NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

August 2, 2004

3:20 p.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will 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.)

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

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

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, August 1, the Senate met pursuant to adjournment. The Journal of Saturday, July 31, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT McGEE: 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 Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Robach, I wish to call up Senate Print Number 3277, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1579, by Senator Robach, Senate Print 3277, an act to amend the Retirement and Social Security Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT McGEE: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

SENATOR FUSCHILLO: I now move to recommit the bills to the Committee on Rules.

ACTING PRESIDENT McGEE: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator McGee, I wish to call up Senate Print Number 7117, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1492, by Senator McGee, Senate Print 7117, an act to amend the Real Property Tax Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT McGEE: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT McGEE: So

ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar at this time.

ACTING PRESIDENT McGEE: All those in favor of adopting the Resolution Calendar in its entirety will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a resolution at the desk by Senator McGee. May we have the title read and move for its immediate adoption.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator McGee, Legislative Resolution Number 5950, commemorating the 30th Anniversary of the

Cummins, Inc., Jamestown Engine Plant.

ACTING PRESIDENT McGEE: All in favor of adopting the resolution will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Skelos.

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

And then if the Senate could stand at ease.

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

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:24 p.m.)

(Whereupon, the Senate reconvened at 3:41 p.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: Immediate meeting of the Finance Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time if we could return to reports of standing committees.

I believe there's a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT McGEE: Reports of standing committeees.

The Secretary will read.

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

Senate Print 5504A, by Senator Oppenheimer, an act to amend the Public Authorities Law;

6246A, by Senator Robach, an act to amend the Town Law;

7379, by Senator Golden, an act to amend the Real Property Law;

7523C, by Senator Rath, an act authorizing the president of the State University of New York;

7690, by Senator Skelos, an act to amend Chapter 416 of the Laws of 1999;

7692, by Senator Spano, an act to amend the Public Health Law;

7696, by Senator Skelos, an act to amend a chapter of the Laws of 2004 amending the Education Law;

Senate Print 7697, by Senator Little, an act to amend a chapter of the Laws of 2004;

Senate Print 7698, by Senator Kuhl, an act in relation to amending state construction and commodity contracts;

And Senate Print 7699, by the Senate Committee on Rules, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

All bills ordered direct to third reading.

Senator Skelos.

SENATOR SKELOS: Madam President, I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Rules Committee report is accepted.

SENATOR SKELOS: If we could just stand at ease, I think we're going to be circulating the calendar. And then we'll take up the Rules calendar.

ACTING PRESIDENT McGEE: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:44 p.m.)

(Whereupon, the Senate reconvened at 3:50 p.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Senate Calendar Number 62, noncontroversial.

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

THE SECRETARY: In relation to Calendar Number 1041, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 10294A and substitute it for the identical Senate Bill Number 6246A, Third Reading Calendar 1041.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1041, by Member of the Assembly Morelle, Assembly Print Number 10294A, an act to amend the Town Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1754 --

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, on behalf of Senator Rath, I'd like to have Calendar Number 1754 recommitted to the Committee on Rules.

ACTING PRESIDENT McGEE: So ordered.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1895, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 8976A and substitute it for the identical Senate Bill Number 5504A, Third Reading Calendar 1895.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1895, by the Assembly Committee on Rules, Assembly Print Number 8976A, an act to amend the Public Authorities Law.

ACTING PRESIDENT McGEE: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1897, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 11219 and substitute it for the identical Senate Bill Number 7379, Third Reading Calendar 1897.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1897, by the Assembly Committee on Rules, Assembly Print Number 11219, an act to amend the Real Property Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1898, by Senator Skelos, Senate Print 7690, an act to amend Chapter 416 of the Laws of 1999 amending the Public Health Law and the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2005.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1899, by Senator Spano, Senate Print 7692, an act to amend the Public Health Law, in relation to the reporting of the number of maternity patients.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2004.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1900, by Senator Skelos, Senate Print 7696, an act to amend a chapter of the Laws of 2004 amending the Education Law.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1901, by Senator Little, Senate Print 7697, an act to amend a chapter of the Laws of 2004, relating to an exemption from the tax on admission charges.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2004.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1902, by Senator Kuhl, Senate Print 7698 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1903, by the Senate Committee on Rules --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1902, by Senator Kuhl, Senate Print 7698, an act in relation to amending state construction and commodity contracts.

SENATOR SCHNEIDERMAN:

Explanation.

ACTING PRESIDENT McGEE: Senator Kuhl, an explanation has been requested.

SENATOR KUHL: Thank you, Madam President.

This is a bill that we have been putting together and working on for a couple of months now that has come about as the result of the unforeseen emergency of unanticipated escalation of steel prices in the construction industry.

We have seen, in the last year, most notably in the last six months, steel price increases of 40, 50, 60, 70 percent. And what that has done, it has caused some contractors who have done public bidding with the State of New York to be put in the position of either defaulting on the contract for fear of going through bankruptcy or eventually going through with the contract and then suffering through bankruptcy.

So what we've done is come up with a bill that essentially allows for an adjustment for the contractual and bid price. With the help of the Comptroller of the State

of New York, we have built in a price index that will allow for an adjustment based on that index to accommodate for these escalating prices.

Now, this bill deals with purchases -- or I should say steel or materials that were purchased or invoiced after December 1st and on bids that were put forth prior to April 15, 2004.

This primarily came out of the contractual arrangements dealing in the transportation industry. And that's why I am carrying the bill, as the chairman of the Transportation Committee in the Senate.

But it relates now to all of the agencies throughout the entire state, so it's not specific to transportation alone. It could be dealing with colleges or other types of situations that the state finds itself in where the steel price escalation has caused serious problems with the construction industry here in New York.

SENATOR SCHNEIDERMAN: The explanation is satisfactory.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1903, by the Senate Committee on Rules, Senate Print Number 7699 --

SENATOR MALCOLM SMITH: Explanation.

ACTING PRESIDENT McGEE: An explanation has been requested, Senator Larkin.

SENATOR LARKIN: This is a very simple bill that we had talked about last year. And this year it was refined to be more delineative and more specific. It authorizes the issuance of free passes, cards and badges at racetracks to spouses, domestic partners and children of owners, trainers and jockeys.

This defines it; it limits it.

This is something that they have all agreed on that it should be specific. And I think you'll all understand that it is specific.

