NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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11:36 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

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

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

ACTING PRESIDENT MEIER: The invocation will be offered by the Reverend Robert Hart, pastor of Sunrise Bible Church in Rotterdam, New York.

REVEREND HART: Our Father, Your word records at a critical time in the Nation of Israel's history You rose up one of the smallest of the tribes, the men of Issachar, and for a very brief moment in time they rise to the pages because they were men of understanding who understood the times they lived in and knew what the nation ought to do.

Now, when I pray that You to take the men and the women that are here today, they would understand the times -- You would give them an understanding of the times they live in and they would know what their

communities and what our state ought to do.

Give them the wisdom of Solomon, give them the heart of David, give them the integrity of Joseph, and give them the passion of Paul, that they may lead righteously.

We ask this in the name of my savior, Jesus. Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, January 10, the Senate met pursuant to adjournment. The Journal of Sunday, January 9, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we adopt the Resolution Calendar, with the exception of Resolution 45.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar, with the exception of Resolution 45, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar, with exception, is adopted.

Senator Bruno.

SENATOR BRUNO: And, Mr. President, can we have the title read on Resolution Number 45 and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title of Resolution 45.

THE SECRETARY: By Senator Parker, Legislative Resolution Number 45,

mourning the death of Congresswoman Shirley Chisholm.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: And with the consent of my colleagues in the chamber, can we open the resolution to the full house. If there are any exceptions, please notify the desk.

Please recognize Senator Paterson.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you very much, Mr. Leader.

All of us mourn the death of Shirley Chisholm, who served seven terms in the United States House of Representatives,

from 1968 to 1982, and prior to that served in the Assembly, worked right here in this Capitol.

Senator Ada Smith, a distinguished member of this body, worked for Shirley Chisholm, was a friend of hers, and actually attended the memorial for the late Congresswoman on Saturday, January 8th, in Florida, where Congresswoman Shirley Chisholm had gone and lived the last twenty years of her life.

She was the first woman in the Democratic Party to announce and run for President of the United States, in 1972.

She staged a famous floor fight at the Democratic State Convention in 1970 that led in many ways to the selection of Basil Paterson as the candidate for Lieutenant Governor, someone who I know pretty well. The problem was that Governor Rockefeller had $13.5 million, and we didn't.

So this is a woman who I knew as a child, going to different events, and met her on a number of occasions -- certainly an inspiration to women and an inspiration to all

legislators, and certainly someone who will be missed, but whose legend and, as is the case with Senator Ada Smith, whose teachings will follow us in our deliberations.

And we want to thank the Majority Leader and Senator Kevin Parker for this resolution. Also Senator Hassell-Thompson, who has a resolution on behalf of the Women's Caucus of the Legislature, and Senator Ada Smith, who served and worked with Congresswoman Chisholm.

And we are very happy that it will be open for all members to join.

Thank you.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: I just -- very quickly.

I knew Shirley Chisholm also. In fact, my father served in the Assembly, I believe, with Shirley and also with a wonderful gentlemen named Arthur Hardwick.

And I -- at one time I remember, when I was younger, asking my father, "Why is it that Shirley Chisholm is in Western New

York so much?" And he said, "Well, because she's in love with a Western New Yorker."

And sometime later I had lunch with Shirley Chisholm and Arthur Hardwick, who married -- later married Arthur. Arthur Hardwick was an Assemblyman and a really distinguished gentleman -- I know John Marchi knew him -- from Buffalo, and served in the Assembly I believe for a few terms.

But Shirley Chisholm spent a lot of time in Western New York, not only with Arthur but actually with us or with Arthur Eve, to tell you the truth, because they were buddies also.

She was a very nice, gentle lady, but she could be very tough when she had to be. And I think her passing is sort of the end of a different kind of era, because she was the kind of person you would never expect would be a powerful politician, but she was.

ACTING PRESIDENT MEIER: Senator Andrews.

SENATOR ANDREWS: Yes, Mr. President.

Congresswoman Shirley Chisholm was

a constituent in my district, the 12th Congressional District. A lot of my Senatorial district is in part of that Congressional district.

And I met Congresswoman Chisholm when I was a junior in college, where she spoke before our student body and encouraged all the students that were in college at that time to receive an education and use that education to come back and serve the community. And I can honestly say that she was one of the motivating forces behind my involvement in public service.

