appropriation and a message of necessity.

Thank you, Madam President.

THE PRESIDENT: The Secretary will read the substitution.

THE SECRETARY: In relation to Calendar Number 440, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 7963 and substitute it for the identical Senate Bill Number 3935, Third Reading Calendar 401.

THE PRESIDENT: Substitution ordered.

Read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Onorato, to explain your vote.

SENATOR ONORATO: Madam President, to explain my vote.

As I indicated earlier, I'm not happy with this particular extender. I'm not opposed to the Governor's proposal that we keep government operating. What I am very, very disappointed in is that we have not, as we have in previous years, included funding for all of the people that are included in the $90 billion that the Governor submitted.

If those people's money were included into this appropriation -- and I can't see any justification for leaving them out of it. They're not going to get the full amount, but they will get a partial payment just like everybody else in the state will get their partial payment. They're going to get paid to keep their households going. So should everybody else that's in the Governor's original budget be included in the extenders.

When they do that, I'll be very,

very happy to vote for the extenders until we get the real budget on time. But I vote no now.

THE PRESIDENT: You will be so recorded as voting in the negative.

THE SECRETARY: Those recorded in the negative on Calendar Number 404 are Senators Andrew, Breslin, Brown, Dilán, Duane, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Schneiderman, A. Smith. Also Senator Diaz. Ayes, 42. Nays, 17.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 405, Senate 3936.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 405, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 7964 and substitute it for the identical Senate Bill Number 3936,

Third Reading Calendar 405.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 405, by the Assembly Committee on Rules, Assembly Print Number 7964, an act to amend the Executive Law, in relation to permitting.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Briefly on the bill.

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: This is the language bill that accompanies the legislation we just were talking about. All of the same arguments obtain.

I will be voting no for the same reason I voted no on the last bill, and I encourage all my colleagues to do likewise.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 405 are Senators Andrews, Breslin, Brown, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Schneiderman, and A. Smith. Ayes, 42. Nays, 17.

THE PRESIDENT: The bill is passed.

Senator Brown.

SENATOR BROWN: Thank you, Madam

President. I request unanimous consent to be recorded in the negative on Calendar 217.

THE PRESIDENT: Hearing no objection, you are so recorded as voting in the negative.

Senator Morahan.

SENATOR MORAHAN: Yes, I believe there are some nominations at the desk.

THE PRESIDENT: Yes, there are, Senator.

SENATOR MORAHAN: Could we take those up at this time and read them as a whole, with one vote.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following nominations:

As a member of the New York State Bridge Authority, David A. Teator, of Philmont.

As a member of the State Environmental Board, David Johnson Miller, of Ballston Lake.

As a member of the Empire State

Plaza Art Commission, Norman S. Rice, of Albany.

As a member of the Advisory Council on the Commission on Quality of Care for the Mentally Disabled, Judy Eisman, of Great Neck.

As a member of the Mental Health Services Council, Peter V. McGinn, Ph.D., of Vestal.

As members of the State Council on the Arts, Elaine Wingate Conway, of Bronxville, and Laurie Tisch Sussman, of New York City.

As a member of the State Hospital Review and Planning Council, Howard S. Berliner, of New York City.

As a member of the Board of Visitors of the Binghamton Psychiatric Center, John J. Wiktor, of Binghamton.

As a member of the Board of Visitors of the Broome Developmental Disabilities Services Office, Kathryn Paddock, of Binghamton.

As a member of the Board of Visitors of the Creedmoor Psychiatric Center, Hector J. Battaglia, M.D., of Centerport.

As a member of the Board of Visitors of the Metro New York Developmental Disabilities Services Office, Claudia H. Jackson, of the Bronx.

And as a member of the Board of Visitors of the Western New York Developmental Disabilities Services Office, Kay F. Cook, of Batavia.

THE PRESIDENT: The question is on the confirmations as read by the Secretary. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are all hereby confirmed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Is there any housekeeping at the desk?

THE PRESIDENT: No, there isn't, Senator.

