NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 14, 2005

3:18 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, March 13, the Senate met pursuant to adjournment. The Journal of Saturday, March 12, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

Senate Print 550D, Senate Budget Bill, an act making appropriations for the support of government, PUBLIC PROTECTION AND GENERAL GOVERNMENT BUDGET;

551A, Senate Budget Bill, an act making appropriations for the support of government, LEGISLATURE AND JUDICIARY BUDGET;

555D, Budget Bill, an act making appropriations for the support of government, TRANSPORTATION, ECONOMIC DEVELOPMENT AND ENVIRONMENTAL CONSERVATION BUDGET;

993B, Senate Budget Bill, an act to amend Chapter 728 of the Laws of 1982 and others;

994B, Budget Bill, an act to amend the Public Authorities Law and others;

995C, Senate Budget Bill, an act to amend the Tax Law and others;

3274, Budget Bill, an act to amend

Chapters 50, 53, 54 and 55 of the Laws of 2004, making appropriations for the support of government;

3275, Budget Bill, an act to amend Chapter 2 of the Laws of 1998, amending the Public Health Law and others;

553D, Budget Bill, an act making appropriations for the support of government, EDUCATION, LABOR AND FAMILY ASSISTANCE BUDGET;

554D, Budget Bill, an act making appropriations for the support of government, HEALTH AND MENTAL HYGIENE BUDGET;

990B, Budget Bill, an act to amend the Penal Law and others;

991B, Budget Bill, an act to amend the Public Authorities Law and others;

And Senate Print 992B, Senate Budget Bill, an act to amend the Public Health Law and others.

All bills ordered direct to third reading.

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

The Secretary will read.

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

As a member of the New York State Urban Development Corporation, Mark E. Hamister, of Clarence.

As a member of the Advisory Council to the Commission on Quality of Care for the Mentally Disabled, Elizabeth Wickerham, of Saratoga Springs.

As a member of the State Council on the Arts, David A.A. Ridings, of Syracuse.

As members of the Board of Visitors of the Binghamton Psychiatric Center, Frances Felice, of Binghamton, and John J. Wiktor, of Binghamton.

As a member of the Board of Visitors of the Central New York Developmental Disabilities Services Office, Virginia M. Ellis, of Auburn.

As a member of the Board of Visitors of the Elmira Psychiatric Center, James J. Norton, M.D., of Montour Falls.

As a member of the Board of Visitors of the Bernard J. Fineson

Developmental Disabilities Services Office, Sandra J. Rueda, of Astoria.

As a member of the Board of Visitors of the Helen Hayes Hospital, Ann C. O'Sullivan, of Stony Point.

As a member of the Board of Visitors of the Hudson Valley Developmental Disabilities Services Office, Howard Coron, Ph.D., of Forestburgh.

As a member of the Board of Visitors of the Long Island Developmental Disabilities Services Office, Mary Fasano, of Massapequa.

As a member of the Board of Visitors of the Manhattan Psychiatric Center, Peter G. Holden, Sr., of New York City.

As a member of the Board of Visitors of the Mid-Hudson Psychiatric Center, Theodore J. Lewis, of Godeffroy.

As members of the Board of Visitors of the Rochester Psychiatric Center, Martha R. Cucci, of Rochester, and Hilda R. Escher, of Rochester.

And as members of the Board of Visitors of the Sunmount Developmental

Disabilities Services Office, Gilbert A. Duken, of Plattsburgh, and Margaret Kolodzey, of Moriah.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nominations, Madam President.

THE PRESIDENT: All in favor of the nominations as stated by the Secretary please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees as stated by the Secretary are hereby confirmed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time proceed in regular order.

THE PRESIDENT: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

SENATOR BRUNO: Madam President, I believe that there is a privileged resolution by Senator John DeFrancisco. I

would ask that it be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 810, congratulating the Marcellus Central High School Lady Mustangs Girls Soccer Team and Coach Laurie Updike upon the occasion of capturing the 2004 New York State Class B Championship.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this State, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success and developing a sense of fair play and competition; and

"WHEREAS, It is the sense of this

Legislative Body to recognize and pay tribute to those young people within the State of New York who, achieving outstanding success in athletic competition, have inspired and brought pride to their school; and

"WHEREAS, This Legislative Body is justly proud to congratulate the Marcellus Central High School Lady Mustangs Girls Soccer Team and Coach Laurie Updike upon the occasion of capturing the 2004 New York State Public High School Athletic Association Class B Championship for the second consecutive year; and

"WHEREAS, The Marcellus Lady Mustangs enjoyed a truly outstanding season. They compiled an overall regular season record of 16 wins, just one loss, and a single tie. In league play, the Marcellus Girls Soccer Team were undefeated, compiling a most impressive record of 10 consecutive victories; and

"WHEREAS, Moving on to the post-season, the Lady Mustangs defeated Mount Markham, Cazenovia, and fifth-seeded Skaneateles to earn the Section III

Championship Title and the right to continue competing at regionals. They then went on to defeat both Chatham, 5-0, and Beekmantown, 4-2, to win regionals; and

"WHEREAS, The Marcellus Girls Soccer Team then faced a huge test in the New York State Class B Semifinals, where they were matched against Babylon. At the end of the regulation time, the teams had played to a 1-1 tie, sending the game into overtime. The Lady Mustangs emerged victorious after Katie Young headed a corner kick into the net in the first overtime period, thereby ending the game 2-1 and propelling Marcellus into their second consecutive appearance in the New York State Class B Championship Game. It was to be played against Fredonia on November 20, 2004, at Ty Cobb Stadium at Union-Endicott; and

"WHEREAS, The Marcellus High School Girls Soccer Team was well aware of the challenges to be faced in their final game against Fredonia. The Section VI champions had compiled a most impressive overall record of 19 wins, 3 losses, and a single tie; and

"WHEREAS, The Lady Mustangs took to

the field and outscored Fredonia 2-0 by half-time. Outstanding footwork, passing and a determination to capture a second Class B Title combined to help the Lady Mustangs end the game by shutting out Fredonia by a score of 6-0 and thereby capturing the 2004 New York State Class B Championship; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Head Coach Laurie Updike and her assistant coaches, Mike Vincent and Lisa MacLachlan, as well as the never-ending encouragement and support of friends, family and the entire Marcellus Central School community; and

"WHEREAS, This most exceptional team was proud to have among them Jenna Farneti, who was honored twice by having been named Class B Player of the Year as well as All Central New York Player of the Year; three players who were named to the All-State First Team; one team member who was named to the All-State Second Team; seven All-League First Team Players; five All-League Second Team players and one All-League Honorable Mention;

two members who were named to the All-CNY and one to the Third Team; and five Lady Mustangs who were named to the All-Section III All-Star Team; and

"WHEREAS, No team, no matter how gifted one or even a handful of individuals may be, can accomplish all that has been achieved by the Marcellus Central Lady Mustangs without exceptional skills teamwide. The 2004 New York State Class B Champion Lady Mustangs had talented team members throughout its player roster that included Jenna Farneti, Rachel Farneti, Stephanie Gosson, Kelly Hanlon, Sarah Holden, Jocie Jankowski, Megan Kaminska, Lauren Longo, Alyssa MacLachlan, Meghan Mannion, Ashley Martin, Alyse O'Brien, Emmy Potter, Sarah Potter, Catherine Scott, Amanda Stessen, Hannah Vaughn, Katie Walter, Amy Ware, Jennifer Young, Katie Young, Emily Zimmerman, and Katie Zimmerman; and

"WHEREAS, The Marcellus High School Girls Soccer Team received a 'Certificate of Academic Achievement' from the New York State Public High School Athletic Association. This honor is accorded only to those teams who

achieve academic excellence while actively participating in varsity-level interscholastic athletics; and

"WHEREAS, The 2004 Lady Mustangs shared noteworthy attributes off the field, as well as in competition. Individually and collectively, they constantly exhibited good sportsmanship and scholarship, thereby demonstrating to themselves and to others that they have an enviable combination of talent and character which reflects favorably upon their school and their community; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Marcellus Central High School Girls Soccer Team and Coach Laurie Updike on their successful season, overall team record, and capturing the New York State Class B Championship; and be it further

"RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to the members of the Marcellus High School Girls Soccer Team and to Coach Laurie Updike."

THE PRESIDENT: Senator

DeFrancisco.

SENATOR DeFRANCISCO: Madam President, I'm pleased to rise to congratulate the Lady Mustangs.

The resolution actually is a little longer. It gives a little history of the season. But today we're passing budget bills, and we couldn't read all of it. But it will be on the resolution that you receive. It's part of the record, permanent record of the New York State Senate congratulating all of you for an outstanding season. And to do -- to earn a state championship two years in a row is truly remarkable.

But what wasn't really mentioned I think is a significant part of this resolution that all of us should be more concerned about, and that is that the Lady Mustangs received a Certificate of Academic Achievement from the New York State Public High School Athletic Association, an honor accorded to only those teams who achieve academic excellence while actively participating in varsity-level interscholastic activities. That's an outstanding achievement.

So I want to thank you. And you've repeated, now let's see if you can three-peat next year.

And I was looking very carefully, because someone mentioned this to me, whether there was a Mustang Sally on the team. You're too young to know what that means, but apparently there is not.

But hopefully next year you'll be back here and win another championship and keep up the great academic achievement. I'm proud that you're all members of my district.

Thank you.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Congratulations and best wishes for continued success in all your ventures.

SENATOR BRUNO: Madam President.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Can we at this time have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 60, by Senator Maziarz, Senate Print 120, an act to amend the Environmental Conservation Law, in relation to reducing the --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 84, by Senator DeFrancisco, Senate Print 2151, an act to amend the Estates, Powers and Trusts Law, in relation to an order for the purposes.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 102, by Senator Skelos, Senate Print 1150A, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 106, by Senator Rath, Senate Print 1519, an act to amend the Penal Law, in relation to aggravated harassment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 116, by Senator Marcellino, Senate Print 671 --

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 145, by Senator Little, Senate Print 740, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to allowing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 146, by Senator Golden, Senate Print 2192, an act in relation to repealing certain provisions of the Elder Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 155, by Senator Winner, Senate Print 1425, an act to amend the Penal Law, in relation to leaving the scene of a hunting accident.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 163, by Senator Meier, Senate Print 2440, an act to amend the Penal Law, in relation to inciting to riot in the first degree.