Thank you.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

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

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

I believe there's a report from the Finance Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read the report of the Finance Committee.

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

Senate Print 7700, by the Senate Committee on Rules, an act making appropriations for the support of government;

And Senate Print 7701, by the Senate Committee on Rules, an act to amend Chapter 62 of the Laws of 2003.

Both bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Without objection, all bills are ordered directly to third reading.

Senator Bruno.

SENATOR BRUNO: This is the emergency bill. I think Senator -- oh, we have to get the bill on the floor, Madam President. I stand corrected.

Our learned counsel was not in his seat.

(Laughter.)

SENATOR BRUNO: Learned counsel

is now in his seat. On his seat.

And can we at this time take up Calendar Number 1904.

ACTING PRESIDENT McGEE: Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 1904, by the Senate Committee on Finance, Senate Print 7700, an act making appropriations for the support of government.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT McGEE: Yes, Senator Bruno, there is a message.

SENATOR BRUNO: I would move that we accept the message of necessity and appropriation.

ACTING PRESIDENT McGEE: All in favor of accepting the message of necessity and appropriation signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed

say nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT McGEE: Senator Volker.

SENATOR VOLKER: I know I don't look like Owen Johnson. But Owen has not been able to be here, so I have been asked to try to explain this bill.

This bill appropriates $23.2 billion -- probably, in all honesty, the largest single bill outside of a budget that we probably have ever passed. And the bill extends the state financing until September 12th, the payroll financing to September 16th. Because, of course, although we don't get paid, as we all know, our staffs do, and a lot of other people get paid.

In this bill is basically the entire appropriation for the rest of the year for school aid, including an additional

$555 million, I believe, which is the amount that has been tentatively agreed upon by the Senate and the Assembly in additional aid over last year. That's 555 in fiscal number; 740, calendar numbers.

There is a series of additional amounts in here -- 4 billion for Medicaid -- and many other amounts, including the additional money for TAP. We fixed the so-called TAP problem. And that's -- it basically is a bill that keeps us going until September 12th.

We would certainly hope that in a much shorter time that we'll be able to negotiate the budget. But the idea here is to make sure that everyone knows what they can expect to have. Not everything, of course, is in here, because we're not passing a budget yet. So there are still some things that need to be done.

But it is believed, according to the Governor -- because this bill was sent to us by the Governor -- that the amount of money involved here will continue the operations of government at a substantial level until we can

finally get the budget done.

ACTING PRESIDENT McGEE: Senator Schneiderman.

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

SENATOR VOLKER: Yes, certainly.

ACTING PRESIDENT McGEE: Senator Volker yields.

SENATOR SCHNEIDERMAN: You mentioned earlier that this bill includes $550 million dollars in additional funding. Could you please explain, $550 million in addition to what? What's that on top of?

SENATOR VOLKER: We're talking about over and above last year's -- essentially, last year's budget.

In other words, what we have been funding, as you well know, is we've been using last year's numbers. One of the things I think most people don't realize is that we actually continue last year's budget until, what is it, October, I believe, or -- yeah, September, from last year's budget.

But what we're doing here is we're

adding additional money over and above that, based on the fact that there has been a tentative agreement between the Senate and the Assembly as to the additional money that will be provided to school districts.

Although -- and your next question probably will be exactly how it will be spent, and the answer is there has not been an agreement yet on dividing out the money. There has not been an agreement on a formula. So the answer is we don't know yet.

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

SENATOR VOLKER: Why, certainly.

ACTING PRESIDENT McGEE: Senator Volker, will you continue to yield?

SENATOR VOLKER: Sure.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SCHNEIDERMAN: As I read this legislation, it appears to allocate, in fact, $146 million more than was allocated for school aid last year. So I'm having a little bit of difficulty understanding whether you're

talking about in addition to the Executive proposal released in January or you're talking about the actual funds allocated for the 2003-2004 school year.

Could you please clarify that?

SENATOR VOLKER: I think the appropriations are on top of the Executive appropriations, which I think were $146 million, if I'm not mistaken -- $147 million.

And what we've done here is appropriated an additional $555 million over and above that appropriation.

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

SENATOR VOLKER: Certainly.

ACTING PRESIDENT McGEE: Senator Volker, will you continue to yield?

SENATOR VOLKER: Certainly.

SENATOR SCHNEIDERMAN: Is it not correct that the Governor's proposal in January -- which is serving, I understand, as the floor for these additions -- included the $240 million revenue from video lottery

terminals that is a part of this $550 million that is supposedly being added?

SENATOR VOLKER: He didn't appropriate those funds, and -- that is not in here, if that's what you're talking about.

And he did not actually appropriate those funds. That is a proposal, if I'm not mistaken, that came later.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Madam President, to Senator -- you're talking, I believe, about the educational funds that are in this $23 billion bill.

The intent of this was that the Governor had submitted 148 in his budget. He submitted $325 million set aside for CFE, subject to VLT monies flowing.

This wraps all of that up into a total of about $740 million, $555 million fiscal year. So it wraps all of that in the number that's here -- all of this being subject to a budget getting adopted by the Legislature.

So these dollars, while they're in

the emergency bill, are not allocated specifically, but the intent is that we all know that tax bills are going out on August 16th -- Nassau, the 15th -- trying to get in front of that process.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Thank the Majority Leader for his clarification.

Through you, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Volker, do you continue to yield?

SENATOR VOLKER: Sure.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SCHNEIDERMAN: Coming back to the question that the sponsor anticipated, can you tell us -- the portion of this six-week budget extender that in fact allocates funding for the entire 2004-2005 school year, can you tell us what the increase or decrease in funding is for the City of New York over last year's education budget?

SENATOR VOLKER: No, I can't do that, because we have not broken it out yet. That is one of the things we'll do when we do the formula.

So we can't give you the -- in fact, if I'm not mistaken, there is supposed to be some filings in the next couple of days with the CFE -- with the court, relating to the CFE agreement. And one of the things that will be discussed is that.

But all -- what this budget does, or this budget bill or emergency bill, it appropriates the money to be available, subject to an agreement.

And by the way, one clarification. You had mentioned VLTs. There is $240 million in here, and I apologize, from existing VLTs. There's no additional money. The Governor discussed additional money to put in to help fund the CFE decision. But that -- the money that is appropriated within here is appropriated from existing VLTs, which I think is $240 million, something of that nature.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: And through you, Madam President, will the sponsor yield for a final question?

