NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

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3:06 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, Monday, January 19, the Senate met pursuant to adjournment. The Journal of Sunday, January 18, 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 Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Volker, on page 4 I offer the following amendments to Calendar 5, Senate Print 5883, and I ask that that bill retain its place.

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

SENATOR FARLEY: On behalf of Senator Larkin, Madam President, on page 4 I offer the following amendments to Calendar 8, Senate Print 1382, and I ask that that bill retain its place.

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

SENATOR FARLEY: On behalf of

Senator Spano, Madam President, on page 8 I offer the following amendments to Calendar Number 50, Senate Print 3704, and I ask that that 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 FARLEY: On behalf of Senator Little, on page 9 I offer the following amendments to Calendar Number 61, Senate Print 1414, and I ask that that bill retain its place.

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

SENATOR FARLEY: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

Senator Skelos.

SENATOR SKELOS: While we're on motions and resolutions, I believe there's a substitution at the desk, if we could make it at this time.

THE PRESIDENT: Motions and resolutions.

The Secretary will read.

THE SECRETARY: On page 10, Senator Leibell moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 9349 and substitute it for the identical Senate Bill Number 5893, Third Reading Calendar 64.

THE PRESIDENT: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are four privileged resolutions at the desk by Senator Kruger. Could we have the titles read and move for their immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator

Kruger, Legislative Resolution Number 3152, commending Tommy and Perrie Gelb upon the occasion of their being honored by Masores Bais Yaakov with the Hakoras Hatov Presentation at its 16th Annual Dinner on January 21, 2004.

By Senator Kruger, Legislative Resolution Number 3153, commending Rabbi and Mrs. Eli Shulman upon the occasion of their designation by Masores Bais Yaakov as the recipients of the Harbotzas Torah Award at its 16th Annual Dinner on January 21, 2004.

By Senator Kruger, Legislative Resolution Number 3154, commending Sruli and Miriam Schubert upon the occasion of their designation by the Masores Bais Yaakov as the recipients of the Keser Shem Tov Award at its 16th Annual Dinner on January 21, 2004.

And by Senator Kruger, Legislative Resolution Number 3155, commending Zevi and Lilliane Samel upon the occasion of their designation by Masores Bais Yaakov as the recipients of the Parents of the Year Award at its 16th Annual Dinner on January 21, 2004.

THE PRESIDENT: 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 Schneiderman.

SENATOR SCHNEIDERMAN: Yes, Madam President. I would move that the following bill be discharged from its committee and be recommitted with instructions to strike the enacting clause: Senate Number 1024, by Senator A. Smith.

THE PRESIDENT: So ordered.

SENATOR SCHNEIDERMAN: And, Madam President, I'd also like to acknowledge that we are honored today to have a visit from the consul general of the Dominican Republic, Jose Pimentel; the vice consul; and other colleagues.

Bienvenidos, amigos.

We are very, very honored by their presence and welcome them here, and I'm pleased to show them the courtesy of the

house.

Thank you.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 15, by Senator Larkin, Senate Print 5659, an act to amend the Real Property Tax Law, in relation to the collection and disposition of delinquent taxes.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 16, by Senator LaValle, Senate Print 294, an act to amend the Education Law, in relation to

the inclusion of fiscal notes.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 39, by Senator Volker, Senate Print 2945, an act to amend the Criminal Procedure Law, in relation to the receiving of business records.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 42, by Senator Skelos, Senate Print 3827A, an act to amend the Criminal Procedure Law and the Family Court Act, in relation to evidence of identification.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 6. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 63, by Senator Farley, Senate Print 5871, an act to amend Chapter 729 of the Laws of 1994 relating to affecting the health insurance benefits and contributions.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect May 15, 2004.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 64, substituted earlier today by Member of the

Assembly Sweeney, Assembly Print Number 9349, an act to amend the Retirement and Social Security Law, in relation to employment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can I ask for an immediate meeting of the Banking Committee in the Majority Conference Room.

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

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

SENATOR BRUNO: Madam President, can we at this time have the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 16, by Senator LaValle, Senate Print 294, an act to amend the Education Law, in relation to the inclusion of fiscal notes.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR LaVALLE: Thank you, Madam President.