ACTING PRESIDENT WRIGHT: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT WRIGHT: Lay the bill aside.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we ring the bells. We are going to proceed to the controversial calendar, and we need members in their seats to vote.

ACTING PRESIDENT WRIGHT: The Secretary will ring the bell.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time recognize Senator Serrano

for the purpose of making a statement.

ACTING PRESIDENT WRIGHT: Senator Serrano.

SENATOR SERRANO: Thank you. On Tuesday, March 8th, I was excused from session. Had I been here in the chamber for the debate on Calendar 172, Senate Bill 2727, the death penalty bill, I'd just like the record to reflect that I opposed this bill and would have voted no on it had I the opportunity.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you. The record will so note.

Senator Bruno.

SENATOR BRUNO: Mr. President, on the controversial calendar, can we start by taking up Calendar Number 116.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 116, by Senator Marcellino, Senate Print 671, an act to amend the Vehicle and Traffic Law, in relation to the enforcement of the offense of operating a motor vehicle with a suspended

license.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT WRIGHT: Senator Marcellino, an explanation has been requested.

SENATOR MARCELLINO: Thank you, Mr. President.

This bill allows for the offense of operating a motor vehicle with a suspended license to be enforced in a parking lot.

ACTING PRESIDENT WRIGHT: Senator Montgomery.

SENATOR MONTGOMERY: Thank you for the explanation, Senator.

I know that I voted in the past in opposition of this bill. Was there any changes -- Mr. President, through you, if Senator Marcellino would yield.

ACTING PRESIDENT WRIGHT: Senator Marcellino, will you yield for a question?

SENATOR MARCELLINO: Surely.

ACTING PRESIDENT WRIGHT: The Senator will yield.

Senator Montgomery.

SENATOR MONTGOMERY: Senator Marcellino, was there any change in this

legislation from the last year when you introduced it?

SENATOR MARCELLINO: No, Senator, I don't believe so.

ACTING PRESIDENT WRIGHT: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I would like the record to reflect that I'm voting no on this legislation.

ACTING PRESIDENT WRIGHT: Any other Senator wishing to speak?

Senator Diaz.

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

ACTING PRESIDENT WRIGHT: Senator Marcellino, will you yield to a question?

SENATOR MARCELLINO: I don't want to interfere with the conversation.

ACTING PRESIDENT WRIGHT: I believe that's a yes.

SENATOR MARCELLINO: Yes, I would yield.

SENATOR DIAZ: Senator, isn't the parking industry a private thing?

SENATOR MARCELLINO: I'm sorry,

Senator, I couldn't hear. I didn't get what you said.

SENATOR DIAZ: Isn't the parking industry, people that do parking, isn't that a private industry?

SENATOR MARCELLINO: If you're talking about the parking garages, this would be a private industry, yes. And parking lots in some cases would be private industry, yes.

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

ACTING PRESIDENT WRIGHT: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: Yes, sir.

SENATOR DIAZ: Isn't that similar to having someone driving a car in the private property of my house?

SENATOR MARCELLINO: Senator, the bill excludes one- and two-family residences. So no, it would not include your private driveway to your single-family or two-family home.

SENATOR DIAZ: Thank you.

ACTING PRESIDENT WRIGHT: Senator Diaz, thank you.

The Secretary will ring the bell again.

The Secretary will read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 116 are Senators Diaz and Montgomery.

Those absent from voting are Senators Balboni, Dilan, Flanagan, Maltese, Maziarz, and Spano.

ACTING PRESIDENT WRIGHT: Announce the results.

THE SECRETARY: Ayes, 50. Nays, 2.

ACTING PRESIDENT WRIGHT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 163, by Senator Meier, Senate Print 2440, an

act to amend the Penal Law, in relation to inciting to riot in the first degree.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: Senator Meier, an explanation has been requested.

SENATOR MEIER: Thank you, Mr. President.

This bill amends the Penal Law to provide that the felony of inciting riot in the first degree can be charged against someone who has incited a riot within a prison.

The courts have interpreted the requirement in the existing statute that the riotous conduct caused public alarm to mean alarm in the broader community. This would amend the law so that causing alarm by the riotous conduct within the prison facility would suffice.

ACTING PRESIDENT WRIGHT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I accept the explanation. And I would like to just vote on the bill.

ACTING PRESIDENT WRIGHT: Any other Senator wishing to speak?

Debate is closed.

Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 163: Senator Montgomery.

Those absent from voting, Senators Balboni -- excuse me. Senator Balboni is recorded in the affirmative and not absent from voting.

Those absent from voting on Calendar Number 163: Senators Dilan, Flanagan, Maltese, Maziarz, and Spano.

Ayes, 52. Nays, 1.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we please take up the noncontroversial reading of the supplemental calendar.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 269, Senate Print 550D, Senate Budget Bill, an act making appropriations for the support of government, PUBLIC PROTECTION AND GENERAL GOVERNMENT BUDGET.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: Calendar Number 270, Senate Budget Bill, Senate Print 551A, an act making appropriations for the support of government on LEGISLATURE AND JUDICIARY BUDGET.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: Calendar Number 271, Senate Budget Bill, Senate Print 555D, an act making appropriations for the support of

government, TRANSPORTATION, ECONOMIC DEVELOPMENT AND ENVIRONMENTAL CONSERVATION BUDGET.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: Calendar Number 272, Senate Budget Bill, Senate Print 993B, an act to amend Chapter 728 of the Laws of 1982 and Chapter 710 of the Laws of 1983 amending the Executive Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: Calendar Number 273, Senate Budget Bill, Senate Print 994B, an act to amend the Public Authorities Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: Calendar Number 274, Senate Budget Bill, Senate Print 995C, an act to amend the Tax Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT WRIGHT: The

bill is laid aside.

THE SECRETARY: Calendar Number 275, Senate Budget Bill, Senate Print 3274, an act to amend Chapters 50, 53, 54 and 55 of the Laws of 2004.

SENATOR PATERSON: Lay it aside.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: Calendar Number 276, Senate Budget Bill, Senate Print 3275, an act to amend Chapter 2 of the Laws of 1998, amending the Public Health Law and others.

SENATOR OPPENHEIMER: Lay it aside.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

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

Senator Bruno.

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

ACTING PRESIDENT WRIGHT: The Secretary will ring the bells, and we'll begin the reading of the controversial calendar.

THE SECRETARY: Calendar Number 269, Senate Budget Bill, Senate Print 550D, an act making appropriations for the support of government.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Mr. President, this is the Public Protection and General Government Budget.

ACTING PRESIDENT WRIGHT: Senator Bruno.

SENATOR BRUNO: Would Senator Johnson defer for two minutes here of -- and thank you, Senator, and Mr. President and colleagues.

We're starting the budget process here towards getting something done by March 31st this year. First time in 21 years to have an on-time budget. And I want to thank my colleagues, thank all of the support

that we've had.

We have before us the beginning of what will be our openers here in the Senate with a budget. And this budget that you're going to vote on meets all of the Court of Appeals language requirements so that this budget can become law.

Right now, it's a one-house budget because it's before the Senate. This does a lot of the necessary things to benefit the people of this state. We won't go into the specifics, but I believe there are half a dozen bills that are the first half of putting this budget in place.

As you all know, the Assembly has done a budget resolution. Now, the Assembly is a larger body than the Senate, and they couldn't get bills drafted. They did the resolution, which is a general approach to the budget.

These are specific bills. Any resolution has to be put in bill form. We're starting the process tomorrow. We expect to have a meeting of the first conference committee, the general conference committee,

at 10:00 o'clock tomorrow morning, hopefully. I'm going to talk to the Speaker, going to be talking to the Governor. And then activate, while we're going through the process here tomorrow, conference committees. So that all the members in the Legislature here in this house are actively, publicly engaged in the budget process.

Now, we're going to have a real challenge to get this done, because these are challenging times. But we think that we are reasonable, we are rational in terms of education, health care, the infrastructure of the state, higher ed, meeting the needs of the people of this state and creating the revenue, which will be in the neighborhood of 106, probably, .7 billion in this one-house budget.

And again, I say "one house" because, as you all know, in budget reform each house passes their budget or their resolution, as they see fit, you activate conference committees, the whole process is public, you come to a togetherness, and those bills that you come together on will be passed by March 31st and you have a budget in place

for the people of this state.

So this is the process that we're starting. And hopefully we can keep the process moving through tomorrow. And we fully expect to stay right here until Holy Thursday, which is -- Holy Thursday before Easter, it's the 24th of March. That's a week from this Thursday.

So that's where we are. That's what we have in place. And hopefully with the cooperation -- and we need the Assembly with the Senate, and the Governor's signature, for the bills that we're going to enact, or the compromise. And compromise is the way we'll get a budget done by March 31st, and the people of this state will have the budget on time, for the first time in 21 years, that they deserve.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you, Senator Bruno.

We are on Calendar Number 269, controversial calendar. Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Okay. We're

talking about Print Number 550D and the Article VII language that goes with it. And these are some of the things that are included in that bill of public protection and general government: Division of Alcoholic Beverage Control, Department of Audit and Control, Division of the Budget, Capital Defenders Office, Department of Civil Service, Consumer Protection Board, State Commission of Correction, Division of Correctional Services, Crime Victims Board, Division of Criminal Justice Services.

And we denied several items that the Governor had in his bill. We restored several other items. Unless you want me to read them all, I won't.

Office of Prevention of Domestic Violence, State Board of Elections, Office of Employee Relations, Executive Chamber, Office of General Services, Homeland Security, State Inspector General, Interest on Lawyer Account, Temporary State Commission of Investigation, Judicial Commissions, Department of Law, Office of Lieutenant Governor, Division of Military and Naval Affairs, Division of

Parole, Division of Probation and Correctional Alternatives, Public Employee Relations Board, Division of State Police, Statewide Wireless Network, Office for Technology, Workers' Compensation Board, Local Government, Division of Veterans Affairs, and General State Charges.

They're all included in the Public Protection and General Government Budget. That is the budget bill plus the Article VII bill.

ACTING PRESIDENT WRIGHT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Mr. President, I'd like to offer an amendment. Is it at the desk, please?

ACTING PRESIDENT WRIGHT: There's an amendment at the desk.

SENATOR OPPENHEIMER: Excellent. Thank you. I'd like to waive its reading, and I'd like to have the opportunity to explain it.