SENATOR MORAHAN: Please recognize Senator Paterson.

THE PRESIDENT: Senator Paterson.

Thank you, Senator Morahan.

SENATOR PATERSON: Madam President, I have a motion. But before I do, might we recognize Senator Montgomery for just a brief moment.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like unanimous consent to be recorded in the negative on Calendar 272.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative.

Senator Paterson.

SENATOR PATERSON: Madam President, I believe I have a motion at the desk, and I ask that it be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Paterson, Senate Print 1008, an act to amend the Public Authorities Law.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, my records show that there has not

been a motion to petition sustained by this body in 225 years. However, you are going to be a witness to history.

And I thank my Republican colleagues, who I spoke to earlier today, and they are here and are going to be part of this moment in history.

First, let's take a look at the reason we have to do this. At the end of calendar year 2001, the MTA reported, through its budget, a $25 million to $35 million surplus. By 2002, during negotiations with the Transport Workers Union, the MTA reported its deficit at $2.8 billion.

That negotiation reached a conclusion without a transit strike in New York City. And on December 20th, the end of that week, along with seven of my colleagues, we held a press conference asking for an independent oversight committee, an operations oversight committee to the MTA in which there would be six appointees, one each from the four leaders of the Legislature, one from the mayor of the City of New York, and one from the Governor of the State of New

York. Of the six appointees, one must be a commuter and one must be a worker for the Metropolitan Transit Authority.

Simply, what we want this oversight committee to do is to take a look at the operations plan to make sure that the authority is negotiating in good faith, to make sure that the authority is reporting its operational revenues also within 30 days of the Legislature's adopting their budget. Right now, there is no restriction. It has to, under this motion that I'm offering, be within 30 days.

So we want to know what the records are 30 days before we vote on it, and we'd like to have an independent oversight committee. Right now there's a major capital plan that the Legislature involves in every five years, but we want it to be more specific, more succinct.

Because shortly after the conclusion of that negotiation, the Independent Budget Office reported that the MTA's estimate of $2.8 billion was superfluous. They estimated the deficit of

only about $950 million. If that was known at the time there was a negotiation, there may have been a slightly different conclusion.

But the fact is that just as we have to report our own personal expenses and our own issues of ethics to the State Ethics Committee every year and it is reviewed by an independent commission, we just want the entity, the authority of the MTA to make the same report.

I think that's pretty straightforward, Madam President. And I know that the Majority -- who has offered reforms to the legislative process, who has a whole new idea of how to negotiate the budget, and one that we may have disagreed with a few of the issues that they presented, but they had their plan out here very early in the session and I'm sure would have stayed here over the weekend right before the budget was due to negotiate it -- I'm sure that that Majority is going to vote with this motion. So I want to thank them in advance for their support.

Oddly enough, the same way we knew we couldn't pass the budget on time, we had an

extender in advantages of the April 1st deadline.

So I want to be as clairvoyant as all of us were last week, thank everyone. And I am not going to take total credit for being the first member of the Legislature to pass a motion for petition in 225 years, but my name is David Paterson, with one T.

And I want to thank all of you for being here, and there will be a celebration in Room 314 right after the vote on this motion.

Thank you, Madam President.

(Laughter.)

THE PRESIDENT: All those Senators in favor of the petition out of committee please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilán, Duane, Gonzalez, Hassell-Thompson, L. Krueger, C. Kruger, Lachman, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Sampson, Schneiderman, A. Smith, and Stachowski.

THE PRESIDENT: The petition is

defeated.

Senator Morahan.

SENATOR MORAHAN: I do have to say that came as close as any other that ever passed.

Is there any housekeeping at the desk, Madam President?

THE PRESIDENT: No, there isn't, Senator.

SENATOR MORAHAN: There being no other business before the house, I would make a motion to adjourn until Tuesday, April 8th, at 3:00 p.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Tuesday, April 8th, at 3:00 p.m.

(Whereupon, at 4:58 p.m., the Senate adjourned.)