This is a bill that we passed and debated last year. It's a bill that's sponsored in the Assembly by Assemblyman Schimminger. It's a very simple bill but yet is probably one of the more important bills that this house can pass, that I believe would give us the kinds of information and the public the kinds of information it needs in making public policy decisions.

The bill would, for the State University, City University, and the Board of Regents, mandate that prior to the adoption of any resolution or alteration or amendment to

their rules or regulations that, where they are expending money, that they must attach to their resolution a fiscal note. And that's something that we do here in the Legislature and I think it's very, very important.

This bill, as I have indicated, deals with SUNY, CUNY, and the Board of Regents. The question that has come up, and we talked about this in last year's debate, is that the increase in the Regents standards -- and the question from our local school boards and taxpayers is that there was a mandate.

And the question was how much was that mandate. How much do we, in terms of our state aid formulas, need to generate to cover that mandate, and how much must our local school districts generate to cover that mandate.

The same is true when something is passed by resolution by the SUNY board or the CUNY board, and a program, and then we as a Legislature are required to give that system additional aid to deal with that program.

And so as I indicated at the onset, we really, I believe, will help in the

process, by disseminating information, in making better public policy. Disclosure is never bad. The more light we shed on the process, the better it is, because it provokes public debate and discussion on whether too little money is being allocated, too much is being allocated for a particular purpose.

But we should not be flying in the dark by not knowing how much a resolution that is passed by the SUNY board, the CUNY board, or the Board of Regents, what the effect that will be on us as a Legislature or on the local taxpayer.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Senator -- Madam President.

I have really just one question for the sponsor if he would yield for a question.

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

SENATOR LaVALLE: Yes, I will.

THE PRESIDENT: Thank you, Senator LaValle.

SENATOR OPPENHEIMER: The

question is -- I see I voted against it last year. And I guess the problem I had last year -- and it's still a problem, so I have to question you -- is why are we singling out just SUNY, CUNY, and the Board of Regents? Why aren't we applying -- I mean, actually, that's why I voted against it.

If we were to apply this to all of our agencies, I could strongly support it. I think transparency is fabulous. But I don't understand why we just selected these three for special treatment.

SENATOR LaVALLE: Senator, as you know, as we introduce legislation, as individual sponsors we focus on a particular problem because of our committee responsibilities.

Being chairman of the Senate Committee on Higher Education, member of the Education Committee, I felt that the input that I was getting over and over again, both locally and from members, when it dealt with higher education, you know, why do we have to increase X aid to the City University or the State University? You have to go back and

look at the programs that they enacted.

I am sure locally in your district when the Regents standards were enacted that you were asked over and over again, you know, where's the money coming from? How much money is this going to cost?

And so in doing due diligence, we tried to find out when we could have, at the very beginning, should we have had that information.

This might be -- you might introduce a bill to do it for all state agencies. And it may not be a bad idea. But here, because of my responsibilities and interests, the interests of people in the district I represent, it was very, very important to isolate this into these three areas.

SENATOR OPPENHEIMER: That definitely clarifies. Thank you, Senator.

And I think the Senator has specifically said what was concerning me. And of course, since he's chair of the Higher Education Senate Committee, that is why he has introduced this bill. And I may just support

it now.

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 4. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 2. Senators Andrews and Hassell-Thompson recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Madam President. If I could have unanimous consent to be recorded in the negative on Calendar Number 39.

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

Senator Bruno, that completes the reading of the controversial calendar.

SENATOR BRUNO: Madam President, can we at this time return to the reports of standing committees.

And I believe that there is a report from the Rules Committee at the desk. I ask that it be read now.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print Number 1A, by Senator Bruno, Concurrent Resolution of the Senate and Assembly proposing amendments to Article 7 of the Constitution.

And Senate Print 2A, by Senator Bruno, an act to amend the State Finance Law.

Both bills ordered direct to third reading.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: I move to accept the report of the Rules Committee.

THE PRESIDENT: All in favor of accepting the Rules report please signify by

saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Calendar Number 66.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 66, by Senator Bruno, Senate Print 2A, an act to amend the State Finance Law, in relation to changing the state fiscal year to May 1st through April 30th.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR BRUNO: Thank you, Madam President and colleagues.

This bill before us relates to budget reform. This is in bill form, change

the law. And following this, we hope to take up a resolution that would make the law permanent by changing the Constitution, going through the due process.