ACTING PRESIDENT WRIGHT: The reading is waived. You may be heard on the amendment.

SENATOR OPPENHEIMER: And I'm putting on my hat, which you've heard before, as League of Women Voters past president, to talk about the HAVA funds.

These are the funds, the federal funds that are available to us under the Help America Vote Act. The amendment I'm going to make concerns the training and education of poll workers. We're talking about the possibility of a $10 million addition to our Senate budget. It is already in the Assembly budget. And I think, if anything, it is probably of more significance to us in this house, after what we have been through in the last several months, than to the Assembly.

If poll workers had proper training, which we all know they have not had, we would not have run into the kind of mess we had -- quite frankly, it was a mess -- for three months this year. Poll workers that don't know whether to send a potential voter to the left or right, by not even reading what is before them, it just makes no sense.

Our poll workers are in need of instruction. We understand that. We know

that. We ought to be putting the $10 million that is in the Assembly budget into our budget, so that we can help our poll workers -- who want to do the right job, but they need some assistance. And we should be putting in $10 million to help them out.

Thank you.

ACTING PRESIDENT WRIGHT: Those Senators in agreement with the amendment please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Dilan, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Sampson, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky, Valesky and Senator Diaz.

ACTING PRESIDENT WRIGHT: The amendment is not agreed to.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would rise for a few brief questions.

ACTING PRESIDENT WRIGHT: Senator

Johnson, will you yield to questions?

The Senator yields.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Mr. President, will the sponsor tell us how much funding is in the Public Protection and General Government Budget bill for indigent legal services?

SENATOR JOHNSON: $11 million.

SENATOR SCHNEIDERMAN: Through you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Is that listed as an item for indigent legal services, or is that in the municipal -- the funding for municipalities?

SENATOR JOHNSON: It's not listed as a separate item. It is not listed as a separate item.

SENATOR SCHNEIDERMAN: Thank you.

And through you, Mr. President, if the sponsor would continue to yield for one more question.

ACTING PRESIDENT WRIGHT: The

sponsor will continue to yield.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: And the Governor cut the budget for the capital defenders service down to one-third of what it had previously been. How does the Senate's one-house budget bill deal with that cut?

SENATOR JOHNSON: We have accepted the Governor's cut in that instance.

SENATOR SCHNEIDERMAN: Through you, Mr. President, is there not a further cut made beyond what the Governor cut on -- for the capital defenders service.

SENATOR JOHNSON: No, we have not changed it from the Governor's cut.

SENATOR SCHNEIDERMAN: Thank you. Thank the sponsor and all of his -- our assistants and kibitzers here.

On the bill.

ACTING PRESIDENT WRIGHT: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think that the failure to adequately fund legal services for indigents and the failure to fund the capital defenders service is a serious

flaw in this bill. We talk about our efforts to provide equal rights under the law. We had a vigorous debate last week on the death penalty. Senator Volker is doing his best to see that that is reinstated. We passed the death penalty bill in this house.

Under those circumstances, I think that it is unconscionable not to fully fund the capital defenders service. I would note that the prosecutorial equivalent of the capital defenders service is still funded, in spite of the fact that we are not presently operating with a death penalty statute, and that some more funding for indigent legal services is required.

We're going through a process now where the people who are eligible for resentencing under the Rockefeller Drug Laws, which is a tiny number of people under the reform passed last year, do not all have lawyers. And that the legal services and the defenders' offices that would represent them are so strapped for cash that they're unable to even meet this minimal addition.

I think it's time for New York

State to live up to its obligation. Senator Bruno referred to us complying with the Court of Appeals where there are Court of Appeals decisions and United States Supreme Court decisions that talk about the right to counsel. In this bill, we fail to provide for that right.

So, Mr. President, I will be voting no. Thank you very much.

ACTING PRESIDENT WRIGHT: Are there any other Senators wishing to be heard on the bill?

Debate is closed.

The Secretary will ring the bell.

The Secretary will read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Breslin, to explain his vote.

SENATOR BRESLIN: Thank you, Mr. President.

I applaud Senator Bruno and Speaker Silver and the Governor -- my leader, David Paterson -- for a much more open process. However, I must say that we've been given thousands of pages over the last several days. And upon a review, there are many good things in this bill as well as the other budget bills. But we still haven't addressed things like school aid runs, HAVA, CFE, HCRA. But we have to have confidence that these things can be worked out in conference committees.

On balance, this particular bill that we have in front of us has many good things in it. But as Senator Schneiderman pointed out, indigent legal services is a negative in the lack of funding for it.

However, on balance, because I have confidence in the process that we will have in the next few days, that we will be able to accomplish our goal of an on-time budget, I will vote for this bill as well as the other budget bills. And therefore, I will be voting in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator

Breslin will be recorded in the affirmative.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would just like to comment on the budget bill that we're passing right now.

I am also appreciative of the fact that we have come this far this early in our process. But I do want to point to a couple of areas where I think we are proposing an unfair proposal.

The first that I want to point out is that the Senate has added funds back into the budget to cover the cost of five facilities that were slated to be closed. We've put in $22.7 million to continue these facilities. They are all upstate. The only one for which there is no funding in this budget is for Fulton, which is the one that is in the Bronx. It's downstate.

It's a work-release program. And we need that facility, because if it's not going to be used by DOCS, then we need it to be used by the local criminal justice people, including perhaps the Bronx DA, the Kings County DA. We can use that facility as an

alternative to incarceration.

So I'm really very disappointed that we didn't propose to return Fulton, as we have the other facilities, including the Watertown SHU.

In addition, lastly, let me just say that I see that the Senate has reduced the Neighborhood Work Project by $2 million. This is a cut in a program that is specifically targeting New York City. We desperately need more, not less, capacity to deal with people who are going to be returning from prison to the City of New York and other parts of the state, but especially New York City. So I'm very, very concerned about that.

However, I will be voting for this bill because I think we're moving at least in the right direction. Thank you.

ACTING PRESIDENT WRIGHT: Senator Montgomery will be recorded in the affirmative.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. To explain my vote.

I'd also like to point out that in

addition to the cuts for indigent legal services, in this bill this year we've zeroed out civil legal services. And there is no one in this state who does not need to have civil legal services available to constituents in their districts. These funds keep getting cut every year, and this year we're zeroing them out.

And again, I would hope that all of my colleagues would think through what it means not to have your constituents who are poor but find themselves in need of legal assistance -- not on the criminal end, but on the civil end. Issues of women attempting to get divorces who have been victims of domestic violence, families in Family Court or civil court proceedings, people facing eviction from their homes -- it's an endless number of functions that civil legal services provides to each and every one of our districts.

And despite the fact that there are things in this bill that I am comfortable with and am glad that we have restored that the Governor cut out, in addition to my colleagues' comments on indigent legal

services, we cannot go forward in this state without representation in the civil system for low-income New Yorkers. So I'll also be voting no.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Krueger will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 269 are Senators Andrews, Diaz, Gonzalez, Hassell-Thompson, L. Krueger, Onorato, Oppenheimer, Sabini, Schneiderman, Serrano, A. Smith, Stavisky. Also Senator Montgomery.

Ayes, 42. Nays, 13.

Those absent from voting on Calendar Number 269 are Senators Flanagan, Maziarz, and Spano.

ACTING PRESIDENT WRIGHT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 270, Senate Budget Bill, Senate Print 551A, an act making appropriations for the support of

government, on LEGISLATURE AND JUDICIARY BUDGET.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Mr. President, as far as the Legislature portion of the Governor's bill, we concur with that, with his recommendation.

With the judiciary request, we concur with that, with certain changes. We reduce, without prejudice, Nonpersonal Service and Maintenance Undistributed by $30 million and General State Charges by $17.3 million.

We concur with the Executive's request to allow quarterly reimbursement to the Office of Court Administration from the Indigent Legal Service funds, up to $6.25 million per quarter.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would yield for a question.

ACTING PRESIDENT WRIGHT: Senator Johnson.

SENATOR SCHNEIDERMAN: One question.

SENATOR JOHNSON: Yes, sir.

SENATOR SCHNEIDERMAN: What is the reduction in the allocation for the judiciary in this budget bill compared to last year's budget?

SENATOR JOHNSON: Maintenance Undistributed is just a general reduction in the judicial budget. And General State Charges refers to pension costs, reduction in the pension costs.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through you, Mr. President. And how much is the reduction in the judiciary budget?

SENATOR JOHNSON: It would be 30 plus 17.3. $47.3 million.

SENATOR SCHNEIDERMAN: 47.3. Thank you. Thank the sponsor for his response.

Thirty plus 17.3.

On the bill, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I mean, I think that -- I worked as a law clerk in a court when I first graduated from law school. I realize that there is some tension between some of the members of the Majority in this house and what they feel some judges -- with some judges who they feel disagree with them.

There is a system of checks and balances in our system of government that is precious to our republic. And I do not think that the way to deal with disagreements with the judiciary is by cutting $47 million from the budget of an already overburdened, overworked branch of government where we have backlogs of cases in many parts of this state that are simply intolerable.

I think that, you know, we should be paying our judges what they deserve. We should be funding the law clerks and assistants that they need. We have problems now even getting access to transcripts in many cases.

For us to be cutting the judiciary budget, whether it's an act of pique, decisions that some disagree with, or it's simply negligence, is wholly unacceptable. I am going to vote no for this budget.

Thank you.

ACTING PRESIDENT WRIGHT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. First of all, 17 million of the cut is due to a recomputation of the pension needs, the funds that are needed to fund the pension fund. They don't need that money to fund the pensions. So that has nothing to do with any pique that anybody has about the judiciary.

Secondly, as one who practices before the judiciary and happens to be chairman of the Judiciary Committee, the other $30 million has nothing to do with the need for more judges and more people in the trenches to move cases, to get things moved in through the courts.

We all know that there's a bureaucracy entitled the Office of Court Administration. And a majority of our

house -- I'm not saying whether I agree or disagree -- a majority of our side of the house believes that that part of the budget needs some trimming. And that's what the purpose -- at least as the opening salvo of these budget negotiations.

ACTING PRESIDENT WRIGHT: Is there any other Senator wishing to be heard on the bill?

Read the last section.