And I want to congratulate my colleagues Senator Parker and Senator Bruno and Senator Paterson for advancing this resolution.

And she will be sorely missed in the district, as she was and will continue to be a great woman.

Thank you.

ACTING PRESIDENT MEIER: The resolution has been opened for sponsorship. Any member not wishing to be listed, notify the desk.

Senator Bruno.

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

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

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print Number 2, by Senator Bruno, an act to amend the State Finance Law;

And Senate Print Number 3, by Senator Bruno, an act to amend the State Finance Law and others.

Both bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Without objection, all bills directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President,

can we at this time take up the noncontroversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 1, by Senator Bruno, Senate Print Number 2, an act to amend the State Finance Law, in relation to establishing a procedure for the implementation of a contingency budget.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 2, by Senator Bruno, Senate Print Number 3, an act to amend the State Finance Law and others, in relation to budget reform.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

SENATOR BRUNO: Mr. President, at

this time can we take up the controversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of the calendar.

THE SECRETARY: Calendar Number 1, by Senator Bruno, Senate Print Number 2, an act to amend the State Finance Law, in relation to establishing.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President and colleagues, the legislation that is before us is a bill that we all in this chamber passed last year. And we gave first passage to a constitutional resolution that would move, with second passage this year, a referendum to the people in November to approve budget reform that would be effective in '06.

So that's the bill that's on the floor. This is the chapter. And this is the same bill that we passed, the Assembly passed, and the Governor vetoed.

So we are in a different legislative session. We have different members here and in the other chamber. And we're all aware that there was a court decision that in essence transferred most of the budget powers to the Executive and disenfranchised 212 legislators.

So this Senate 2 and Senate 3 will help to create balance and equity in the budget process, and we'll talk about Senate 3 in a little while.

This is the same bill that we have taken up, and I believe we had pretty much unanimous support with all the provisions that are contained.

And this does not go into effect till we give second passage to a resolution, change the Constitution, and it goes before the voters in November. If approved by the voters, you then would be implementing what's in this chapter, if the Governor signs it, in '06.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

I'm pleased that, as we have in this house in the past, we are starting off the year talking about budget reform, although the conversation this year, I submit, is extremely different from those we have had before. The situation we are faced with after the decision in Silver v. Pataki and related cases is not like anything we have faced before.

We are starting a new process. And I personally intend to support this bill as we have in the past. The Governor is -- this is -- but let's be honest about what's happening here. We have a challenge to the authority of the Legislature that is laid before us by the Court of Appeals and, frankly, also by the Governor. We have to respond to it. And I would suggest there are three things we have to do.

One is -- you know, I support this bill. This would, in some people's views, transfer too much power to the Legislature. I'm sure we can work that out as we go

forward. There's a message here, though, of support. And we have shown our willingness on this side of the aisle to work in a bipartisan way when institutionally our branch of government is facing a challenge.

I do also think that we have to deal with the issue of the constitutional amendment at some point. But, further, I would suggest that we also have to listen to and work better with the Assembly.

Now, let's be frank about this. The Assembly was supportive of this bill. The Assembly is not going to support the bill that we're about to consider. It's a one-house bill. There are serious problems they've raised, some of which I think are realistic, that it gives the Governor too much power to bring us in and out of a contingency budget.

So while I'm going to support this bill, given the fact that we now have two reform bills to choose from, I'm not going to support the bill that follows.

At the same time, I would urge we listen to the Assembly on another point. The one thing that in the Silver v. Pataki case is

clear, that even the majority that ruled in favor of the Executive against the Legislature stated that we still have power to do supplemental appropriation bills after the budget process is done, however much power the Governor has. We can do supplemental appropriation bills.

That requires us to work with the Assembly, to be prepared to override. The Assembly did a bill that many people feel was not -- you know, wasn't going anywhere this year, to restore some very critical cuts in last year's budget. And many of my colleagues here stood with me, with advocates for mental health programs -- Senator Hassell-Thompson, Senator Tom Duane, Liz Krueger, and others -- a few weeks ago when we were talking about this. We were saying we need to support SUNY and CUNY, we need to support programs for runaway youth.