But on this specific bill before us, I would ask again for your support. I believe this is the tenth time that we are doing a budget reform bill as part of the first or second bill that we do in the Senate.

And it's no secret to any of us in the process that the budget negotiations, as it presently exists, doesn't work. This is 18 years -- we're in the 19th year -- when we have not had an on-time budget. So if you can't get it done in 18 years, through a couple of governors and speakers and leaders here in this house, it doesn't work.

So we need to mandate a change, because what sets the tone for all the people of this state is our budget. And it's important to get a budget that is done on time, in a professional manner. And this is the year to get that done.

Now, the Assembly, last year, did a budget reform package. We have incorporated,

I believe, a lot of what has the Assembly has done. The Governor has prioritized, has done it again as he presented his budget earlier today, to get a budget reform package in place.

Here's what this does, in two minutes. Moves the whole process up. It just moves the process up. Starts October 15th, meeting with agencies, getting all the information. By November 15th, we start the process of negotiating and deliberating and refining the information. Where we many times -- well, then the Governor submits his budget, instead of by January 20th, by January 15th.

So you start in October instead of starting in January, and continue through November. And when the Governor submits his budget, we usually get hung up on revenues, what is available to budget. We always get hung up on that.

So what we are saying in this bill is that let the Comptroller, elected by the people of this state, be the arbitrator. So that if we can't agree by -- one date says

March 1st. It may be March 5th. But by March 5th, the latest -- is it the 1st or the 5th? It's in two different places.

If by March 1st we don't come to an agreement among ourselves, then by the 5th -- thank you -- the Comptroller will arbitrate a number. And that kicks us into the public process of conference committees by March 16th. We'll have an open public discussion of the budget.

Now, if we come to an agreement, we have a budget by May 1st. Not April 1st, May 1st. If we don't come to an agreement by May 1st, last year's budget kicks in. We'll have a budget.

The change would be that if revenues are short, there's flexibility to make adjustments for that. And it creates a summary form in that it creates a surplus that has to be part of your budget, and it mandates sort of a three-year projection of what changes we make and how it affects the governor's budget. So that we do that analysis.

And then it talks about the

Governor, after all of this takes place, readjusting, sending us back a finalized version of what it is that is the law.

That's it. Pretty well simple, pretty direct. It works. I think we've had support on both sides of the aisle. This is the year to get it done. The Speaker has said we're going to have an on-time budget. The Governor says we should have an on-time budget. We know we want an on-time budget. This will be the year to put this in place, because it's not controversial at this stage of our lives.

Thank you, Madam President.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. Will the sponsor yield for a question, please?

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

SENATOR BRUNO: Yes, Madam President.

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

SENATOR DIAZ: Senator Bruno, we left here June 19th of last year.

SENATOR BRUNO: Yes.

SENATOR DIAZ: There were some monies assigned or designated to some community organizations. As of today, as of today, those community organizations have not received their money.

How your proposed plan will take care of that? Is there any provision in your plan to solve this problem that community organizations doesn't have to suffer what they have been through this year? Because it is a shame that as of today, community organizations and community groups that need the money to function, they have not received their money yet.

SENATOR BRUNO: Once we get by April 1st, March 31st without a budget, presently, everything sort of gets done by emergency bill. What we're saying is that we move that to May 1st, which gives us a greater opportunity to get together.

But once it goes into place, well, then those items that you're referring to

would go into the process.

SENATOR DIAZ: From the previous year?

SENATOR BRUNO: From that year, and hopefully be expedited through the system. Because it goes through budget to the agencies and then to your constituents.

And we would have a mechanism of tracking that for all of us.

SENATOR DIAZ: Madam President, I think that as long as those communities --

SENATOR HASSELL-THOMPSON: On the bill.

SENATOR DIAZ: On the bill.

THE PRESIDENT: You're on the bill, Senator?

SENATOR DIAZ: On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR DIAZ: Madam President, as long as those community organizations that I represent in my district that as of today they have not gotten their money, if this bill provides some mechanism for them to not to go through what they have been going through this

year, I think that that is a beautiful bill and I will support it.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I want to compliment Senator Bruno and my other colleagues on both sides of the aisle with working so tenaciously to get this very important package of bills on the floor.

And I know that in my district there are few issues of greater importance to the people who pay taxes in this state and the people who rely on services from this state.