The Secretary will ring the bell.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 270 are Senators Andrews, Diaz, Hassell-Thompson, Klein, L. Krueger, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, Stavisky, Valesky.

Those Senators absent from voting

on Calendar Number 270: Senator Gonzalez.

Ayes, 44. Nays, 13.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Maltese.

SENATOR MALTESE: Mr. President, pursuant to Rule 9, I was required to be at a meeting of the Election/HAVA standing committee. And my attendance caused me to miss the votes on the following bills on the controversial calendar. I cast my votes as follows:

Senate Bill Number 671, Calendar Number 116, aye.

Senate Bill Number 2440, Calendar Number 163, aye.

Thank you.

ACTING PRESIDENT WRIGHT: The record will so reflect.

Senator Maziarz.

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

Pursuant to Rule 9, I was required to be at a meeting of the Help America Vote Act/Elections Conference Committee. And my

attendance caused me to miss the votes on the following bills on the controversial calendar. And I cast my votes as follows:

Bill Number 550D, Calendar Number 269, I vote in the affirmative.

Bill Number 671, Calendar Number 116, I vote in the affirmative.

And Bill Number 2440, Calendar Number 163, I vote in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: The record will so reflect.

Senator Spano.

SENATOR SPANO: Mr. President, pursuant to Rule 9 I was required to be at a public hearing of the Elections Conference Committee. My absence caused me to miss the following votes on the following bills on the controversial calendar. I cast my votes as follows:

Senate 550D, Calendar 269; Senate 671, Calendar 116; Senate 2440, Calendar 163, aye on each of the aforementioned bills.

ACTING PRESIDENT WRIGHT: The record will so reflect.

I would request that we keep the conversations down. Admittedly, it's procedural, but we need to have it for the records.

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President. I would join my colleagues Maziarz, Spano and Maltese; I was at the same meeting. I would like to be recorded as aye on the bills that they all mentioned.

ACTING PRESIDENT WRIGHT: The record will so reflect.

Senator Dilan.

SENATOR DILAN: Yes, Mr. President, I was also at the HAVA Conference Committee meeting. And if I would have been present, I would be voting yes on 116 and 163.

ACTING PRESIDENT WRIGHT: The record will so reflect.

We'd like the record to report that the correct vote on Calendar Number 270, Senate 551A was 44 ayes, 13 nay. Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 271, Senate Budget Bill, Senate Print 555D, an

act making appropriations for the support of government, TRANSPORTATION, ECONOMIC DEVELOPMENT AND ENVIRONMENTAL CONSERVATION BUDGET.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: An explanation has been requested.

SENATOR JOHNSON: This bill is quite a compendious document. But I would say that generally we're adding $30 million to the Governor's -- the money which the Governor proposed to spend. Five million of that is just for various farm programs -- apples, bumblebees, migrant childcare, North Country agriculture, marine resources, et cetera, et cetera.

The Banking Department, small reductions there. Empire State Development, we're proposing to eliminate the Governor's Operation SPUR and put a new Excell-New York in its place, with regional centers for innovation.

DEC, we -- at the moment we're holding up the $15 million brownfields cleanup

appropriation, subject to a memorandum of understanding between the Executive, the Majority Leader in the Senate, and the Speaker of the Assembly.

We're providing a lot of money to landfill closures, municipal recycling, waterfront revitalization. We're adding money all along for those various programs which many of the members have asked for. We're restoring the rural preservation companies, neighborhood preservation companies.

We concur with the Executive's recommendation for the MTA. The Department of Motor Vehicles, we concur with the Governor's suggestion. Office of Science and Technology, we concur with the Executive's request. We recommend the following additions, about $12 million -- I could go on and on. Empire Zone program, expanding out in accordance with the Governor's suggestions. And so on and so on, et cetera.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I believe that there is an

amendment at the desk. I would ask that the reading be waived and ask to be heard on the amendment.

ACTING PRESIDENT WRIGHT: There is an amendment at the desk. The reading is waived, and you may be heard on the amendment.

SENATOR SCHNEIDERMAN: This is the first of two proposed amendments to this budget bill. And this one attempts to keep the spirit of reform alive, to keep that little flame of reform flickering a bit.

When we, with much fanfare, went through the process of debating reform proposals earlier this year, many of us felt that the Senate came up short. We went through this process where the Governor proclaimed that we were reforming the budget process by having open meetings of the five leaders, not the three men in a room. We now are facing budget bills that were not produced through any sort of open process, that we have received really with less than a day's notice to certainly the members on this side of the aisle.

And I would respectfully suggest

that reform is not something which should be allowed to last through the election cycle and then, when the last votes are counted, fade into the background of the typical Albany system for doing business.

This amendment would revive the reform efforts by providing that the memoranda of understanding contemplated by this budget bill, which deal with bridge and highway programs, industrial access programs, and an aviation program, not be restricted to the participation of the Speaker, the Senate Majority Leader, and the Governor.

This amendment would provide that all five leaders, including the two minority leaders in the Senate and the Assembly, be allowed to participate in the drafting and approval of these MOUs. These are -- this is the real budget process. The distribution of these funds is very significant. This is an area in which the minority leaders are excluded. And I think that any claim from this house to have reformed the budget process, if you exclude the minority leaders from the MOU process, must ring hollow.

So I urge everyone to keep true to the spirit of reform. Let's get all five leaders in on the MOUs. And I urge everyone to vote for this amendment.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: On the amendment, the Senators in agreement please signify by raising your hands.

Those recorded in agreement are?

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilan, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith and Stavisky. Also Senator Sampson.

ACTING PRESIDENT WRIGHT: The amendment is not agreed to.

Senator Sabini.

SENATOR SABINI: Mr. President, I believe there's an amendment at the desk from myself. I ask that the reading of the amendment be waived and that I be heard on the amendment.

ACTING PRESIDENT WRIGHT: There

is an amendment at the desk. The reading is waived, and you may be heard on the amendment.

SENATOR SABINI: My colleagues, very simply, this amendment would add $100 million to the operating budget of the Metropolitan Transportation Authority.

The MTA is facing an operating and capital program deficit and a looming crisis in keeping the system in just basic repair. Not including the service improvements that have been promised to the ridership, not including the capital improvements that have been promised to the ridership, but just keeping the system afloat.

There was a modest fare increase for certain classifications of riders that was implemented a week ago. Today we saw tolls go up on MTA bridges and tunnels. And what the amendment simply does is add a hundred million dollars in taxpayer funding to the MTA budget.

State government has been more and more of an absent player in the funding of the MTA. That's how they got into trouble some years ago when the system started crumbling. And I fear that we're headed down the same

road. We need to be full players in transit. It's an economic development question. To get people to and from work, we have to have a transit system that works.

And I think it's time for us as a legislature to take a leadership role and concern ourselves with spending more on mass transit, and I offer that in the form of the amendment.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: On the amendment, those Senators in agreement please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilan, Hassell-Thompson, Klein, L. Krueger, Montgomery, Oppenheimer, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith and Stavisky.

ACTING PRESIDENT WRIGHT: The amendment is not agreed to.

Senator Schneiderman.

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

ACTING PRESIDENT WRIGHT: Senator

Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: This legislation deals with transportation and economic development. The bill that comes after it is a language bill that accompanies it as far as economic development and environmental conservation.

I think that the points just made by Senator Sabini are sufficient reason to vote against this bill. We have, as a legislature, run the greatest mass transit system in the history of world into the ground. And I know you think it may belong there, but I'm speaking in a less positive sense.

The MTA -- the MTA board has issued a capital proposal showing that there is an $11.3 billion gap in the portion of the plan that deals only with basic maintenance, that there's a $4.2 billion shortfall for proposed expansion projects like the Second Avenue subway. Forget those projects for now. Those projects are off the table. A lot of people have taken credit for them in the past. They're not going to happen unless this

legislature steps up to the plate.

On top of that, the authority forecasts an operating deficit between $600 million and $700 million next year, and that's after the fare hike that just went into effect.

Now, the chairman of the MTA, Chairman Kalikow, has faced the reality, he has begun to raise the issue that we have underfunded the MTA. This is a proposal for operating funds. This is not a capital plan. The reason that we need to provide more operating funds, however, ladies and gentlemen, is that when we passed the last MTA capital plan, the State of New York -- anyone who voted for that capital plan voted to provide zero dollars to capital for our transit system.

As a result, the MTA issued $22 billion in bonds, which we are now paying for out of operating revenues. That is like buying groceries with your mortgage money. That is a disgrace. That is no way to finance a system. We have to do better than that.

For us to come here in the face of

these deficits that we have created -- these weren't created by the straphangers. People are riding the subways and buses more than ever. This was created here in the State Legislature. For us to come in and say we're going to provide a new tax in the MTA area that will generate $400 million, knowing that that is less than half of what the chairman of the MTA has requested, is a statement by everyone who votes for this bill to the subway and bus riders in New York City that we are respectfully requesting permission to raise your transit fares again. That's what you're doing if you don't provide more funding here.

I sincerely hope when we get to conference committees this issue is addressed. We cannot allow the system to go back into the state it was in in the 1970s. That will happen. It will be a worse system. Ridership will go down, revenues will plummet further, and we'll be back into that spiral, that destructive spiral that costs every employer in the City of New York, every employer in the suburbs of New York who rely on the Long Island Railroad and Metro North. It's a tax

on every employer, it's a tax on every worker. It is the worst possible public policy.

So I'm going to be voting against the bill. And that's reason enough, but there's an additional reason. This legislation also deals with the Empire Zone program. If there has ever been a program that had drifted away from its intended roots, that has drifted away from its purpose and become a generalized subsidy for well-connected businesspeople, this is it.

The Empire Zone program is in need of reform. This legislation would extend the program for 15 years, expand it with no reform to guarantee that the jobs promised are created, to guarantee that -- Empire Zones were a great idea. They were a great conservative idea. They were developed by conservative think tanks to provide tax breaks in poor inner-city communities to encourage businesses to locate there.

Under the State of New York's program, we have lost all sense of the purpose of Empire Zones. They're now designated in empty fields. They are designated in areas

that aren't even geographically contiguous with the towns that they're supposed to serve. And we know that they are sometimes being designated in areas where there are people who simply want to do development there and want the tax breaks. That is not a valid economic development program.

We could save $75 million every year. We could take $75 million and provide it for buses and subways, we could provide it for schools, if we would reform this program that was documented in the Senate Democrats' alternative budget released a year ago this month.