SENATOR VOLKER: Sure.

ACTING PRESIDENT McGEE: Senator Volker continues to yield.

SENATOR SCHNEIDERMAN: Can you tell us, since this $240 million for VLTs is supposed to be a part of funding the sound, basic education grants, how close the VLT revenue is this year to the Governor's projection, the $240 million that was provided to us in January?

SENATOR VOLKER: We really don't have an estimate. We can't tell you. I understand the VLT revenues are running pretty well. But I really can't tell you about that. That's something we'll discover probably shortly.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Thank the sponsor. Thank his aides and assistants.

I'd like to speak on the bill.

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: This is a bill that we really need to address in two parts. The first part is a six-week budget extender. We will now, it's pretty clear, break the New York State record for late budgets.

This is a bill, even if you take out the school aid, that's larger than the budget of 26 states. So we have now degenerated, as noted by our Majority Leader earlier this session, to the point that we're governing the State of New York by extenders and passing massive budget bills without going through even the minimal process that's ordinarily provided for our budget bills.

I think that the fact that this is a six-week extender -- and I realize that there's some discussion of us coming back, but a six-week extender sends the wrong message. We should be staying here, as Senator Paterson has repeatedly noted, until we finish the state budget.

There's no -- I have worked for a lot of organizations, I represented a lot of large corporations, I represented large

corporations that were being sued for incompetence and fraud, and I have never seen anything like this in my life. This is the worst-functioning large organization as far as allocation of funds and disbursements of massive amounts of funds that I've ever worked in or represented.

The second part of this bill is the school aid bill, which essentially adopts the Executive proposal for school aid for the 2004-2005 year and adds some funds on top of that. The total number, the total amount of money allocated for school aid, however, is only 1 percent greater than the amount allocated last year. The rate of inflation over the last year was 3 percent. So this is a net cut to the school districts of the state.

We can't tell how much is being cut for each of our school districts because this legislation doesn't specify where the money will be spent. We don't know how much money is being add or cut for Yonkers, for Syracuse, for the City of New York, for the City of Albany. That's not in here. We're being

asked to vote on a school aid package for the '04-'05 fiscal year without knowing how much is going where.

And of the additional new money that is being added to the Governor's original Executive proposal, which we were provided with in January, some of that is this VLT money, $240 million projected by the Governor. According to the Division of the Lottery, the VLT revenues are currently running at only 65 percent of the projections at the beginning of the year. So that money we know is not really there.

And while we're adding some new state money, the money for what's called categorical grants is not in here. It's not in here. The Governor's bill which he's submitted to us, and we're happy to share blame, doesn't have in it money for teacher centers, for teacher-mentor interns, for teacher support. That's just not in this bill. That was a $320 million pool of funds, and that's been cut.

So we're adding some money we know is not there, from the video lotteries, we're

adding some other money, but we're taking away $320 million in categorical grants. And the total package does not keep up with the rate of inflation.

Now, I appreciate the sincerity of the Majority Leader's statement that we want to pass a budget. But this bill for the school districts that are not the Big Five creates -- it doesn't just create a floor, it creates a ceiling. This is what they -- you know, this is what they're getting.

And we may add money in some areas, but given the degeneration of the process here -- and again, this is not the fault solely of the people in this chamber, it's everyone in the building -- the degeneration of the process is to the point that I don't know that the people of the State of New York have a lot of confidence that we are going to get the job done and pass a budget restoring all this money.

I do know that this bill that is before us today would provide a six-week extender, which I cannot vote for. And I do know that this bill only provides a 1 percent

increase of school funding overall for the state and it doesn't tell us where the money goes.

Now, remember 2001. Remember the bare-bones budget that we never got back to? When you pass a bare-bones budget, sometimes that's what you have to live with. I think that we have missed the mark.

I understand that the plaintiffs in the CFE case are back in court now and that there is a letter that has been sent on behalf of the state opposing the appointment of a special master.

The letter that was sent to the court on July 30th argues, and I guess anticipating this bill, that "defendants have developed and proposed a comprehensive legislative compliance plan based on the recommendations of the bipartisan New York State Commission on Education Reform and embodied in program legislation proposed by the Governor."

This is an effort to give cover to the Governor's shameful resistance to the CFE case. The court in the CFE case found in

excruciating detail that we have failed hundreds of thousands of children in the City of New York, that they don't have adequate classroom space, that they don't have enough trained teachers, that they are working in conditions that are absolutely deplorable.

And I assure you -- and I'm familiar with this litigation from my years as a lawyer predating my time in the Senate -- that there's no possibility of the Governor's proposal, even with the little bit of addition that we've added, meeting the standards that were set by the Court of Appeals in the CFE case.

We are setting the stage for a special master. And I would particularly urge my colleagues from other parts of the state other than New York City, the special master only has jurisdiction to order additional funds for the City of New York. I know other cities are filing lawsuits. But this is hanging out to dry every other high-needs school district in the state.

I'm going to vote no on this. I recommend everyone vote no. I hope the

Majority Leader's optimistic view that we are coming back to get a budget done soon is correct. But I do remember 2001, when we thought we were coming back and we never did.

Thank you, Madam President. I will be voting no.

ACTING PRESIDENT McGEE: Senator Volker.

SENATOR VOLKER: Madam President -- and I will certainly try to be brief -- Senator, I -- and I don't like to dispute your numbers, but I think the problem that your staff had in coming up with the 1 percent is it's actually 5 percent. And the reason has to do with the difference between fiscal-year basis and calendar-year basis. The calendar year is $740 million, not $555 million, so that in reality it's 5 percent.

Not that I think that's a big deal, because you mentioned the additional money that -- in the special grants which may well be part of a budget agreement. Those are things that we sometimes don't even talk about, because they fold into next year and so

forth. I'm not an expert on this stuff.

But I'm always fascinated by the process -- and I hope Senator Bruno won't get too upset when I say that I'm going to use Ron Stafford's own line, because I think it's important: You can lead a horse to water, but you cannot make him brush his teeth.

And the reason that's important is Joe Bruno's problem -- Senator Bruno -- and our problem is that a group of legislators in the Assembly from New York City have decided -- and this is a democracy, something that's hard for some in the media to understand. In a democracy, a group of legislators can stop things. The way Long Island did years ago, by the way, stopped their budget process on school aid for many years.