The Assembly has now made the next step -- pass legislation, work on a constitutional amendment, but also do not be shy about exercising our power for supplemental appropriations. Those are the

three things that are available to us.

I'm going to support this bill. I will not be supporting the following bill because, even though I supported it a few weeks ago, now I've got a choice between -- you know, I'm not just down to buying one car; there are two cars on the lot, and I prefer this one.

But I also would urge that as much as we have to work together in this house, we are going to have to work with the Assembly as well to deal with this constitutional issue facing us and the Governor. Constitutional amendment and supplemental bills are also key here.

So with that, Mr. President, I will be supporting this bill and urging my colleagues that we get more vigorously involved together as a bipartisan group in this house, but also with the people in the Assembly, on how to address what I believe to be something that has not yet reached the point of a constitutional crisis but, if things go down the wrong road in this year's budget cycle, could well become a

constitutional crisis.

Thank you.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President and colleagues, just by way of clarity.

I appreciate your support for the bill that's on the floor. I am disappointed that you talk about not supporting the next bill. Because the next bill is what would get us a budget in place this year. And the next bill would implement all of the items in the supplemental budget that the Assembly did, which is a one-house supplemental, because it's unconstitutional.

If we pass that bill today, that supplemental, and send it to the Governor and the budget comes out next Tuesday, the budget supersedes any action that we can take on last year's budget.

But if we do Senate 3, that mandates the Assembly -- we want to partner, of course, with the Assembly. We need them. But Senate 3, by its chapter, dictates that in February the Governor will send us a budget.

In February, a contingency.

That contingency, and this is important for everyone to know, goes back to last year's budget, restoring all the vetoes. So there's a billion-eight, a billion-seven in the budget, if this becomes law, Senate 3.

That's how you get the items that were vetoed into law, not by doing something that has been determined is just show because it can't become law. But if we pass Senate 3, it changes the dynamics of getting a budget done this year.

And, colleagues, let me share with you, I don't know how we will ever get a budget done this year if we don't do this reform package and create a condition where, if we can't agree, we get a contingency.

I am going to share with you, last year we had the latest budget in the history of this state, 20 years in a row. You're going to have a later budget this year, for the 21st year, if we don't do a reform package to put something in place.

Because while we need and want to work with our colleagues in the Assembly, we

don't see it happening. And I hope and pray that by our taking action in this house, they must respond or should respond.

And if they don't like the language in Senate 3, let them change it. Change it. We'll go to conference committees immediately, as we did on Senate 2, and we came to an agreement.

Now, what's wrong with that? That's an open process. It's a public process. It's governing. And it's not folding our arms. And it's not just grandstanding. It's getting a result.

So, Mr. President and colleagues, I urge you to support this Senate 2, which goes into effect, if it's approved, in '06. And we'll talk about Senate 3 when it's on the floor.

Thank you.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

I appreciated listening to the debate between both of my colleagues. And we seem to have merged our discussion of 2 and 3.

And Senator Bruno, in his closing section of his statement, actually made the point that I wanted to make. I'll be voting for Senate 2, as we did last year, because it grew out of a conference committee. It was a successful process by both houses, both parties.

And he is right. We can make changes and improvements and move forward for this year if we revisit the successful model, recreate the conference committee on budget reform between the two houses, continue the successful pattern of last year with bipartisan membership, and perhaps come up with an agreement across both parties and both houses for Senate 3, or some variation. I would suspect some variation on Senate 3.

Senate 2, we know, we face the continuing assumed veto of the Governor. Senate 3, we right now know, today, that we still don't have colleagues in the Assembly who are open to this or prepared to pass this.

So let's pass 2. And I urge Senator Bruno to immediately call for either a reconvening of or a new budget reform

conference, both houses, both parties, as was successful last year. And let's see within the next few weeks whether we can get an agreement between both houses, perhaps a variation on Senate 3, or perhaps a Senate 4 that will have a same-as bill in the Assembly.

Because you are right, we need to move forward. But my colleague Senator Schneiderman is also right: it is a new year, it is a new time. The Governor spoke after we passed Senate 2 last year in both houses. The court spoke after we moved that legislation.