I have a few remarks that deal with both bills, and I'll place them together because it's difficult to separate them.

We're dealing, on the one hand, with a constitutional amendment of very practical but somewhat sweeping consequences in changing the date for budget deadlines and all of the commensurate submission deadlines that go with that. And, on the other hand, S2, which we'll be taking up in just a few moments, deals with the implementation.

There are key aspects to this that

are going to be so beneficial to all of our constituents that we really need to develop a comfort level in explaining them and demystifying this process.

When people are angry with us at home, they don't understand day to day and minute to minute what our committee processes are, what the relations are between the two houses of the Legislature or the Executive and the Legislature, both branches. They simply tar us all with the same brush.

And we often hear that people want to throw all the bums out. And who can blame them? Because in the end, if we don't do our job correctly, it is government that has failed them, and they're not able to differentiate where the blame game is.

These bills together will eliminate that situation. These two measures, when implemented, will create a framework where we will have the kind of communications between the government that is in the executive branch and the government in the legislative branch. It will create the kind of cooperative spirit that has been altogether too haphazard, at

least within the last 19 years.

For instance, the consensus forecasting process to be completed by March 1st will give us all a set of figures that we can analyze. We will have the same numbers. We will have the same information. It will be a starting point where we will all be able to talk as reasonable people about what we expect to do, what we believe we need to do.

By asking the Governor to give us a four-year financial projection, we will all then have the ability to make long-term determinations that right now are all too much guesswork for everybody.

By requiring the executive branch to give information about journal voucher transfers, there will no longer be any mystery about where the money went.

There has been so much confusion about one agency not having the funds that the Legislature thought were appropriated to that agency, not being able to implement activities within an agency because in effect the responsibility had been shifted to another

agency or the funds had been drained off for another, maybe worthy project -- but the Legislature that had empowered those agencies to do that job was left wondering what was happening.

These are far too complex matters to burden each taxpayer with. They need the satisfaction of knowing that we care enough to identify what's wrong with this process and that we're prepared to fix it.

Now, together, these may look like very weighty measures. There are pages and pages of hard work that have been refined over a number of years. But I'm proud of the fact that they are S1 and S2 in this house and that we are starting off this year on the right foot and we are sending a message to the taxpayers of this state that we will not tolerate the kind of late and irresponsible budget activities that have all too often been commonplace in this capital.

Thank you, Madam President.

And thank you again, Senator Bruno, for your leadership.

THE PRESIDENT: Senator

Schneiderman.

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

We're now voting on Senate 2A, Calendar 66, which passed unanimously last year and many of us have been pleased to support. We will then move on to Senate 1A, that has generated a slightly more lively debate.

But I certainly think that there's very little argument with the provisions here. I note that most of them, in one form or another, with slight variations, have been proposed at one time or another in both houses, in the Assembly and the Senate.

And it would be nice, as we'll discuss in the debate on S1, if we could actually get something done by way of budget reform this year. Certainly there's no objection on my part to any of the revisions in this bill.

I hope, though, that we can recognize the need, as we move forward, to actually do something different than we have in past years as far as moving this process of

budget reform along this year.

Thank you, Madam President.

THE PRESIDENT: Senator Robach.

SENATOR ROBACH: I'm going to get up and agree with Senator Joe Bruno and Eric Schneiderman. I hope that's a harbinger of things to come.

This bill, for me, I guess I take a little bit of a different approach, having come from the other house. I am very happy to be here now, where this has been driven. I'm talking about both these bills, S1 and S2. And I don't think, historically, that the houses have taken a similar view. But I am encouraged to hear Senator Bruno tell me that we are moving in that direction.

Everywhere I go, the public expects us to be a little bit more pragmatic, a little bit more logical. And I've never been able to answer the question as to why we don't get a budget done on time. And the answer is because we have to have something, as my grandmother would say, something where the rubber hits the road, something that's real.

To comment on Senator Diaz's

question, there is no doubt in my mind that for a long time -- in my days in the Assembly, I was told: Go back and tell people that the reason why the budget is late is so we can work to get you more of what you want.

The reality really is we owe the public just the opposite. We have to tell them, whether they're a school district, whether they're a healthcare provider, whether they're a not-for-profit agency, whether they're a municipality, what we're going to give them, what our budget holds, and do that in a timely fashion.