Those people in the Assembly -- and, you know, what they have done is said, We're not going to negotiate. You can do anything you want, but we're not going to negotiate. So they've stood there and said, Oh, we'll talk to you, but we're not going to complete an agreement until after a master is

appointed.

Okay, what does Senator Bruno do? He tries his best. Should we sit here day after day after day and argue with each other? And the answer is that's silly.

But I want to warn my colleagues from New York City. My only warning is this. I use, from my constituents, that this is like "Gunfight at the O.K. Corral." This is really, to a certain extent, a result of 9/11. This is not about reform. It's about the Jerry Maguire "show me the money." This is an attempt to pour money into the city on education, a system which we know is broken.

On the other hand, we cannot seem to get any judge or anybody to do anything about that New York City school system. We got rid of the Wicks Law. People said, Oh, my gosh, now we'll save money. The cost of construction in New York City doubled within a few years.

I can only say -- and let me just finish. And I'm -- I guess I'm getting off my frustration. I told my constituents: Look, we are not going to have -- the majority of

the money for school aid in this state comes from suburban districts around New York City, Long Island, and upstate. The judge who made this decision full well knew that those districts could lose a ton of money that would go to the city. We are not going to allow that to happen.

Many of us from upstate are ready to stay here all year, if we have to, to make sure that our constituents, who pay most of the education money to start with, are not fouled up so that our tax system rises a dramatic amount.

And it's hard to understand, because New York City people have a tendency to send out these messages that said, well, we provide most of the money. That is baloney. Most of the money for income tax and real property money -- because real property taxes in New York City are extremely low -- we pay it.

And my problem is, and I'm speaking for myself now, I firmly believe that we should fund New York City as much as we can. But let's make one thing clear. There is no

evidence that more money will do a better job with kids in New York City. We already give a lot more money than the percentage of students who are actually being taught. So fine. And we want to help New York City. But we also want to make sure that the rest of the state is also financed in a proper way.

ACTING PRESIDENT McGEE: Senator Sabini.

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

ACTING PRESIDENT McGEE: Senator Sabini, on the bill.

SENATOR SABINI: I'm not going to give a scolding or a lecture or risk hearing how this is -- or risk hearing my remarks reiterated by folks on the other side of the aisle that this is a two-house problem, because I admit that it is. Or a systematic problem in New York State, which I admit that it is.

I just find it interesting that not only are we setting a record by going forward with this extender of having the latest budget in the state's history, but, ironically, we're

now closer to the schedule of hearings for the fiscal '05-'06 budget than we are for the April 1st deadline for the budget we're in.

So we're not only late for this budget, but as soon as we finish this budget, the people on our staffs are going to start thinking about next year's budget. We're actually closer to having hearings on that.

Now, hearings are supposed to mean something. We had them in the cold of winter. And yet we stand here in August still deliberating over this.

And my colleague Senator Volker, who I have an enormous amount of respect for, says, Well, you know, a group of people can stop things here. In my limited time here, I find it's really easy to stop the Legislature. We're really good at being stopped. It doesn't take a big roadblock.

California, we have a governor in California who is new to government who used some hyperbole and got people to the negotiating table. Maybe that's what we need.

I'm sad to say that it's endemic in this building, no matter what floor you're on,

no matter what side of the building, and that if we continue to extend and go home and have staffs negotiate and not have a fire lit under us, then that's why we wind up in this position.

I still contend -- and I'm sure I'll hear others tell me I'm wrong, but I still contend that if we used our collective wills and stayed here long enough, we'd get the job done. It may not be to everyone's satisfaction, but that a consensus can be achieved. That's what people send us here for.

And even this week I heard from a member of the other house who's a member of my party that "You don't understand how Albany works." And again, to me, it really doesn't seem like it works at all.

I will be voting against this. I welcome -- if this goes to its final date in September, I hope that the national delegates who visit our state realize that the state budget isn't passed and that we're working on extenders, sort of the fiscal "Hamburger Helper" or "Tuna Helper" of New York.

And in fact, at the national convention the Democrats held in Chicago a few years ago, the most valuable souvenir was a Democratic Convention commemorative box of macaroni and cheese from Kraft. And maybe this year they should make it "Hamburger Helper" and hand it out to delegates, let them know that that's what our government is good at in New York, extending. When you don't have much meat, you want to extend it. Well, we don't have much here to talk about if we continue to extend what is, in effect, bad policy.

So I'll be voting no and joining others, I hope, in voting no, in the spirit that I think we could get things done if we really, really tried and put some attention to it and some of the hyperbole -- that we all, frankly, are guilty of -- aside.

Thank you, Madam President. I'll be recorded in the negative.

ACTING PRESIDENT McGEE: Senator Krueger.

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

So we already admit to being a dysfunctional legislature. Members of this Senate on both sides have made that statement multiple times, including Senator Bruno this year on the floor.

We saw a report come out from the Brennan Center two weeks ago documenting that we're actually the most dysfunctional legislature in the country. Nothing to be proud of. Although perhaps a recognition that, like in twelve-step programs, the first step is always admitting you have a problem.

And we're not prepared to admit we have that problem, not if we pass this six-week extender today. Not if we decide to respond to the orders of a court because we failed to do our job for so many years in addressing unfair school aid formulas. Not if our response to that is to say, Fine, we'll have no school aid formulas. That solves the problem. We won't be accused of having unfair school aid formulas because we simply won't have any at all.

And we won't even have a budget anymore. We will go through an exercise where

we do six-week extenders, we stick in a few things we like here and there, and we completely default our responsibility, not just legislatively but budgetarily as well.

But I have to stand and respond to my colleague Senator Volker's attacks on New York City schools and this court decision. Senator Volker, the fact that historically New York City has been underfunded for education for our children is not a justification to continue such a pattern. An attack on New York City schools, as if the fault lies with the City of New York because we have an unfair disadvantage in our schools for our children, and that that is somehow the fault of bad administration or bad management.

Well, we can all agree we need more accountability in our schools, more accountability for the budgets that we spend on our schools. I would argue Long Island has recently had the most clear example of that, with Roslyn and the stealing of large sums of money from that school district.

To stand on the floor of the Senate and to make incorrect statements about

education funding and the role of the City of New York in state funds cannot be left unanswered.