And I think -- and I urge my colleagues to immediately reconvene a task force to resolve this issue between both houses and move forward expeditiously and hope that this year the Governor won't veto us but, rather, will join us in this.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 39. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2, by Senator Bruno, Senate Print Number 3, an act to amend the State Finance Law and others, in relation to budget reform.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Bruno, Senator Schneiderman has requested an explanation.

SENATOR BRUNO: And, Mr. President and colleagues, this is Senate 3. And this fairly well duplicates the bill that we just passed that would become effective upon the Assembly passing it, second passage, and it getting implemented either by the Governor's signature or by an override in '06.

So what we're saying is that we have to get a reform package in place in '05. And this bill, you all voted for it unanimously a few weeks ago, all of you. And it's only intended -- we cannot put together a

conference committee on this unless the Assembly passes a bill.

And I hope, if they don't like the language in this bill, they'll change it and pass a different bill, and we'll pass it to the conference committee on Senate 2, on Senate 3, and through a public process. All of us want to open up the process. And that's true reform. And the real reform in this process of governing is budget reform.

But why are we talking about '06? We're living in '05. And we have to legislate in '05, we have to govern in '05. We're elected to govern in '05. And we invite the Assembly to join us -- if not on this bill, on their version of it.

So I would urge that you consider the ramifications of not implementing budget reform this year. It's what the people demand of you when they send you here -- of us, when they send us here. And it was one of the key issues for all of us in this past year.

So I would urge passage of Senate 3.

ACTING PRESIDENT MEIER: Senator

Balboni.

SENATOR BALBONI: Mr. President, I am struck, as I read the two proposals, by the similarity of the provisions.

And I think if anyone is paying attention to the process itself to try to see, you know, where is the Legislature going and what is going to be the end result for the people we represent, obviously reform is the first thing we're looking at. But also there are some pieces in here that are very important that are similar. And that's really what we have to focus on -- what is the same, as opposed to what the differences are.

I think the independent review, the budget review office is critical. I think this is something that's really going to add clarity to the process. But moreover, there's a reality here, ladies and gentlemen, that I think we should consider as a body.

This proposal we are voting for now is, in my opinion, a superior product because it recognizes something that the state has grappled with for, I don't know, 80 years: How do you govern this state, how do you take

into account the various needs and concerns within all of our districts.

Now, from the legislative process we all have our bite at the apple and we all try to urge the programs on behalf of our constituencies. But that's not what starts a budget process.

And the scheme that we will adopt in this particular measure I believe is superior because to come out of the contingency period, it is the Executive that proposes the budget once again. And there is a practical ramification to that. Let's face facts, folks. The Budget Office of the Executive is much larger than ours. They have the ability to produce the budgets from a statewide perspective. And that's something that we should recognize, frankly.

And given the fact that the Court of Appeals seems to be predisposed to focus on that one element, we should recognize that. Because you really have to work on this one notion. If we're in a contingency budget period and a contingency budget has cut out things that all of us think are very

important, the only way out of there is to submit a new budget.

And the bill that we just passed says it's got to be a legislative budget. That presumes that we get along with the Assembly to propose the budget. And what we do is we add one more layer of possible obstruction for the process to go forward.

I believe this is a superior solution to this problem. And, as Senator Bruno said, it happens this year. That's the message we received this last election. That's what people want to see. That's what we need to do now. Mr. Speaker, here's the bill. Let's have a response. Let's do it now.

Thank you.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. On the bill very briefly.

We've made these arguments before. Quite honestly, I think that what we are dealing with here is a good-faith effort to move through a process that we've never

encountered before -- not us personally, no one's ever encountered this before.

But I would respectfully suggest that we have passed a bill, we just passed a bill unanimously, we should move forward to try to convene a conference committee with the Assembly. We challenge them now to pass a bill.

The problem I have with this bill -- and again, when we came back in the moment where we needed to make a statement that we were prepared to move forward and try to do something, this was the best bill on the table. In fact, on that day it was the only bill on the table.

I personally think there is a significant problem with this bill as we move forward with the Assembly to prepare ourselves to negotiate with the Governor. We cannot tell the people of this state we can't pass budgets on time and we can't pass good budgets -- because we can't get along with the Assembly? That is not an acceptable argument to our constituents.

We have to pass a budget that deals

with the CFE decision. We have to pass a budget that deals with our health care crisis, with our seniors, with the bankruptcy of the greatest mass transit system in the world.