These two bills do that. They make structural reform, they put teeth in it. And I'm hopeful that, as other comments indicated, this will pass unanimously here and hopefully something similar or exactly these bills will pass the other house to again really make the change the public is asking for once and for all.

Thank you, Madam President.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill briefly.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Thank you.

Yes, I am in support of this bill, as I was last year, Senator Bruno. And we had a discussion about this bill last year, and I urged you to consider some additional reforms. And I still have a package of about eight budget reform bills that I hope you will take a look at.

And I read your package that you released last week. And truthfully I hoped to find things that I would feel strongly I disagreed with you on. But again, perhaps not a surprise, I'm such a strong believer in the need to reform our budget process that I find myself in agreement with most of the proposals you were making.

And so while I will be voting for your bill today, what I would urge is for us to reevaluate how we go forward. Last year we started out early passing this bill, and yet we finished session not having accomplished anything. And you in your own materials talk about ten years of dedication to some level of reform to our budget process. And yet it's

ten years later, and we haven't gotten there.

I would argue -- or not argue, I would propose that the Democrats in the Senate, the Republicans in the Senate, the Democrats in the Assembly and the Republicans in the Assembly all have budget reform proposals. There's probably a package of 30 bills between the four caucuses.

That if we want to really move beyond unanimously passing your bill here today, what you should do in your leadership position is immediately call for, I would argue, a five-way meeting of Senate Republicans, Senate Democrats, Assembly Democrats, Assembly Republicans, and of course the Governor, who's an important player in this, sit down in a room, use the word "conference" or not as you choose, figure out where we agree and we disagree, and get something moved that's a same-as bill early in the session, not this bill today and something else in the Assembly.

Because I frankly don't want to go back and explain, as Nancy Larraine Hoffmann pointed out, Senator Hoffmann, and Senator

Robach, how do we explain to our constituents why we never come to closure, why we never pass legislation that we all seem to agree on.

So I will hope that what I believe will be almost unanimous support today for S2A could translate into a call almost immediately by you, and perhaps Senator David Paterson, for both houses and Governor Pataki to sit down with your package of bills and proposals, ours and both caucuses in the Assembly, and then let's get same-as bills through both houses up here ASAP.

That's how we'll prove to our constituents that it's not just another year like the ten years before of people saying they want budget reform and not moving it forward.

So that is my recommendation as an addition to what we do here today.

Thank you, Madam President.

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

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 19. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

Senator Onorato.

SENATOR ONORATO: Madam President, may we have I have unanimous consent to be recorded in the negative on Calendar 16.

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

Senator Bruno.

SENATOR BRUNO: Madam President, can we ask for an immediate meeting of the Local Government Committee in the Majority Conference Room.

THE PRESIDENT: Immediate meeting of the Local Government Committee in the Majority Conference Room.

SENATOR BRUNO: And Senator Montgomery to be recognized.

THE PRESIDENT: Senator

Montgomery.

SENATOR MONTGOMERY: Thank you, Senator Bruno.

Madam President, I would like unanimous consent to be recorded in the negative on Calendars 16 and 42.

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

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Calendar 65.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 65, by Senator Bruno, Senate Print 1A, Concurrent Resolution of the Senate and Assembly proposing amendments to Article 7 of the Constitution.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, Madam President, on the bill. As Senator Bruno has explained S1A and S2A together, I don't think we need a further explanation.

While I supported Senator Bruno and enjoyed joining him basking in all of the warm sentiment that we just received in the debate on Senate 2A, I voted against the predecessor to this bill, and I'll be voting against this bill again. And I think the arguments that have been made really fall into two categories.

First of all, what is in this bill that is not in Senate 2A -- that is really something that I don't see how we as a house of the Legislature can support -- is a provision that transfers massive power from the Legislature to the Governor.

This provides that if the Legislature -- if we fail to agree to an on-time budget, which the Governor presumably can hold up through his own intransigence, the previous year's fiscal budget goes into place and the Governor is empowered, free of any constraints by the Legislature, to reduce spending.

So with reference to the community programs that Reverend Diaz was talking about, the community programs might go through if

they were in last year's budget, or the Governor might decide to cut them, and we don't have any control over that.

That's a fundamental flaw, in my view, in this legislation. It was a flaw before, it's a flaw now. I don't think it's going to pass the Assembly, so I don't think we're going to have to deal with it.