So let's not simply pass on more programs and expand them when we know they don't work and we know that they don't create jobs and we know that they're handled in an unfair way that discriminates against communities across this state.

I'm going to vote no for both the transportation and the economic development portions of this bill, and I urge everyone to do the same. And when we get to conference committees, if we do not address this problem

of transit funding, then I think everyone here should feel obligated to communicate to their constituents that they are graciously passing on a fare hike to the MTA riders.

ACTING PRESIDENT WRIGHT: Senator Sabini, on the bill.

SENATOR SABINI: Thank you, Mr. President. I just wanted to highlight another problem I have with this bill.

While I was delighted to see that the Northeast Queens Nature and Historic Preserve Commission in Senator Padavan's district was put back in the budget, and I think it's a worthwhile endeavor, it made me look at the rest of the wetlands issue regarding spending in this budget.

There's really two ways that we could have protected our wetlands. One is to pass S2048, which is the Clean Water Protection and Flood Preservation Act, which is also in the Assembly budget resolution, or accept the Governor's proposal in Article VII. Both of them would go a long way to improve our wetlands. They do so in different ways, but both provide for the fix of the 2001

legislation, which took protected wetlands out of the federal jurisdiction that were smaller than 12.4 acres.

In the Northeast, Connecticut, Vermont, Massachusetts, our surrounding states that border us, we have the weakest wetlands laws of any of those states. The irony is that the water coming through Connecticut that goes into our drinking water system in New York City is, by Connecticut law, cleaner than what it has to be when it passes through New York State into our water system. That's really a shame that we rely on other states to be more protective of our own water than we are.

New York has really passed off on protecting wetlands. And now we have an opportunity yet. In this budget proposal, Article VII is denied. A million-dollar appropriation for staff for DEC wetland protection is denied. And I think it's a step in the wrong direction when it comes to our environment.

So in addition to the problems I have with mass transit funding in this budget

bill, I also think that we are being sort of dismissive of the need to protect our wetlands, and I'll be voting in the negative.

Thank you.

ACTING PRESIDENT WRIGHT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

If the sponsor would yield, please.

ACTING PRESIDENT WRIGHT: Will the sponsor yield to a question? Senator Johnson?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

This bill is filled with new monies as well as concerns that my colleagues have raised about the monies that aren't there for public transportation, the monies that aren't there for the environment, including not putting in $15 million in appropriation for brownfields grants, which are desperately needed to move forward on our commitment to

brownfields.

But I'd like to ask the sponsor, because I'm a tad confused, this bill has $100 million for something called Excell-New York. What will that money be for, Senator?

SENATOR JOHNSON: Well, that is -- we have a program like that already, and we're going to expand that program, called Regional Centers for Innovation, mostly affiliated with colleges and not-for-profits, in place of the SPUR program, which the Governor has proposed.

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

ACTING PRESIDENT WRIGHT: The sponsor continues to yield.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. And I believe you're referencing, Senator Johnson, that it's like the Gen*NY*sis program. Is that what you meant?

SENATOR JOHNSON: I'm sorry, I didn't understand what you just said.

SENATOR LIZ KRUEGER: Is the Excell-New York program like -- when you said it's like another program we have, is that the Gen*NY*sis Centers for Excellence program? Or you meant another program?

SENATOR JOHNSON: Well, we have an Excell program already. And this is going to enlarge the regional centers for innovation we already have.

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

ACTING PRESIDENT WRIGHT: You're recognized, Senator Krueger. Continue.

SENATOR LIZ KRUEGER: Thank you.

So, Senator Johnson, how much do we already have in the Excell program? This bill seems to add a hundred million. How much is already there?

SENATOR JOHNSON: All right. We have a program now in New York State, NYSTAR, technical and whatever -- technology and research, that's correct. That's the -- we use the appellation all the time, New York State Center for Technology and Research.

We're really incorporating that into this new regional Excell-New York program. And they're going to have one not-for-profit in each of the six regions of the state. And their job is to develop and execute regional economic development strategies for each center's respective region. They'll have state funding combined with private sector and federal funds, and they'll provide seed money and capital for innovative businesses in all economic sectors, including major industries and high technology, manufacturing, agricultural services and tourism.

And they will work closely with regional economic development partners from academic and research institutions. So we're really getting some high-powered economic development by working with the existing institutions in those areas of the state.

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

ACTING PRESIDENT WRIGHT: Will the sponsor continue to yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT WRIGHT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

So do we also continue to fund NYSTAR? And how much money are we continuing to put into that program? Where would I find that in the budget?

SENATOR JOHNSON: The existing NYSTAR programs will be continued. And this will be a supplement to NYSTAR, which already is there.

SENATOR LIZ KRUEGER: No, how much money do we have in that program that's already there that will continue?

SENATOR JOHNSON: Let me see. NYSTAR has received money over the past several years up to the sum of $200 million. And they only spent about $40 million of that. So that money is going to be available for this program.

SENATOR LIZ KRUEGER: Through you, Mr. President.

ACTING PRESIDENT WRIGHT: You're recognized, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Senator.

So we're not continuing new funding to NYSTAR, but we've put $200 million in, of which $40 million has been spent? Would that be accurate on my part?

SENATOR JOHNSON: Senator, I'm sorry, we don't have all the papers right here. But the Governor has proposed adding $200 million to NYSTAR. They already have $200 million. That money is going to go -- we're not cutting the Governor's money, we're just redirecting it from the operation called SPUR to what we call Excell-New York.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: He does yield.

SENATOR LIZ KRUEGER: Thank you.

My understanding was that we were taking the Governor's $100 million SPUR proposal and turning that into the Excell-New York. Are you saying that NYSTAR is still remaining in the Governor's budget as

an additional 200 million and that it is not the proposal of the Senate to change that? So that would be on top of anything we're talking about in changing SPUR proposed new program to Excell program?

SENATOR JOHNSON: As I mentioned in my original statement, that we're not going on with the Governor's SPUR program, but we are using the money that he put in that program.

SENATOR LIZ KRUEGER: No, I think we agree on that. My concern is are we talking about also having an additional 200 --

SENATOR JOHNSON: No, it's an additional 100 million. Plus the original 200 million, of which they spent 40, which I guess allowed 160.

SENATOR LIZ KRUEGER: So that's 160. So that's from previous years that's still available for --

SENATOR JOHNSON: Right.

SENATOR LIZ KRUEGER: -- NYSTAR. But you are saying we are not putting additional money into -- add into the NYSTAR pot.

SENATOR JOHNSON: Well, the Governor is doing that, and we are too. They haven't used it very effectively.

And when we get this new structure called Excell-New York, they will use that money effectively for regional innovation. Cooperating with business and the academy, et cetera, et cetera.

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

ACTING PRESIDENT WRIGHT: You're recognized, Senator Krueger. Continue.

SENATOR LIZ KRUEGER: Thank you.

So just so I get this right, there's also still money in the proposed budget to continue NYSTAR with additional tax revenue in the 2005-2006 fiscal year.

SENATOR JOHNSON: That's correct.

SENATOR LIZ KRUEGER: And that's an additional 200 million.

SENATOR JOHNSON: It's an additional 100 million.

SENATOR LIZ KRUEGER: Additional 100 million, thank you, on top of that.

SENATOR JOHNSON: We're learning as we go along.

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

ACTING PRESIDENT WRIGHT: The sponsor continues to yield.

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT WRIGHT: You may proceed.

SENATOR LIZ KRUEGER: Thank you.

We also have in this proposed budget $175 million for the Gen*NY*sis program in addition, and $175 million for the RESTORE program in addition. Is that your understanding?

SENATOR JOHNSON: We have that in the capital funds part of the budget, yes.

SENATOR LIZ KRUEGER: Okay, within this budget.

And through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: The sponsor will continue to yield.

Senator Krueger.

SENATOR JOHNSON: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

And we also have, I guess, in this bill as well an issuance of $250 million in bonds to establish the New York State Technology and Development Program, to be administered by the New York State Urban Development Corporation. And that's new money and a new program; is that your understanding, Senator?

SENATOR JOHNSON: That's the Governor's proposal, as you know. And we're not making any changes to that.

SENATOR LIZ KRUEGER: So we're supporting that in this bill.

SENATOR JOHNSON: Right.

SENATOR LIZ KRUEGER: Yes, okay. Thank you.

Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: Continue to be recognized, Senator Krueger.

SENATOR LIZ KRUEGER: When I also

looked in the revenue package, we're also giving tax credits for companies who participate and invest in Excell, and that's to the tune of about $60 million. And again, it talks about high technology, as does the New York State Technology and Development Program, as does some of the language around the Excell program, as does some of the language around NYSTAR and Gen*NY*sis and RESTORE.

Why are we funding -- why is some of the Excell money going to historic parks and trails? How does that correlate to high technology/economic development? It's about $3 million in this bill.

SENATOR JOHNSON: Well, of course, anything which enhances the economy of the state would be subject -- a possible subject for Excell-New York. And tourism is a big industry in parts of our state. And they feel that will help augment the income from the tourist industry.

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

ACTING PRESIDENT WRIGHT: Senator Krueger, continue.

SENATOR LIZ KRUEGER: But might we not agree that -- historic trails are good for tourism, I won't disagree. But what do they have to do with the high technology and biotech model of funding?

SENATOR JOHNSON: Of course, you know -- I guess you didn't really understand the broad impact of Excell-New York. It's not just high tech. Everybody is into high tech. But there's other aspects of this which would be beneficial to the economy.

And I just mentioned here some of the things that they would get involved in also. It says, besides, innovative businesses in all economic sectors, including the major industries and high tech, manufacturing, agricultural services and tourism.

It's not just high tech. Everybody is on a high-tech kick, but we have other virtues in this state to be exploited and developed into economic engines.

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

ACTING PRESIDENT WRIGHT: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Well, clearly I am confused about how we use our money for economic development. I've learned today we can't use the money for mass transit, which we know creates jobs and continues and assures people can get to jobs and assures that businesses want to locate in our state because there's an ability of people to get to their jobs and get to whatever it is they're selling.

And we can't support environmental protection at the level that we have in the past. We don't have the money for wetlands, we don't have the money for brownfields. We're reducing our commitment to environmental protection by expanding what DEC is supposed to do with the same dollars.