And we can't continue to make the argument we can't do it because the Assembly won't work with us. Our job is to get them to work with us. And we have to work with the other house of the Legislature to deal with the constitutional challenge posed by the Governor's approach and the Court of Appeals ruling.

As I've tried to point out, there are ways to deal with it. We should -- we just passed a bill; we should move forward to the conference committee with the Assembly as soon as they pass something. We should be dealing with the possibility of a constitutional amendment as quickly as possible.

And we should focus in on our absolutely unassailable power to pass supplemental bills. The Assembly has sent a message they are prepared to do that. I hope we will do the same.

This bill I think loses sight of the ultimate goal of a good budget funding all the groups that we've spoken about. Senator Hassell-Thompson is nodding, and she speaks on this whenever she has the opportunity. The goal is a good budget, not just a contingency budget. And this bill overly focuses on the contingency budget which frankly, I think, has put too much in the hands of the Governor.

If he puts out a contingency budget we don't like, we're tying our own hands too much. The Court of Appeals will do that for us, ladies and gentlemen. Let's not tie our own hands ourselves. Let's work intelligently; let's put our heads together.

Yesterday I think an important statement was made by the leader of our house that we're going to try and get our best ideas together and work on a bipartisan basis. As much of a challenge as Rules reform is, this may be a bigger challenge because of the constitutional parameters.

So I'm urging a no vote on this bill, but agreeing with virtually everything else our great Majority Leader has said.

Let's go to a conference committee. Let's move forward on a constitutional amendment. Let's get a budget done this year. But let's make sure it's a good budget that addresses all of the needs of our citizens and not make excuses that we can't work with the Governor, we can't work with the Assembly. We've got to do better than that.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, you know, the interesting thing about it is here that I guess I've been here in Albany about as long as anybody but John. Obviously, John has been here longer than practically anybody else. I'm talking about in both houses.

We really know what happened last year, and it wasn't this house. The problem here is -- and I think we all want to work with the Assembly. And by the way, I think the Assembly wants to work with us. There's one small problem.

What happened last year was not a

dysfunctional Legislature, except that when 63 people from the Majority of the Assembly made a conscious decision not to do the budget until the master was appointed -- and we know that happened.

I mean, the problem is Sheldon didn't make that decision. It's my belief that the people in New York City that are part of the Assembly made that decision. And there was a reason for it. Politically, New York City has tremendous needs right now. It's not -- the school aid stuff -- the problem with school aid, there's no evidence that more school aid is necessarily going to help that district. What it really needs is reform. But that's beside the point.

The problem is we have a Medicaid problem, we have a school aid problem upstate. The business community has been fooled into thinking it's Medicaid that's the big problem. It's school aid that could raise taxes 50 percent in upstate New York, outside of the City.

If we ever allow a judge to order us -- they can order all they want. They

can't make us. If we ever allow a judge to order us to transfer $3 billion to New York City and implement it, we in upstate New York are headed for a tremendous disaster. By the way, no judge can really do that. You think there's going to be a constitutional challenge if they try to do that? You're right.

Frank Padavan and I were here, and I just want to say this once, when a judge ordered us to spend a tremendous amount of money on Willowbrook. They were threatening to take him to jail, which was kind of a joke. We were ready to go to jail. Hugh Carey caved in, in what has to be one of the most ridiculous -- he threw hundreds of millions of dollars at Willowbrook.

And why was it silly? What they did was this -- I won't characterize the judge, who was a little over the hill. Geraldo Rivera called this whole thing to happen. That's how long we've been here. They put hundreds of millions of dollars into Willowbrook because a judge said, Take care of those kids at Willowbrook. We said, We're going to put them in a nice facility. No, you

can't move them.

We put hundreds of millions of dollars -- now, Hugh Carey said, I'll put the money in the budget. The Legislature won't do it. So he did.

We rebuilt Willowbrook, it took about two years, tore it down and put the kids out of it and sent them someplace else. Well, that was a smart thing to do. That was really brilliant.

It shows you sometimes the craziness that can happen when the politics gets out of hand. And we all who were around at the time just looked at it and shook our heads. And the media, The New York Times thought it was wonderful. They loved it. It was a disaster. We cannot allow another disaster to happen here.