You argued that New York City pays less property tax than other parts of the state. Perhaps you're not aware of the New York City personal income tax. Perhaps you're not aware of the fact that while we might disagree over who ought to be funding more or less of any given responsibility of the state throughout the State of New York, the City of New York is a transferrer of revenue of between $7 billion and $11 billion more per year to the State of New York than is returned.

So to stand on the floor of the Senate and to imply that the City of New York is somehow stealing money from other districts, in the suburbs or anywhere else in the State of New York, is a misstatement of the facts. The facts are that the City of New York is the transferrer of revenue from city taxpayers to people throughout the State of New York, including in your own district, Senator.

And the argument that you don't like a court case decision or you think that judges overstep the role they should have in the courts, because they ordered us to do something we have failed to do for decades on our own, may be your personal opinion but does not change the facts that New York State underfunds certain high-needs districts, New York City and throughout the state of New York. The courts stepped in only after decades of our failing to address this legislatively.

Our failure to continue to address this through this six-week extender, or refusing to even take a stand on school aid formulas, will do nothing to help the children in any of the underfunded school districts in New York State. And while it is fine to rail against the courts and to rail against New York City, it neither changes the facts nor offers us a solution.

So I will also vote against this extender today because of what is not in it, what we have continued to abdicate as our responsibility. And my fear is that this not

only might be the first year the State of New York has the first September deadline budget, but this might be the first year that the State of New York never actually has a budget. And what does that say about us in our future and how history records our votes today? So I hope my colleagues will think about that and vote no today.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Brown.

SENATOR BROWN: Thank you, Madam President.

Let me just say for the record that I came here to deliver positive services to the residents that elected me and to the residents of the State of New York. And if I could today write a headline for many of the news organizations all across this state, that headline would probably be "New York State Legislature Fails to Get the Job Done -- Again."

I mean, it's August 2nd. And as Senator Schneiderman said, we will now, without us taking action on the budget today,

we will probably this week slip into the latest budget ever in the history of the State of New York, in the history of this legislature. And I think this is a sad, sad day for the New York State Legislature.

You know, we talked about the Brennan Center and the Brennan Center calling this Legislature dysfunctional. Well, a citizen's watchdog group, the Citizens' Budget Commission, asked the members of this Legislature to sign a pledge to push the leadership to give us at least the three days that the Constitution calls for to be able to have the public and the members of this Legislature review the budget.

Well, today we're voting on over $23 billion, a six-week extender, and we just saw this document 20 minutes ago at most. So again, you know, we are failing to follow the Constitution of this state and give ourselves time to even look through, to read through, to be able to properly process what we're voting on.

I mean, if this isn't confirmation of the dysfunctionality of how business is

done here, I don't know what is. And I have to say it again, this is a sad, sad day.

I will say that my bags are packed, my bags are packed for the next two weeks. I don't want to leave Albany today without the budget being done. I don't want to leave Albany today with no resolution to school aid reform and no resolution to this Campaign for Fiscal Equity decision.

This Legislature could have taken action before the court-imposed deadline, and we could have addressed the underfunding of the New York City public schools but also school districts all across this state. The Campaign for Fiscal Equity has found that not only are New York City public schools underfunded, but some 500-plus of the approximately 700 school districts in this state are underfunded. Every school district that I represent in my Senate district is underfunded, both urban and suburban.

So this is a sad day that we come back here to Albany again on August 2nd and we're not prepared to vote on a budget, we're not prepared to vote on school aid reform, and

we're not prepared to vote on this Campaign for Fiscal Equity decision.

I too, sadly, Madam President, will be voting in the negative.

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I have been in this chamber long enough to remember before we had budget extenders. And I really rue the day that the legal beavers figured out how we could do these budget extenders so all of state government could operate without having the benefit of a budget in place. Because I too think that it's deplorable that we are voting piecemeal on a budget that should have been enacted on April 1st.

I remember speeding down the Thruway to get back to this chamber after taking off without any kind of permission when we were late with our budget in my very first year, and having a trooper stop to ask what the rush was. And when I explained that I was a state senator and I was AWOL and we were

expected to have a budget vote around midnight, he wished me well and said, "Make sure you drive safely, because I want to make sure I get my paycheck." In those days, state employees weren't paid until we had a budget fully in place.

But now something very strange has happened, and it is an erosion of the legislative branch of government caused by the strong-leader form of government as enacted by the other chamber.

And my constituents bitterly resent the fact that here on August 2nd we are here debating a piece of legislation that deals with some of our school aid but not the entire school aid package and not the rest of the budget.

The Speaker of the Assembly vowed back in January, I guess, in meetings that he had, and with some bravado to the press, that he wanted a settlement for the school districts of New York City, as ordered by the courts, prior to having a whole budget in place. And unfortunately, he has the power to make that happen by simply refusing to come to

the table. And he has refused to come to the table on other issues as well.

So here we are, one part of a bicameral legislature, rendered relatively helpless because the other chamber will not sit and negotiate with us.

And the worst of all things is happening. Now, now we are having New York State experience legislation by judicial decree. We have abdicated our branch of government to the courts, my friends. And Speaker Silver needs to be held accountable for that.

Must I tell my constituents who are worried about the school district in Syracuse, New York, that the only way they will get a fair school aid formula this year is by filing a lawsuit? Because that apparently is the role that is being established. That is totally unfair. It is an abuse of power.

I will vote for this because it is the only show in town, it is the only way to keep some semblance of government running. But I do ask my friends who are monitoring what we do, be they scholars with the Brennan

Institute, be they editorial writers around the state, be they other members of government at the local levels who are frustrated by the inability of this State Senate to deliver those things they have requested -- all of you, please pay attention to where the fault lies.

This is the chamber that is prepared to work. We are here for the duration, if necessary. We have asked repeatedly for the other house to come to the table and reason with us. We have asked for the other house to reason with us on tort reform, on vicarious liability, on Medicaid reform.

On countless issues we have been willing to put forth our proposals and said: Please, come sit and talk with us so we can come to some understanding. We even put out and voted on a CFE settlement package. If it was not adequate, where was the Assembly's comparable package? Where was an attempt to sit and work with us to have a negotiated settlement that would lead to sound education for the entire state's children population?