And yet I look through the budget this year and I see enormous pots of money that, frankly, when I do my homework before I get to this chamber and when I get to this chamber, it is a mystery to me how we're spending the money and whether we're in fact

generating economic development for the State of New York through the money.

We have in this bill -- and the associated language bills that we'll deal with at another time -- we've got another $175 million for Gen*NY*sis. And it's not at all clear how that differs from Excell, how that differs from New York State Technology and Development, how that differs from NYSTAR, how it differs from RESTORE.

We have $175 million more for the RESTORE program. We've got $100 million for the Excell-New York program, a new program that will apparently run better than the NYSTAR program, but we'll throw another hundred million into NYSTAR, which we say doesn't work well, but we'll throw another $100 million in there too. And we've got $160 million apparently left unspent in that program.

Maybe it's good that it's unspent if it doesn't work very well. But I argue maybe we should pull the money out if we didn't spend it and it doesn't work very well. Maybe we shouldn't put another $100 million in

if it doesn't work very well.

I don't understand the difference between these different models and the new New York State Technology and Development Program, another $250 million in bonds. When I've gone to hearings and asked the agencies to explain to me how they've spent that money, what the process is, what we've gotten for the money, I get very little information.

And yet this year, supposedly in a year where yet again we don't have enough money for our schools, we don't have enough money for public transportation, we don't have enough money for health care, we've got, just in the discussion today, all right, $350 million for Gen*NY*sis and RESTORE, a new $100 million for Excell. That's $450 million. Another $60 million in tax credits to go along with Excell. That's $510 million. A new New York State Technology and Development. That's another -- we're up to $800 million. The continuing NYSTAR, another hundred million. $900 million plus the $160 million that was left, $1.6 billion.

And I didn't even get into the

multimodal programs, which also seems to be related programs that just sort of go out there when someone chooses.

You can't convince me we should pass a budget with over a billion dollars in it, in theory all for parallel or the same programs, with no review of what we've gotten for our dollars before, with an admission that some of them don't work so well so we're creating new ones.

I find it outrageous that the definition of the economic development budget in this state is to just create, year after year, new slush founds while we continue to fund the old ones and no one asks the questions. Senator Schneiderman earlier talked about the Empire Zones, another example of where we know we went wrong, we refuse to revisit the question and fix the problems.

I went to the hearings to discuss the Empire Zone, and when somebody asked the reasonable question, "Why don't we make the entire State of New York an Empire Zone?" -- two years ago I laughed at that question. Now I think it's a reasonable proposal.

We're starting border wars between our towns over these models of who can get the biggest tax exemption from moving their business. It's like rearranging deck chairs on the Titanic, so why do we even bother.

Again, I think this state needs to reevaluate every dollar we put into economic development. We are not doing justice to the people's tax dollars. We are certainly not using our money effectively to expand our economy. Because to expand our economy, we would have good public transportation, we would have good quality education, and we would have affordable housing. It's not brain surgery. And yet none of this money goes towards any of that.

So I'm very disturbed about this budget bill. I hope others may also be. And I'll be voting no.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, through you, Mr. President, would the sponsor yield for a question, inquiry.

ACTING PRESIDENT WRIGHT: Senator Johnson, will you yield to a question?

SENATOR JOHNSON: Certainly.

ACTING PRESIDENT WRIGHT: Senator Johnson will.

Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

Senator Johnson, I'm trying to find out exactly what is the allocation in this budget for the administration of the Empire Zones.

ACTING PRESIDENT WRIGHT: Will you please take the conversations outside. Thank you.

SENATOR JOHNSON: We think it's possibly $2.3 million.

SENATOR MONTGOMERY: And I'm looking in the budget, and I find that there's reappropriations from last year. Does that -- is that 2.3 million additional funds, or are we --

SENATOR JOHNSON: It's just a restoration which the Governor has cut in his budget. And we restored what he cut out.

SENATOR MONTGOMERY: So there's no new additional funding for administration.

SENATOR JOHNSON: That's correct.

SENATOR MONTGOMERY: Through you, Mr. President, just to ask another related question, if the Senator would yield.

SENATOR JOHNSON: Yes, Mr. President.

SENATOR MONTGOMERY: You have -- I see that there's language in the budget that speaks to new Empire Zone programs.

SENATOR JOHNSON: That's true.

SENATOR MONTGOMERY: And one of them is referred to as a Flex College Opportunity Empire Zone. Is that supposed to be "acreage"? Flex Acreage College Opportunity Empire Zone. And another one is Flex Acreage Agri-Business Opportunity Empire Zone.

And my question to you is, what exactly does that mean? Where will these Empire Zones be created?

ACTING PRESIDENT WRIGHT: Senator Montgomery.

SENATOR MONTGOMERY: Oh, I didn't

get an answer. Did you answer me? I didn't hear you.

SENATOR JOHNSON: You asked me multiple questions. I wasn't sure just what your question was that you wanted answered.

SENATOR MONTGOMERY: Oh, I'm sorry.

I was trying to find out exactly what this Flex Acreage College Opportunity Empire Zone is, and what exactly is the Flex Acreage Agri-Business Opportunity Zone.

SENATOR JOHNSON: There are really two programs side by side. One is for colleges. And that's a competitive situation between colleges who want to start Empire Zones surrounding their campus no more than one square mile.

And also for agri-business, if they want to set one up, there will be a competition to get the money and the revenues for that zone, the agricultural zone or the zone around colleges.

And also one mile -- they could expand it each year by another square mile if they get that busy and prosperous. But that's

what's in the bill.

SENATOR MONTGOMERY: Oh.

ACTING PRESIDENT WRIGHT: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, through you, if Senator Johnson would continue to yield.

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Johnson continues to yield.

Senator Montgomery.

SENATOR MONTGOMERY: Based on the funding that you have indicated for the administration of the Empire Zones in this budget, Senator Johnson, and we intend to expand the Empire Zone program, as indicated here, it seems that in 2005 we anticipate four additional Empire Zones.

Are we anticipating expanding the administrative cost of those, or are we just now spreading the cost, the same money, over a larger number of zones?

SENATOR JOHNSON: Senator, there is a competitive process of applying for and

lobbying for and finally achieving an Empire Zone. They won't run out of money before the end of the year because the process takes so long. We have enough money to do whoever gets approved this year. We'll worry about next year's appropriation next year.

SENATOR MONTGOMERY: All right. Thank you, Senator.

Mr. President, briefly on the bill.

ACTING PRESIDENT WRIGHT: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: I raise this issue in particular because I see that we have four new zones. And based on this new -- this new programs proposal, the flex acreage and the flex acreage, I'm not sure how or whether or not we'll have any new Empire Zones in New York City -- certainly in Brooklyn, where we need them.

Now, I'm -- I understand, I want to look at the whole state as my responsibility, so to speak. And I'm happy when we do whatever is required in any part of the state. But if we're just going to expand the number of Empire Zones -- and they're extremely

important, but they don't work unless there is an administrative aspect to them -- then we're just throwing good money after bad.

And these are really very, very important entities as it relates to local economic development. So I'm very much in favor of Empire Zones, but I do not -- I would not like to see us use it as a little patronage operation rather than a real and truly effective economic development program.

So I'm concerned we're going to have four new ones this year. And you talk about competitive bidding. That means the new zone that is going to be developed in Buffalo is going to be competing with my zone in Brooklyn and -- my two zones in Brooklyn. Both of those zones are very important, but now there is a possibility that their administration will be weakened because they now have to compete with Buffalo or some other part of the state where there is a Republican Senator who has more clout than I do, more seniority than I do.

So that's a problem. That is a problem. And we should not be putting our

Empire Zones up to compete against each other in that way. So I'm very concerned about this, Mr. President.

And I think that we should find a better way. Use some of the other new funds, the slush funds that keep being proposed for this, that and the other, and target those funds specifically to administer our economic development Empire Zones. It's a good program, even though it needs reforming. I certainly am sorry we didn't reform it. But if it's going to continue, it should be done in a way that strengthens it and that does not weaken the administration.

Thank you.

ACTING PRESIDENT WRIGHT: Is there any other Senator wishing to be heard on the bill?

That will conclude debate.

The Secretary will ring the bell.

The Secretary will read the last section.

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

ACTING PRESIDENT WRIGHT: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Mr. President, to explain my vote.

We've heard reference to a number of things today relative to the environmental section, about cutting $15 million out. We did not appropriate that $15 million because there is $30 million in the program that has been unspent -- for the simple reason that we can't get the Assembly to the table to agree on an MOU as to how to spend it. So to put more money into the program when there's $30 million sitting there is kind of silly.

The comments about our water not being as clean as it should be because of the wetlands, that we struck out that section of the Governor's proposal, is absolute nonsense. The water in the state of New York is as clear as can be and as clean as can be.

And the wetlands proposal will be taken care of by legislative action the way it should be. And I'm carrying the bill, and

hopefully -- and we have an Assembly sponsor, and hopefully that bill will be passed before the end of the session and everything will be fine.

This is the -- this is silly to make these comments, because the other side full well knows the idea of the relativity of the money.

ACTING PRESIDENT WRIGHT: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, to explain my vote.

As I mentioned, I'll be voting no. But I appreciated my colleague's comments about why you put more money into a program if you don't think it's working and it's not getting spent.

So again, to vote no, why are we putting more money into the NYSTAR program, which apparently we admit doesn't work and has a lot of money sitting there already?

So I would concur with Senator Marcellino's point about why he votes for the bill and why I vote against it. Same issue, different outcome.

Thank you.

ACTING PRESIDENT WRIGHT: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 271 are Senators Andrews, Diaz, Dilan, Hassell-Thompson, Klein, L. Krueger, Montgomery, Onorato, Padavan, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, and Stavisky.

Those Senators absent from voting on Calendar Number 271 are Senators Gonzalez and Sampson.

Ayes, 40. Nays, 16.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Morahan, why do you rise?

SENATOR MORAHAN: Thank you, Mr. President. I'd like to be recorded in the negative on Calendar Number 60, Senate Bill 120.

ACTING PRESIDENT WRIGHT: Senator, we have not passed that bill yet. You're fine.

SENATOR MORAHAN: Oh, okay.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 272, Senate Budget Bill, Senate Print 993B, an act to amend Chapter 728 of the Laws of 1982.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: This bill, Mr. President, is the Article VII or the language bill pertaining to Senate 555D and 994B. So it's just the words that put into effect the budget we've discussed for the last half hour.