Last year was the greatest upstate/downstate battle I've seen since I've been here. And funny, the business community and everybody thought it wasn't. And it wasn't this house. But, Eric, I want to tell you something. If 35 members of this Majority decide we're not going to pass a budget until

August 1st, how are you going to stop them?

But worse than that, when a regional issue like school aid, which is politically charged, when 63 people from the New York City delegation decide to do it, how are you going to stop them in a democracy? The only way you stop them is with the reform that we are suggesting here.

Because this creates the contingency problem. We have to do this because we're headed for another classic confrontation later on this year over school aid, Medicaid, $60 billion in bonds for the Lower Manhattan Reconstruction Corporation -- which none of us talk about, which is the World Trade Center -- the Jets, all that stuff that the city needs.

We have needs too in upstate New York. And speaking from my position, Joe Bruno, I think, represents the whole state. And we all represent the whole state. We can't just take care of New York City and forget everybody else.

So what this bill does, by the way, is give us time to get ourself back on track.

Because I tell you, I think the Assembly is with us in wanting to get us back on track. But it's difficult, because politics is different. Our people care, in upstate New York, about budgets. I know the people in downstate don't really care that much as long as they get their money. But it's different upstate.

That's our problem. That's why Senator Bruno is so right with this bill. And that's why, by the way, I predict it will pass -- maybe not exactly the way it is, but it will become law.

ACTING PRESIDENT MEIER: Senator Robach.

SENATOR ROBACH: Yes, on the bill.

I guess I rise to enthusiastically support this for two reasons. One is, and foremost, call me a crazy politician, out of response to my constituency, who clearly has said to us repeatedly we need to have a different process, we need to have a better process.

And, secondly, what these bills are

about, I believe, while I like components of all of them, as Senator Bruno has pointed out, as Eric Schneiderman has even pointed out, this is about engaging the Assembly.

I agree with the assessment but not the conclusion. Having come from that house and that majority, they have historically taken a very cavalier approach, at best, at wanting to get a budget done on time.

What we have done today, by moving these bills, in addition to responsiveness to the public, is given choices, options to get them to do anything.

And you're right, we do have to work together. We may have to go to a conference committee if they don't embrace this one. I personally would like them to do the reform that will get that in place by this year. That would be optimal. But if they don't, at least there's choices. At least we can begin the process.

And I think one thing we would all agree on, this is important to all our constituencies. Whether it's a question of degrees, whether you're from downstate,

upstate, east or west, we ought to have a process, we ought to minimally have a conference committee to do this again and get this done right, not only in the short term but on the long term. The public really has demanded it, rightfully so.

I am going to do my part and support this. And maybe we should all do this: rather than talk about engagement, do what we can in a bipartisan way to also get the other house to comply. At the end of the day, when we can only take care of our individual house, what the public will judge us by is what we have accomplished. And there is no question we need the other house to do that.

But this is definitely options, steps in the right direction, and responsiveness, positive action for what the public wants. This is good for our house. Hopefully the Assembly will embrace it as well.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Thank you, Mr.

President. On the bill.

Let me, if I can, perhaps just state what I think are some basic maxims. I believe that before you can negotiate, you've got to get folks to the table.

And perhaps our memories are a little dull, or perhaps we've lost sight of the fact that for nine years prior to last year this house passed, as its number-one bill, budget reform, Senate 1 in each and every year. And finally, in the 10th year, when the crescendo from our respective districts became loud and alarming enough, we managed to get our friends over in the other house to get to the table.

And, yes, we did come up with, after a long and arduous process, a bill, through a conference committee, a bill that the Governor vetoed.

When I hear Senator Schneiderman talk about the fact that we have resort to supplemental appropriations, we've had resort to supplemental appropriations for the past 20 years.

I needn't remind Senator

Schneiderman, because I'm sure he read the same case that I read, that -- what the Court of Appeals said when they in effect amplified the already strong powers of this Governor, or any Executive.

What they said was the Governor is not omnipotent. I don't have the text in front of me, but that's the word that they used. And they went on to say the Legislature has the ability to resort to gridlock.

So what the Court of Appeals has basically done is they've taken an ugly, arduous process and they've made it that much more difficult.