But I would urge that this is the kind of thing that requires us to not just to dig our heels in and continue to push the same piece of legislation, but to actually look at the underlying structural balance of the government, the need to keep the Legislature and the Governor involved in the budget process.

The second problem I have here really has more to do with the process. And it's nice that we're here saying, you know, we passed these bills, Senate 1 and Senate 2 -- although, as Senator Bruno has acknowledged, we've been doing that for ten years. It doesn't seem that the number of the bills is having a big impact on this.

And I think that the truth of the

matter is that we now have degenerated into a pattern with the Assembly where they're passing one-house budget reform bills, we're passing one-house budget reform bills, and there appears to be very little effort to get outside of this stalemate.

This bill is not here as a result of extensive inquiry and hearings by the Finance Committee, an effort to evaluate all of the fine academic literature on the budget process that's out there. This bill was amended Friday, it's just been rushed through Finance and Rules, there haven't been hearings of the Finance Committee.

And since last year, when we passed a virtually identical bill, there's been a lot of discussion of the problems with New York State's budget process. I note in particular the November 13th paper by the Citizens Budget Commission by Professor Gerald Benjamin: "Reform in New York: The Budget, the Legislature, and the Governance Process," which provides detailed analysis and recommendations, none of which is addressed in this bill, which just reiterates what we did

last year.

I note that in the last few weeks, there have been editorials across the state. We find that the New York Times is in agreement with the Elmira Star Gazette in calling for reform of the budget process.

And unfortunately, as pointed out in some of these editorials, we're approaching an extremely unfortunate and dubious anniversary. If we don't pass the budget on time this year, it will be twenty years of late budgets. Twenty years of late budgets.

The process clearly is broken. But I would suggest that the effort to throw bills out on the table without really further evaluating them doesn't necessarily move the process forward.

Somehow we have to get together with the Assembly to come up with something that can actually pass both houses. And until we're meeting with them, until we're really moving something different than the same bills they passed last year and the same bills we passed last year, I don't think we can fairly say to the public we are really doing

everything we can do to reform the broken budget process.

So I will once again be voting no on this bill. I do think that there are things we can do to get the budget passed on time. Most drastically, I commend to you all Senator Paterson's bill requiring that we remain in session every day until the budget is passed if we miss the deadline. I assure you that that would probably have a dramatic effect.

Short of such drastic action, there's a lot we can do. We're not doing it with this bill. And I vote no and suggest that everyone vote no.

Thank you, Madam President.

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

Senator Sabini.

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

THE PRESIDENT: You may proceed on the bill.

SENATOR SABINI: I commend the sponsor for his judgment and leadership last

year in the budget crisis that we weathered through, and admire, really, the tack that this body took under his leadership.

And I, for one, said repeatedly last year that there really is no pride in us passing budgets late. I agree with the principle of that.

As Senator Robach points out, you know, there's lots of rationales to pass the budget late, but the public, the people we represent, buy none of them. The only people who haven't figured out that it's a shell game are the members of the Legislature and the interest groups who feed at the troughs that we fill for them every year.

And so I too would like to see budget reform. But the best budget reform, I think, is political will. The women and men of the Legislature can pass an on-time budget if we want to. We really don't need a contraption to do it. We have it now; it's called a deadline. And we can meet it if we choose to meet it. But we choose not to because it's convenient, it serves our interests, it serves the interests of the

people who lobby us.

And while I think we do need some reform, I think that the default process in this bill allows whatever house of the Legislature is of the same party as the Governor to in effect play stallball against the other, to play four corners, to keep the process stymied until such time as the Governor gets what he wants. And I suspect that this bill would not be proposed, if the Governor was of another party, by the Majority.

So I share the desire to change the process. I will continue to speak out against late budgets. But I don't think that ultimately this bill is the answer.

I hope that as a collective group, as Senator Liz Krueger said, using the wisdom of the members of the Legislature in both houses in both parties, we can come up with a package that can pass and mean something to the people of the State of New York.

But until such time as we do that, I fear that this bill really gives one house and the Governor way too much say over what

ultimately will be the budget and encourages, in effect, legislative inaction rather than legislative action on fiscal matters of this state.

Thank you.

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

Senator Diaz.

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

THE PRESIDENT: You may proceed on the bill.