ACTING PRESIDENT WRIGHT: Thank you, Senator Johnson.

Senator Schneiderman.

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

I just want to note that this is a language bill on environmental conservation and economic development that actually does contain language implementing the -- on the issue that Senator Sabini spoke about so eloquently a few moments ago.

This is an unusual moment for me, because I rise to speak in praise of Governor Pataki. His proposal in Article VII that is undone by this legislation would actually provide significantly more protection for New York's wetlands than are provided for in the Senate bill. Similarly, the Assembly's resolution, although operating through a different mechanism, would provide more protections.

It is unassailable that we have the weakest wetlands protection law in the Northeast. While other states protect wetlands regardless of size, we only protect wetlands that are 12.4 acres or of, quote, unusual local significance.

Senator Sabini's comments about the last bill obtain equally with regard to this bill. And it is something that, again, I hope we will take up in conference committee. I would hate for the Senate to be the only reason we can't provide additional wetlands protection when the Governor has proposed something significantly better.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Is there any other Senator wishing to be heard on the bill?

That will end debate.

The Secretary will ring the bell.

The Secretary will read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

I remind the members to remain in their chairs for the record of the vote.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 272 are Senators Andrews, Diaz, Dilan, L. Krueger, Onorato, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith and Stavisky.

Those Senators absent from voting on Calendar Number 272 are Senators Gonzalez and Klein.

Ayes, 44. Nays, 12.

ACTING PRESIDENT WRIGHT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 273, Senate Budget Bill, Senate Print 994B, an act to amend the Public Authorities Law and others.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Mr. President, this bill you just called up is the bill that implements the transportation budget, which we have already discussed.

ACTING PRESIDENT WRIGHT: Senator Savino.

SENATOR SAVINO: Mr. President, I believe there's an amendment at the desk. I ask the reading of the amendment be waived, and I ask to be heard on the amendment.

ACTING PRESIDENT WRIGHT: There is an amendment at the desk. The reading is waived, and you may be heard on the amendment.

SENATOR SAVINO: Thank you, Mr.

President.

The proposal would allow for state private-sector contracts to lapse without renewal and mandate that the State Department of Transportation subsequently hire an additional 800 state employees to provide engineering services over a five-year period starting in state fiscal year 2006-2007.

It is estimated that the state will save between $50 million and $70 million over a five-year period through the implementation of this proposal.

In 1990, State Comptroller Ned Regan compared the cost of DOT engineers with consulting engineers and concluded the State Department of Transportation could save millions of dollars by reducing its reliance on outside contractors and outside engineering services for design, supervision and inspection and instead increase its own engineering staff.

In May 1998, former State Comptroller Carl McCall issued a report which concluded: "The number of in-house engineering positions has declined by

10 percent since 1995, and the use of consultants is on the rise. The department has not determined, through cost analysis or other means, that using consultants rather than in-house engineers is cost-effective or produces improved services for taxpayers."

In March 1999, in what was widely viewed as an effort to refute the comptrollers' reports, the Department of Transportation hired the international accounting firm of KPMG to perform a state-of-the-art, activity-based costing analysis to compare the costs of in-house engineers versus consulting engineers. The study found that the consultants are approximately 50 to 75 percent more expensive than using in-house resources.

Mr. President, I urge my fellow Senators to support this amendment, which would lead to substantial savings to the state in the tens of millions of dollars.

Thank you.

ACTING PRESIDENT WRIGHT: Thank you, Senator.

Any other member wishing to be

heard on the amendment?

Those Senators in agreement please signify by raising your hands.

Announce the results.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilan, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT WRIGHT: The amendment is not agreed to.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If I could ask the sponsor to yield to a question.

ACTING PRESIDENT WRIGHT: Senator Johnson, will you yield to a question?

SENATOR JOHNSON: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Krueger.

SENATOR LIZ KRUEGER: Part I of this bill is actually a criminal bill involving aggravated loitering in a transit facility. And I understand that it's in theory to decrease the number of people who are trying to illegally sell Metro cards.

But why would we have a criminal penalty bill or a misdemeanor bill within a budget language bill? What's it doing here?

SENATOR JOHNSON: Senator, this bill covers crimes on MTA property. This is related to transportation, and those crimes relate to crimes on transportation property.

SENATOR LIZ KRUEGER: Thank you.

Mr. President.

ACTING PRESIDENT WRIGHT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

I'll accept the argument that because it relates to crimes on transportation property, it should be in a budget language bill for the moment. Although I guess I would argue that criminal bills and misdemeanor bills should be handled as individual bills and that while language bills too often end up

being public policy documents, as opposed to language matching to the budget, that when we get to the point where we're actually doing loitering bills within a budget bill, we really ought to be rethinking what the role of the budget is versus the role of the Legislature in determining policies involving public protection and vandalism and criminal justice.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Volker.

SENATOR VOLKER: I just want to say that I agree with you. The problem is this was part of the Governor's budget bill. And, I mean, I just think it is kind of silly myself. But that's the problem with the process in these Article VII bills.

And technically, we could strike it out or whatever, I suppose. But the problem is we can't amend it. And what we're trying to do here is do as much of the Governor's bills as we can.

But I personally agree with you. You may not remember, but last year I was

pulling stuff out of the budget and passing them here, just to point out that I happen to agree with that. But there isn't a great deal we can do about it.

ACTING PRESIDENT WRIGHT: Any other member wishing to be heard on the bill?

The Secretary will ring the bell and read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

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

SENATOR MONTGOMERY: Yes, Mr. President, just briefly to explain my vote.

I'm going to not vote no on this, but I do have concerns that the Thruway Authority is looking to increase the funding to pay for their bridge and highway program, bond cap. And at the same time, they are seeking a 35 percent increase in the toll on commercial vehicles and a 25 percent increase on regular car vehicles.

So it means that we are being asked to pay twice for the Thruway Authority. We're asked to pay as individuals, especially -- we enjoy having upstate farmers come to the city to sell their produce. I have several in my district; they come every week. Many of them come several times during the week. It's going to be an additional tax on people who are trying to do business in New York State, while at the same time they're raising their bond cap and requiring us to pay the debt service over a long period of time.

So I think that we need to make this very clear to the authority -- certainly I intend to -- that this is an unfair double tax on the citizens of New York State who use the authority to travel all over the state to do business and at the same time we're going to be required to pay the debt service on their bonds.

So I hope that members of this Legislature will make it clear to them that we object to that process.

ACTING PRESIDENT WRIGHT: Senator, how are you voting?

SENATOR MONTGOMERY: I'm voting yes.

ACTING PRESIDENT WRIGHT: Senator Montgomery will be recorded in the affirmative.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Just very quickly on the bill, Mr. President.

A couple of years ago, several hundreds of thousands of dollars were cut out of this CHIPS program, and it disallowed local communities from being able to do some of the kinds of roadwork and sidewalks and whatever that was very, very necessary for municipalities.

And many of our communities have county roads and state roads that go through our cities. And if anybody has tried to drive in their communities these last weeks and have not had almost an axle broken or some damage to their vehicles, they're very, very fortunate. Because we've had some potholes that the whole stove could go in. We're not talking potholes, we're talking about the whole kitchen sink.

And so I am -- this is one of the few bills that I will be supporting in this budget, because it is critical for us to really take a look at what it is that we're doing. We're a surface community in the Bronx, and we don't have the advantage of having quite the subway system that most of New York enjoys. And we have to appreciate our bus services. And so we need our buses to be able to get from one end of the Bronx to the other. So certainly, silly as it may appear to be to some people, try traversing some of those roads in the Bronx and you'll understand exactly what I mean.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Hassell-Thompson will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 273 are Senators Paterson and Schneiderman.

Those Senators absent from voting: Senator Gonzalez.

Ayes, 55. Nays, 2.

ACTING PRESIDENT WRIGHT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 274, Senate Budget Bill, Senate Print 995C, an act to amend the Tax Law and others.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT WRIGHT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: This budget includes almost a billion dollars in business tax reductions over the next four years to create job strength in the economy, a high-tech small business health insurance credit, direct school property tax rebate. Manufacturing jobs, there will be a single sales factor to boost manufacturing jobs. Investment in emerging technologies. The state taxpayers would save $273 million in 2005-2006, increasing to $2.3 billion in four years.

ACTING PRESIDENT WRIGHT: Thank you.

Senator Brown.

SENATOR BROWN: Mr. President, I believe there's an amendment at the desk.

ACTING PRESIDENT WRIGHT: There is an amendment.

SENATOR BROWN: I ask that the reading of the amendment be waived, and I ask to be heard on the amendment.

ACTING PRESIDENT WRIGHT: The reading is waived, and you may be heard on the amendment.

Senator Brown.

SENATOR BROWN: Thank you. This amendment would create a personal income tax credit for first-time homebuyers, essentially, a tax cut.

This proposal would provide a New York State personal income tax credit of $1,000 or $1,250 for only first-time homebuyers who purchase a primary residence in New York State. This proposal provides a $1,250 personal income tax credit for households with gross household incomes less than $150,000, and a $1,000 tax credit for households with a gross income of between $150,000 and $200,000.

Home ownership provides and generates many social and economic benefits that ultimately benefit almost all New Yorkers. The state should encourage home ownership by providing a personal income tax credit for first-time homebuyers that purchase their primary residence in New York whose household income gross income is more than $200,000.

Now, certainly we all know that in communities that encourage home ownership, that makes for stronger communities. This supports people in being able to become homeowners all across the State of New York. And as I said, this is essentially a tax cut that would generate tens of millions of dollars in economic activity.

I urge all of my colleagues in the Senate to support this amendment.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Is there any other member on the amendment?

On the amendment, those Senators in agreement please signify by raising their hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilan, Hassell-Thompson, Klein, C. Kruger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT WRIGHT: The amendment is not agreed to.

Senator Hassell-Thompson.

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

I believe there's an amendment at the desk. And I ask that the reading of the amendment be waived. And I'd like to be heard on the amendment, very briefly.

ACTING PRESIDENT WRIGHT: There is an amendment at the desk. The reading is waived, and you may be heard on the amendment.

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

This amendment is just an attempt on our part to ask us to rethink and to look at the enhanced STAR exemption for our senior citizens. And this proposal would increase

the proposed $50,000 to $75,000 on the first $75,000 on home ownership.