I bitterly resent the fact that on August 2nd of 2004, I am still not able to vote on what I should have been able to vote on on March 31st of 2004. And there is one person who bears that responsibility. He's not in this chamber. His name is Speaker Silver, and he must be held accountable.

Not everybody in this chamber, because I truly believe on both sides of the aisle in this house we have dedicated men and women who do want to see this job done. I know and respect all of you. And it's too bad that we have to have this exercise in frustration, talking to ourselves, when we must be able to make somebody in another chamber bear the responsibility for this inability to act today in a responsible manner.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Lachman.

SENATOR LACHMAN: Yes, Madam Chairman. On the bill.

ACTING PRESIDENT McGEE: Senator Lachman, on the bill.

SENATOR LACHMAN: I am opposed to the six-week extender. And I don't blame any member of the Senate, I don't blame the Majority Leader of the Senate, I don't blame any member of the Assembly, I don't blame the Speaker of the Assembly. I blame all of us in terms of our legislative responsibilities to the people in the State of New York.

Now, I look in front of me, and we're voting on an important issue, and one half of our colleagues are missing. Something is wrong.

Two, the Brennan report was mentioned by one of my colleagues recently. Now, I thought initially the Brennan report was too hyperbolic when it said that we're not a dysfunctional chamber, we are the worst legislative chamber in the entire nation. I'm beginning to wonder if they were correct in that.

The little known Governor of California, Arnold Schwarzenegger, was roundly criticized and condemned when the budget of California took 26 days to be passed after its deadline. Ours will be close to six months.

And in terms of the special master, I think this is a terrible thing. I was involved with a special master when I was a member of the New York City Board of Education. It was terrible. And a special master only occurs when there's an egregious educational problem.

This is an egregious educational problem. And you cannot blame a judge from New York called DeGrasse when a majority of the members of the New York Court of Appeals, the highest court in this state, coming from all over the state, stated that this was egregious and it had to be done by a special master because the Legislature would not do it.

And I'd like to add one more thing that I think is important. Last week the MTA announced that it has significant budget shortfalls for 2005 and beyond. The agency proposed a series of fare and toll increases and service cuts that will cause irreparable harm to working people in the MTA region. And this is just not New York City; it involves Metro North Long Island Railroad as well as

the New York Transit Authority.

There are people who are dependent upon our railroads, our subways, our bridges, and our tunnels. The proposals will have a devastating effect upon the downstate economy and the downstate economy south of New York City and north of New York City.

We must have a negotiated budget in which the MTA is adequately funded. Public transportation is not a luxury, it is integral to the economy of the State of New York. It is time now that the Governor and the leaders of the Legislature step up and pass a budget, a complete budget, one that complies with the CFE court decision and one that adequately funds public transportation.

Thank you.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

It appears to me that the word "dysfunctionability" is the theme for 2004. It seems that many people are spinning it for political gain. Let me just tell you, I've

been here 15 years. And let me tell you what I know about what we have accomplished as a bipartisan group and a bipartisan Legislature.

One. We've probably got the best higher education system in the United States right in New York. The greatest attendance at SUNY and CUNY was this past year. We have the best hospital systems. They come from all over the United States, they come from Canada, they come from Europe, they come to our hospitals to be treated for specialized health care and operations.

We have a Gen*NY*sis program that is high-tech, with Centers of Excellence that's being touted all over the United States: Come to New York as a place of opportunity. You had Japan, could locate anywhere in the world; they came to Albany. You had IBM, could invest anywhere in the world; they invested in New York. The highest investment in North America in the last four years.

And when I hear all the whining about education, we give more money per pupil for every child than any other place in the

United States. Now, we did this because we care. We did this because we're a legislature of compassion.

So that dysfunctionability, when they started in the press, it has a way of compounding itself. One reporter reads what another newspaper says and says it over and over and over again.

Now, as to the budget, it would be nice to have it timely. But this is a transitional budget. We've already -- and people don't realize this, a lot of our voters, that we've approved four months of the new budget. Money is out the door. It's gone to education, it's gone to hospitals, it's gone to the not-for-profits. We are passing the budget.

But the reason there's a breakdown -- and this is sad -- is because we don't have the relationships between the Speaker and the Governor. We have a policy that I've seen go to an extreme this year that I haven't seen in past years, and that is a regionalism battle, a selfish battle to push the numbers to help a region at the

disadvantage of another.

Now, we're not going to let that happen. And we will stay here because we believe in fairness, we believe in accountability and reforms, and whenever we spend money. And I for one don't embrace the word "dysfunctionability" for the State of New York. It's a great place to work, a great place to live, and a great place to stay.

Thank you, Madam President.

ACTING PRESIDENT McGEE: To close for the Minority, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I will be brief. I think we've covered most of the points that have to be made. I am voting no for reasons that have been discussed.

And as Senator Bonacic just noted, we have in fact enacted a substantial portion of the budget for this year. And the things that are not in the bill before us today are reason enough to vote against it. I mean, our ability to restore money for summer jobs, that's gone. Summer is over.

Financing for New York City to refinance the MAC debt, the one thing we were going to do for New York City last year when they came to us in a time of extraordinary fiscal crisis -- if interest rates rise another eighth of a point, that's over. We can't refinance the MAC debt. Done.

Categorical aid, done. The repeal of sales tax on clothing under $110, we didn't do that.

But I'm not going to spend a lot of time here. I think everyone here is reflecting the frustration we all feel. And I don't think there's anyone on my side of the aisle who doubts the sincerity of our Majority Leader when he says he truly does want to get a budget done.

But I have to agree with Senator Volker on a very fundamental point, and that is that we have hit this wall because of a problem of, frankly, the representatives of the City of New York standing up and saying we are not going to close down a budget that doesn't address the severe underfunding of New York City schools.

And I think that we have an extraordinary situation here, because I think people in other parts of the state actually believe they pay more money than New York City does for the state budget as whole and for education.

Well, I call to your attention a report prepared by a Rochester firm that was released by the Mayor of the City of New York, the most up-to-date information reflecting tax revenues and expenditures by the State of New York -- it's called "Balance of Revenue and Expenditure among New York State Regions, May 2004," concluding that the City of New York subsidizes the rest of the state between $7 billion and $11 billion a year. And that variation is based on whether you calculate personal income tax based on residence or place of employment.

But the City of New York is subsidizing -- we pay more than we receive back in goods and services by an amount $7 billion to $11 billion a year.