I think, as Senator Bruno has said, this is going to be a difficult year in which to get a budget, and perhaps it will be even later. I think this ensures the session from hell. The Court of Appeals has basically ensured that. No way, no how are we going to find things any easier this year than we did last year.

So for me, we can talk about procedural reform. That's not going to get us budget reform, it's not going to get us

Medicaid reform, it's not going to get us a host of other reforms that are at the heart of what has prevented us from coming to an agreement. You've got to get to the table in order to be bipartisan. And if you won't come to the table, there's no possibility of being bipartisan.

So I commend Senator Bruno for continuing the fight to make this our number-one priority and for continuing the efforts to get the Assembly to the table. Come to the table, talk to us, let's see if we can work something out. Nine years of silence doesn't work. The tenth year was close, but close isn't good enough in this business. Let's try it in the 11th year to get together.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 32. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator

Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

I rise to applaud Senator Bruno for taking this very bold step. Just let the word go forth that this house, this Senate is serious about budget reform. This is the very first bill our house is enacting this legislative session, to topple the dysfunction, when there's no greater symbol of dysfunction in our state capital than the lateness of the state budget process.

This measure goes a long way to stop that dysfunction. That I applaud our conference for taking this action. And that, frankly, it's time long overdue that budget reform is established in the State of New York.

Thank you, Mr. President.

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

Senator Winner, to explain his vote.

SENATOR WINNER: This is my first vote in the State Senate, and I'm very proud

to cast a vote in favor of this measure. It's been a long time coming.

I've served in the Assembly for a lot of years, and in the last 20 when the budget has been late. And I can tell you that there's been no more dysfunctional operation in my experience than that watching the budget deadlock that we have watched year after year.

So I am proud to cast my vote in the affirmative on this measure. I'm proud to be a member of this body, seeing budget reform take its forefront. And I'm hopeful that we'll have accommodation with the Assembly.

However, I'm not so sure that it will be easy or forthcoming in the near future. After all, why aren't they doing this as the first order of business? There is no more important business for the State of New York in restoring confidence in this government and restoring confidence in the Legislature than having a budget done on time.

Thank you. I vote in the affirmative.

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

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Yes, Mr. President.

The Senators who have spoken here have made a lot of points. I would urge everyone, though, we have to move beyond the rhetoric that we're taking action to make the budget process better.

I realize this is difficult. I realize this may be a difficult session. But the people who we represent have more difficulties than we do with the budgets that we're producing. We have to produce budgets that deal with the needs of the people.

And with all due respect for my great colleague Senator Volker, when people from New York City wake up to the fact -- as they have with the report released last summer by the Mayor -- that we send more than $10 billion a year in taxes to the rest of the state than we get back in goods and services, maybe they are entitled to say, You know what, we do need some money for our schools, we do need some money for our hospitals, we do need

some money for our buses and subways.

The way we're going to get that, I think, is by arguing this out on the merits, by opening up the process. We favor conference committees. The Assembly will pass a bill; let's go to a conference committee, let's have public hearings.

It should not be beyond us to say we can accomplish this, we can compromise, we can negotiate, we can stay here as long as it takes. That's not an excuse. I'm sorry if this is too hard. We're here to represent people in difficult circumstances.

Let's stop doing blame today, and let's start doing responsibility. It's easy to blame. Let's get to work and pass some budgets that actually help the people we represent.

Thank you.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2 are Senators Andrews, Connor, Dilan, Duane,

Hassell-Thompson, L. Krueger, Onorato, Oppenheimer, Parker, Paterson, Savino, Schneiderman, A. Smith, and Stavisky. Also Senator Montgomery. Ayes, 45. Nays, 15.

ACTING PRESIDENT MEIER: The bill is passed.

On Calendar Number 2, Senator Serrano will also be recorded in the negative.

THE SECRETARY: Ayes, 44. Nays, 16.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, is there any other business at the desk?

ACTING PRESIDENT MEIER: No, there's no other business, Senator.

SENATOR BRUNO: Then there being no further business to come before the Senate, I would move that we stand adjourned until Tuesday, January 18th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, January 18th, at 3:00 p.m.

Intervening days will be legislative days.

(Whereupon, at 12:22 p.m., the Senate adjourned.)