For those of you who may or may not be aware, this proposal is for persons 65 and older with incomes that are at or below $64,650, who are currently receiving an enhanced credit on their properties if they're eligible for a regular STAR rebate.

The standard STAR credit is an exemption for the first $30,000 of the value, and the enhanced STAR exempts the first $50,000. Both amounts are higher in counties where median home prices are higher than the statewide median. So with our rising local property taxes at present, a very real burden continues to exist for all homeowners in the state, but it is one that impacts seniors especially hard.

Our measure would help seniors stay in their houses and to mitigate the growing tendency of not being able to afford to live in one's own home, a syndrome that is increasingly apparent in many of our counties, including Westchester, around the state.

Furthermore, our tax cut would

increase direct local economic activity.

There is a fiscal impact, obviously, to doing this, but it certainly is significantly worth it to those seniors who have worked and who have paid their dues to us in the State of New York.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you, Senator.

On the amendment, those Senators in agreement please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilan, Hassell-Thompson, Klein, L. Krueger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, M. Smith, Stavisky and Valesky.

ACTING PRESIDENT WRIGHT: The amendment is not agreed to.

Senator Serrano.

SENATOR SERRANO: Mr. President, I believe there's an amendment at the desk. And I ask the reading of the amendment to be

waived and ask to be heard on the amendment.

ACTING PRESIDENT WRIGHT: There is an amendment at the desk. The reading is waived, and you may be heard on the amendment.

Senator Serrano.

SENATOR SERRANO: Thank you, Mr. President.

This amendment makes permanent the sales tax exemption on clothing and shoes under $110. This sales tax is probably the most regressive of taxes. While there are some who wish to expedite tax breaks for the wealthy, we need to support and look at the tax cuts that will help those who need it most, our poor and working-class families in the state.

I ask my colleagues to support this amendment. And I thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you. On the amendment, those Senators in agreement please signify by raising their hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilan, Hassell-Thompson, Klein,

L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, M. Smith, A. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT WRIGHT: The amendment is not agreed to.

We're on the bill. Any Senator wishing to speak on the bill?

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. On the bill, Mr. President. I apologize for my delay.

I'm not going to question the sponsor on this bill, because the time is late in the day. But I would like to highlight if I were to ask him how much money is in this revenue bill, how much money we are losing in taxes from this bill, I hazard to say no one in this room would be able to answer the question what is the total dollar value of new tax cuts in this bill, what is the total dollar value of new revenue.

Because in fact, several of the proposals in our revenue package don't even have a financial impact named -- including,

specifically, a new tax credit for a small businesses' health insurance program, which we have also debated in this house as a separate freestanding bill. It does talk about an estimated 31, 32 million in new costs associated with it through stop-loss pull funds, but it doesn't talk about the tax impact.

When I total up some of the other impacts here, I can add up to about $1.5 billion in tax cuts. And I have to say, given what we are dealing with this week, what we are dealing with in not having the money for, again, public education, transportation, housing, health care, why we are deciding to cut $1.5 billion in our tax revenue through this bill is, at best, confusing and I suppose at its worst case is the worst kind of pandering to give special interests tax cuts at a time when the State of New York can't meet our basic obligations to our constituents at the same time as we come up with huge new slush funds of revenue -- excuse me, of expenditures under our economic development budget.

But again, when you look through this revenue bill, and I hope everyone does, and I hope everyone feels like they can explain at home why they were giving special tax credits and tax exemptions and tax reductions for targeted businesses and for individuals with incomes above a certain level, and why we are reversing our commitment on sales tax for clothing and shoes and why we are reversing our commitment on any number of other programs in the budget, that you are comfortable making these types of tax cuts and these specific tax cuts.

I urge my colleagues not to pass this bill. We can't afford this amount of tax reduction this year. We can't afford in any year these types of tax reductions for special interests and categories of people who are not those most in need in our state.

And again, I'm not comfortable voting for a bill that doesn't even tell me how much some of these items will really cost the taxpayer. I think we should have the financial information in front of us when we are changing our tax policies.

So I will be voting no. The hour is late. I hope my colleagues will join me in voting no, even if you accept the argument that you ought to know what's in this bill before you pass it.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you, Senator.

Is any other Senator wishing to be heard on the bill?

That will end debate.

The Secretary will ring the bell; there will be a vote on the bill.

Read the last section.

THE SECRETARY: Section 7. This act shall take effect June 1, 2005.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I will be voting in favor.

But the one thing that has been disturbing me very much is that the Governor

is going to go ahead -- it's not in this bill, but he's going to go ahead with the surcharge that was put on the sales tax two years ago -- was it two years ago? -- two years ago of a quarter of a percent. And many people in the health care field feel that this quarter of a percent should not be eliminated this year, which seems to be what is in the Governor's mind.

And this quarter of a percent sales tax could go a long way to save many of our hospitals that are in very dire shape, dire condition. And I do not know if we'll be able to maintain some of these hospitals.

One is a tertiary care hospital, and it's a very difficult operation to maintain because it is so costly. It's located in Westchester County, but it deals with seven counties throughout the entire Hudson River Valley. And it has been of major importance to us, and we simply don't know how we can continue to fund it unless we have the maintenance of this one-quarter of 1 percent sales tax.

I'll be voting in favor.

ACTING PRESIDENT WRIGHT: Senator Oppenheimer will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 274 are Senators Andrews, Diaz, Hassell-Thompson, L. Krueger, Onorato, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, and Stavisky.

Those Senators absent from voting: Senator Gonzalez.

Ayes, 45. Nays, 12.

ACTING PRESIDENT WRIGHT: The bill is passed.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 275, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 6451 and substitute it for the identical Senate Bill Number 3274, Third Reading Calendar 275.

ACTING PRESIDENT WRIGHT: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

275, Assembly Budget Bill, Assembly Print Number 6451, an act to amend Chapters 50, 53, 54 and 55 of the Laws of 2004, making appropriations.

ACTING PRESIDENT WRIGHT: The Secretary will ring the bell.

Senator Brown.

SENATOR BROWN: On the bill, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Brown, on the bill.

SENATOR BROWN: Thank you very much.

Mr. President, there is a portion of this bill that relocates employees at the General Donovan State Office Building in Buffalo. The building will be demolished as part of the Bass Pro project in Buffalo. And I certainly am very much in favor of the project.

I am concerned that there is not language contained that will guarantee this the workers will be relocated in Buffalo. I made the same point during the Finance Committee meeting earlier today, and I

appreciate Senator Johnson and Senator Volker indicating that they believe that these workers will be relocated in Buffalo and that steps will be taken to make sure that this is guaranteed.

So I just wanted to make that point for the record. Thank you.

ACTING PRESIDENT WRIGHT: Thank you, Senator Brown.

Any further comments on the bill?

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll on the bill.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Announce the results.

THE SECRETARY: Those Senators absent from voting on Calendar Number 275: Senator Gonzalez.

Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 276, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 6452 and substitute it for the identical Senate Bill Number 3275, Third Reading Calendar 276.

ACTING PRESIDENT WRIGHT: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 276, Assembly Budget Bill, Assembly Print Number 6452, an act to amend Chapter 2 of the Laws of 1998, amending the Public Health Law and others.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 14. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT:

The Secretary will ring the bell.

The roll will be called on the bill.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT:

Results?

THE SECRETARY: Those Senators absent from voting on Calendar Number 276: Senator Gonzalez.

Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the active list, would you please lay aside Calendar Number 60 for the day.

ACTING PRESIDENT WRIGHT: Calendar Number 60 is laid aside for the day.

SENATOR SKELOS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT WRIGHT: There is none.

SENATOR SKELOS: I believe Senator Valesky has a motion to petition.

ACTING PRESIDENT WRIGHT: Senator Valesky.

SENATOR VALESKY: Mr. President, I have a motion at the desk. I'd like to have it called up at this time, please.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: By Senator Valesky, Senate Print Number 1452, an act to amend the Legislative Law.

ACTING PRESIDENT WRIGHT: Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President.

We have, as we all know in this chamber, been working on a record of 20 years in a row of late state budgets. And while we are beginning a process today that hopefully will put an end to that dubious distinction -- and in fact, if we look back over the past couple of months, when we look at five-way leaders' meetings covered by the media, when we talk about one of the earliest meetings ever on revenues, when we are prepared to go to joint Senate-Assembly conference committees on the budget in the next day or two for the first time in a number of years, those are all very positive signs and I'm sure give all of us encouragement that perhaps this might be the year that we break that 20-year distinction.

But I think that we need to enact

structural reform of how we adopt budgets in the State of New York. And in fact, the first two bills that I voted on back in January, Senate Bills 2 and 3, which were comprehensive budget reform legislation, I would hope the Assembly would take up either of those bills in the near future.

But if we look to a couple of years ago, in increasing the pressure to bring about an on-time budget in this state, we went to a system where legislators pay is now withheld after April 1st and until a budget is passed. And there are some who thought that that would provide the kind of pressure to bring about on-time budgets. It obviously has not. And in fact, last year's August 11th budget was the latest in history.

My bill, Senate Print 1452, would simply require the Legislature to remain in session after April 1st, each weekday after April 1 that the budget would not be passed.

It is my hope that rank and file legislators, who would be prevented from meeting with their constituents in the district and attending to the important

business of the people in their Senate and Assembly districts, by being here would give us one more tool to ratchet up the pressure in regard to adopting on-time budgets.

So, Mr. President, I encourage my colleagues to support this motion to petition bringing Senate Bill 1452 to the floor.

Thank you.

ACTING PRESIDENT WRIGHT: Thank you, Senator.

All those Senators in favor of the petition out of committee please signify by raising their hands.

Results?

THE SECRETARY: Those recorded in agreement are Andrews, Breslin, Brown, Diaz, Dilan, Hassell-Thompson, Klein, L. Krueger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT WRIGHT: The petition is not agreed to.

Senator Skelos.

SENATOR SKELOS: There being no

further business to come before the Senate, I move we stand adjourned until Tuesday, March 15th, at 1:30 p.m.

ACTING PRESIDENT WRIGHT: On motion, the Senate stands adjourned until Tuesday, March 15th, at 1:30 p.m.

(Whereupon, at 6:15 p.m., the Senate adjourned.)