Now, how does this happen? Well, it happens because it's spread around through

a lot of other programs. Again, the point about property taxes, I think, again, sincerely made, but misplaced. The Independent Budget Office of the City of New York in 2000 issued a report showing that if you combine personal income tax and property tax, New York City homeowners paid $7.26 in PIT and property tax burdens compared to $6.90 per $100 in the suburbs and $6.78 upstate.

The people in the City of New York are overtaxed. The people in the City of New York are overtaxed. And we are facing budget deficits projected by the city comptroller of $4.3 billion in fiscal '06, $4.6 billion in fiscal '07. So we have hit the wall, because we can't continue to subsidize the rest of the state this much.

We have 81 percent of the mass transit riders in the state, who receive 62.5 percent of state transit funds. We have the highest child asthma rate in the state, the most serious pollution problems. Yet, in spite of the fact that we pay for a disproportionate share of the Clean

Water/Clean Air Bond Act, we've only received 23 percent of those funds.

We are exempted, excluded, the City of New York is excluded from three of the state's four unrestricted aid programs. We are excluded from all the programs except revenue sharing. And revenue sharing has never been funded at the level it should have been.

So I would urge all of my colleagues, we have to solve this problem together. But the fact of the matter is Senator Volker is right. This year, representatives of the City of New York have said we're not going close this down while we're facing deficits, while we're laying off paraprofessionals in schools, while we're raising transit fares, while we're cutting back on police protections in a time of massive security needs.

We're not going to close this budget down while we continue to subsidize the rest of the state $7 billion to $11 billion a year and we have hundreds of thousands of children learning in conditions that I

respectfully submit would be unacceptable to most of my colleagues on the other side of the aisle if they existed in any part of your district.

So I'm going to vote no on this. I know we are working forward towards reaching a budget. I know -- I know for a fact that the Majority staff has been working late into the night trying to close down a budget. It is not a lack of effort.

But we do have a true political problem. We do have a true fiscal problem here. This is not just posturing. We can't keep subsidizing the rest of the state at this level while our children are suffering, while we don't have enough money for the police, while we don't have enough money to keep our streets clean, while the mayor is faced with all kinds of smaller cuts that add up to a huge amount of money.

I'm going to be voting no, Madam President, in the hope that we will have a budget truly very soon, as the Majority Leader said, and we will address some of these issues.

Thank you.

ACTING PRESIDENT McGEE: To close debate, Senator Bruno.

SENATOR BRUNO: Thank you, Madam President.

And I've been listening with great interest to my colleagues here. And I want to thank Senators Volker, Hoffmann, Bonacic for their observations and comments.

And, you know, this is not the time -- we happen to be in a political season, but today is not the day to be playing the political side of our lives. This is a day for us to step up and be responsible.

And I respect everyone's prerogative in voting however you see fit on your own behalf and on behalf of the constituency that sends you here to represent them. Not you, not you individually, but them.

Now, I don't believe there's anybody in this chamber that is going to tell me that your constituents would like to have you deny, through this emergency legislation -- and of course we'd like to have

a budget done. We have been here prepared to do a budget. You've heard it before. I'm not going to go through it again.

The pronouncement was made, a budget will not be negotiated until after July 30th. All right? By the Assembly. And they haven't. And there is nothing that we can do about it here in this state, given the Constitution of New York State and the fact that we are bicameral. We could have done a budget by March 31st here in this house. We have one prepared. But we need a partner.

But your constituents, when you vote down on this -- and that's your prerogative -- you are going to deny $4 billion worth of Medicaid payments that this emergency legislation allows. You are going to vote down over a half a billion dollars of disability assistance for people who need the disability assistance. You're going to vote down over a billion dollars in pension funds for people who are on pensions waiting for their checks. Okay? You're going to vote down over a billion dollars in state agency funds to keep the services of this

state flowing and people being employed here in the state. That's your prerogative. That's your prerogative.

But I'm going to share with you, for those of you that believe politically that you're on the better side of this, I'm going to submit to you, Madam President, they are not. Because you're going to be held accountable this November.

And when these -- you want to lay this bill aside? Just somebody say "lay it aside" --

SENATOR PARKER: Lay it aside.

SENATOR BRUNO: And you know what, Madam President? You are totally irresponsible. Totally irresponsible. And I can say to you that you don't understand the ramifications of what you are saying. Because if you did, you wouldn't say it. And I'm sorry, but that is irresponsible.

So, Madam President, the Majority will support this emergency legislation. Why? Because it's all that we have before us. We would prefer to be voting on an entire budget end of March, end of April, end of May, end of

June. But you need a partner, and we don't have a partner.

So we're going to vote for these emergency funds. This Majority will make sure that people get their pension checks, that those that are disabled get their money, that the people on Medicaid get their money. We'll take care of that. We'll handle that responsibility, Madam President.

And I want to thank you for your sharing your thoughts. And you know what is great about a democracy? You don't have to be right.

(Laughter.)

SENATOR BRUNO: But you have a right to say it. And I respect that right. And I have a right to say that I think you're wrong.

And for those that vote against this, Madam President, I think they're wrong.

Thank you.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1904, Senator Johnson moves to

discharge, from the Committee on Finance, Assembly Bill Number 11775 and substitute it for the identical Senate Bill Number 7700, Third Reading Calendar 1904.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1904, by the Assembly Committee on Rules, Assembly Print Number 11775, an act making appropriations for the support of government.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 68. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Stavisky, to explain her vote.

SENATOR STAVISKY: It's late. I waive.

ACTING PRESIDENT McGEE: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Thank you.

I know Senator Stavisky and I look alike, however.

(Laughter.)

SENATOR STAVISKY: I thank you for the compliment.

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

I certainly appreciate the Majority Leader's acknowledging the democratic process, our right to speak. I appreciate that. That's one of the few if not, perhaps, the only thing we have in this chamber if you're standing in my shoes or sitting in my seat.

I hope that my constituents will understand that I'm voting no on this bill because the process is absolutely wrong. We have the lowest number, the least number of opportunities for employment for teenagers in the whole nation in this state, and the Governor has made a decision that he is essentially going to defund the summer youth employment program. And that is repeated over and over.