SENATOR DIAZ: I am relatively new, a new legislator. I served one year in the City Council of the City of New York, and this is my second year here.

But I have learned to be afraid of three words in this process. And those three words, I heard the Governor use them again and again this morning in his budget explanation. The three words are "reform" -- I have learned that when we hear "reform," meaning minority cuts, minority groups get hurt.

The other word is "restructuring government." I'm afraid of that word too. I

have learned that every time that something like that happens.

And the other word is "cost savings."

Reform, restructuring, and cost savings, those three words panic me, because they always hurt my community.

And listening to the Governor this morning talking about reform, restructuring, cost savings, I'm afraid to give him more power than what he has. So I cannot support this one.

Thank you very much.

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

Senator Bruno.

SENATOR BRUNO: Can I, just by way of explanation -- because I appreciate your support for Senate 2A on both sides of the aisle.

If the Governor, because of a shortfall, if this were in place, wants to cut or has to cut something, he would have to do it across the board, for discretionary funds only. Which means that if there were items

both sides of the aisle, if he had to cut, it might be a 3 percent cut, both sides of the aisle, the Assembly as well, uniformly. The Governor cannot pick and choose.

If he likes Senator Diaz, he supports him, if he doesn't think too kindly of another one, he doesn't -- it doesn't work that way. And he can only touch discretionary funds, not the mandated programs.

So I just clarify that, Madam President, and again appreciate the support and would recommend we move the bill.

THE PRESIDENT: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote yes. I just wanted to make a couple of points.

There's been some criticism about the language of this particular bill. And in order to have conference committees, you've got to have bills in order for you to be in a position to negotiate those bills.

And it's easy to blame either the Governor or the Assembly or anyone else. But when we pass this set of bills every year the first time, the first bill that we do, and the Assembly I think for the first or maybe second time passes actual bills when we're closing session, well after the budget is over, it's pretty tough to negotiate.

So no matter whose fault it is, the fact is it's got to be resolved. Enough is enough. The Senate has shown their goodwill. A couple of years ago, remember, we called budget hearings. We were asking the Assembly to show up. Well, we should all get together, Democrat or Republican, to get this thing off the dime, get committees going and have this thing resolved once and for all.

Although the public is frustrated, I don't think anyone could experience the frustration of all of us who have to go through this process each year.

THE PRESIDENT: Senator DeFrancisco, you will be so recorded as voting in the affirmative.

Senator Oppenheimer, to explain

your vote?

SENATOR OPPENHEIMER: Well, I would like to be recorded as a no vote.

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 65 are Senators Andrews, Breslin, Connor, Diaz, Dilán, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Schneiderman, A. Smith, Stachowski, Stavisky. Also Senator Lachman. Also Senator Sabini.

Ayes, 39. Nays, 20.

THE PRESIDENT: The resolution is adopted.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President. May I have unanimous consent to be recorded in the negative on Calendar Number 16.

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

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's several reports at the desk. And I ask that they be read at this time.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Farley, from the Committee on Banks, reports the following bills:

Senate Print 2242, by Senator Farley, an act to amend the Banking Law;

2262, by Senator Farley, an act to amend the Banking Law;

2264, by Senator Farley, an act to amend the Banking Law;

3425, by Senator Farley, an act to amend the Banking Law;

And Senate Print 4575, by Senator Farley, an act to amend the Banking Law.

Senator Little, from the Committee on Local Government, reports:

Senate Print 136, by Senator Maltese, an act to amend the Municipal Home

Rule Law;

2960, by Senator Alesi, an act to amend the General Municipal Law;

3556, by Senator Bruno, an act authorizing;

4925, by Senator Little, an act to amend the Local Finance Law;

And Senate Print 5884, by Senator Trunzo, an act to amend the General Municipal Law.

All bills ordered direct to third reading.

THE PRESIDENT: Without objection, all bills ordered direct to third reading.

Senator Skelos.

SENATOR SKELOS: Madam President, is there any housekeeping at the desk?

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

Senator Brown.

SENATOR BROWN: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar Number 65.

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

SENATOR BROWN: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business, I move we adjourn until Wednesday, January 21st, 11:00 a.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Wednesday, January 21st, at 11:00 a.m.

(Whereupon, at 3:58 p.m., the Senate adjourned.)