I have not heard the Governor's name here. I've heard the Assembly being

blamed and all of us in the Senate being blamed and everybody being blamed. But there's a third partner, it seems to me, in this process. It's the Governor. Where is he? What is he doing to make this happen?

He is as responsible for my constituents as he is for all constituents upstate. And it is his obligation to sit down with the Legislature and negotiate a budget which protects the interests of all of the regions of the state, not just one part or the other. And he in fact went to court to appeal the court decision that would help to protect the interests of children in my district and all of New York City.

So I'm angry with him too. And I hope that he is going to suffer as much as I will, because I think he is as much a part of the problem as any of us in here.

I am voting no on this legislation. Thank you.

ACTING PRESIDENT McGEE: Senator Montgomery in the negative.

May I ask that those in the negative please raise their hands again,

please, so that we can get a proper count.

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I did not, along with one of my colleagues, say lay this bill aside. But I have to be very honest and say to you that it was my thought that came through his lips.

And laying it aside has nothing to do with all of the appropriations that are in this bill that all of us would like to support. But laying it aside says that we need to lay it aside to think about the fact that for six more weeks we have to deliberate in a process that should have been done so much sooner.

And so those of us that are voting no, we're voting no mostly because of the amount of time that this extender calls for. Because it says or it appears to say, at least to the people I represent, that we're going to go home and take vacation because it's August and the summer and people's vacations are being interrupted by having to come here to

Albany.

Well, when I got the memo that we were having a session today, I came prepared with five suits. And five suits says that I was prepared to stay as long as it takes for us to deliberate and talk.

And I certainly did not anticipate coming here, passing an extender -- and certainly I want all of these people who work extremely hard and who are not participators in this process to be paid and paid in a timely fashion. And considering I haven't been paid since March 24th, I think that's quite commendable on my part, to be concerned about other people who are getting paid. But I am concerned about them, because they are not a part of the decision-making process.

But for any of us to absolve each other of our role in this is erroneous, because we are all responsible for a process that has not worked. And each of us has to take responsibility for whatever share of that participation or failure to participate that we bring to the table.

But I certainly feel that for us to

sit here and talk about going home today and coming back and having a six-week extender while we figure out who's at fault is a tremendous disappointment to me.

People have asked me am I frustrated and disappointed by this process, and to this point I have said no. Yes, I know, my two minutes are up. And I yield to that two minutes.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson will --

SENATOR HASSELL-THOMPSON: But I think, Madam President, my vote no has been clearly recorded. Thank you, ma'am.

ACTING PRESIDENT McGEE: -- be recorded in the negative.

Senator Saland.

SENATOR SALAND: Thank you, Madam President. I rise to explain my vote.

I have listened to the entire debate. And certainly I intend no discourtesy to any member of this chamber. And I understand the passion and the concern that each and every one of us brings to this chamber. And when we talk about a process,

the fact of the matter is is that the process, unfortunately, if in fact it is a process, enables itself to be hostage and hostaged readily.

I heard some mention of the concern on the part of some of our colleagues from New York, they did not want to close down this budget in light of the fact that they felt that the city wasn't being treated fairly. This wasn't about closing down a budget. This was about starting up budget negotiations.

Because some of you may recall that in the first week of the session, the Speaker said -- and he made no bones about it, it was a prophesy -- there will be no budget if we don't do CFE. If we don't do CFE by July 30th, there will be no budget. We got to July 30th, there was no budget. He was a prophet in his own time. He said he would do it, and he did it.

That's not to say that there isn't blame that goes elsewhere or one or another of us, one of the parties hasn't had more than its share of blame. But this year, in perhaps the clearest, most unequivocal fashion, the

man was a prophet from day one.

I would merely suggest to those that are opposing this and have demonstrated their opposition to it, I think you'd be troubled to go home and trumpet that you closed down government. Because that's really what you're saying. Your vote, despite the fact that you're frustrated with the process, as we are, is to close down government.

Because if the votes were there, and if this Majority did not act responsibly -- because passing the extender, as ugly as it is, is acting responsibly --

ACTING PRESIDENT McGEE: Excuse me. Excuse me, Senator Saland. Your two minutes are up. So would you please close.

SENATOR SALAND: Well, I choose not to close down government, notwithstanding the less than pretty vehicle we're using. I vote to support it, in favor.

ACTING PRESIDENT McGEE: Thank you. You will be recorded in the affirmative.

Please announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1904 are

Senators Breslin, Brown, Diaz, Dilán, Duane, González, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Parker, Paterson, Sabini, Schneiderman, A. Smith, and Stavisky. Ayes, 42. Nays, 16.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time call up Calendar Number 1905.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1905, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 11776 and substitute it for the identical Senate Bill Number 7701, Third Reading Calendar 1905.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1905, by the Assembly Committee on Rules, Assembly Print Number 11776, an act to amend

Chapter 62 of the Laws of 2003.

ACTING PRESIDENT McGEE: Senator Bruno.

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

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR BRUNO: I would move that we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, very briefly on the bill.

This is the language bill that's a counterpart to the appropriation bill that we just voted on. The arguments are the same. I will not repeat them because of the lateness of the day.

Ordinarily, in a language bill, this would be where we see how the money is distributed. And we don't have that here. We don't have any ability to tell our constituents how much money is in this bill, for what districts.

I urge a no vote for the same reasons as we voted no on the last bill.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1905 are Senators Breslin, Brown, Diaz, Dilán, Duane, González, Hassell-Thompson, L. Krueger,

Lachman, Montgomery, Parker, Paterson, Sabini, Schneiderman, A. Smith, and Stavisky. Ayes, 42. Nays, 16.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Is there any other business to come before the Senate presently at the desk?

ACTING PRESIDENT McGEE: No, there isn't, Senator Bruno.

SENATOR BRUNO: Then I would, after consultation with the Minority Leader, hand up the following notice of leadership changes. And I ask that they be filed in the Journal, effective today. Thank you.

ACTING PRESIDENT McGEE: So received and will be filed.

Senator Bruno.

SENATOR BRUNO: And there being no further business to come before the Senate, I would move that we stand adjourned, subject to the call of the Majority Leader, with the expectation that we will be back on August 9th, at 3:00 p.m., in session, with

intervening days being legislative days.

Thank you, Madam President.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned, subject to the call of the Majority Leader, intervening days being legislative days.

(Whereupon, at 5:07 p.m., the Senate adjourned.)