NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 8, 2010

3:44 p.m.

REGULAR SESSION

SENATOR ANDREA STEWART-COUSINS, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT STEWART-COUSINS: The Senate will please come to order.

I ask everyone present to rise and recite with me the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT STEWART-COUSINS: In the absence of clergy, may we all bow our heads in a moment of silence.

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

ACTING PRESIDENT STEWART-COUSINS: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Sunday, March 7, the Senate met pursuant to adjournment. The Journal of Saturday, March 6, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT STEWART-COUSINS: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Madam President, I have several motions.

First, on behalf of Senator Thompson, I move to recommit Senate Print Number 2766, Calendar Number 34 on the order of third reading, to the Committee on Finance.

ACTING PRESIDENT STEWART-COUSINS: So ordered.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Oppenheimer, I move to recommit Senate Print Number 3315, Calendar Number 44 on the order of third reading, to the Committee on Local Government.

ACTING PRESIDENT STEWART-COUSINS: So ordered.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Schneiderman, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill Number 1633.

ACTING PRESIDENT STEWART-COUSINS: So ordered.

Senator Klein.

SENATOR KLEIN: And, Madam President, on behalf of Senator Montgomery, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill Number 1293A.

ACTING PRESIDENT STEWART-COUSINS: So ordered.

Senator Klein.

SENATOR KLEIN: Madam President, are there any substitutions at the desk?

ACTING PRESIDENT STEWART-COUSINS: Yes, there are.

The Secretary will read.

THE SECRETARY: On page 9, Senator Sampson moves to discharge, from the

Committee on Codes, Assembly Bill Number 7395 and substitute it for the identical Senate Bill Number 4534, Third Reading Calendar 132.

On page 12, Senator Dilan moves to discharge, from the Committee on Codes, Assembly Bill Number 225A and substitute it for the identical Senate Bill Number 1169B, Third Reading Calendar 187.

On page 12, Senator Schneiderman moves to discharge, from the Committee on Codes, Assembly Bill Number 5537A and substitute it for the identical Senate Bill Number 4593A, Third Reading Calendar 188.

On page 12, Senator Dilan moves to discharge, from the Committee on Codes, Assembly Bill Number 4467A and substitute it for the identical Senate Bill Number 5172A, Third Reading Calendar 190.

On page 13, Senator Huntley moves to discharge, from the Committee on Codes, Assembly Bill Number 9534 and substitute it for the identical Senate Bill Number 6728, Third Reading Calendar 192.

On page 13, Senator Valesky moves to discharge, from the Committee on Local

Government, Assembly Bill Number 901A and substitute it for the identical Senate Bill Number 2831A, Third Reading Calendar 198.

And on page 14, Senator Stavisky moves to discharge, from the Committee on Finance, Assembly Bill Number 8220 and substitute it for the identical Senate Bill Number 4199, Third Reading Calendar 201.

ACTING PRESIDENT STEWART-COUSINS: Substitutions ordered.

Senator Klein.

SENATOR KLEIN: Madam President, I believe Senator Sampson has a resolution at the desk. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you.

The Secretary will read.

THE SECRETARY: By Senators Sampson, Squadron, Stavisky and Duane, legislative resolution commending Asian-Americans for Equality upon the occasion of its 36th Annual Lunar New Year Banquet on March 11, 2010.

ACTING PRESIDENT STEWART-COUSINS: The question is on the resolution. All those in favor of adopting the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STEWART-COUSINS: Opposed, nay.

(No response.)

ACTING PRESIDENT STEWART-COUSINS: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Madam President, I believe Senator Volker has a resolution at the desk. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein, has this resolution been deemed privileged and submitted by the office of the

Temporary President?

SENATOR KLEIN: Yes, it has, Madam President.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: By Senator Volker, legislative resolution commending Niall Burgess, Consul General of Ireland at New York, upon the occasion of his designation for special recognition by the New York State American Irish Legislators Society at its Annual Dinner.

ACTING PRESIDENT STEWART-COUSINS: Senator Volker.

SENATOR VOLKER: I would just like to remind everybody that tonight is the annual Irish-American Dinner at the Hibernian Hall. And we hope to have the usual Irish ruckus there.

And this resolution I'm going to present to Niall Burgess, who's the consul general of Ireland, at the dinner. And I appreciate the passage of this resolution on this date.

Thank you.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Volker.

Are there any Senators wishing to be heard on the resolution?

Then the question is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STEWART-COUSINS: Opposed, nay.

(No response.)

ACTING PRESIDENT STEWART-COUSINS: The resolution is adopted.

Senator Volker has indicated that he'd like to open this resolution up to the entire body for cosponsorship. Any Senator wishing to not be on the resolution please inform the desk.

Senator Klein.

SENATOR KLEIN: Madam President, at this time can we please move to a reading of the calendar.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number

61, by Member of the Assembly Gabryszak, Assembly Bill Number 9925, an act to amend the Civil Service Law, in relation to resolution.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 174, by Senator Squadron, Senate Print 5577A, an act to amend the Alcoholic Beverage Control Law, in relation to making provisions.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 176, by Senator Klein, Senate Print 5726, an act to amend the Not-for-Profit Corporation Law, in relation to reacquisition.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: In relation to Calendar Number 176, recorded in the negative, Senator Marcellino.

Ayes, 56. Nays, 1.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 178, by Senator L. Krueger, Senate Print 4260A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Madam President. To explain my vote.

Madam President, I'm voting against this bill not because it adds or specifies a designee from New York City to be on this particular Real Property Services Board, but by inference it elevates one geographic area of the state over a host of other geographic areas or regions of the state.

And this particular region of the state, while it experiences real property issues -- as do all others -- it historically

has had a maintenance of effort that's lower than any other region of the state. So I don't know why we're picking just the City of New York when there are a host of other regions that would be crying out for the same type of membership.

And I'm going to, as I mentioned when I rose, vote in the negative.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Saland to be recorded in the negative.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, this bill is extremely ironic, being from Central New York.

We have a government now with a Governor from New York City, a Lieutenant Governor from New York City -- a nonelected, by the way, Lieutenant Governor from New York City. We've got an Attorney General from New York City, we've got an Assembly overwhelmingly controlled by New York City, we've got a Senate Majority, 23 out of the 33 Majority, from New York City.

We're still waiting, by the way,

for our road and bridge money after the MTA bailout.

We also have a chairman of Finance from New York City, a vice chairman of Finance from New York City, and I could go on to each of the various positions in the State Senate.

And it seems to me that if anybody needs protection, it's those regions outside of New York City, in view of the New York City-centric government that we currently have at the present time.

So I vote no.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco to be recorded in the negative.

Are there any other Senators wishing to explain his or her vote?

Hearing none, announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 178 are Senators Alesi, Bonacic, DeFrancisco, Farley, Griffo, Hannon, Larkin, LaValle, Leibell, Little, Marcellino, Ranzenhofer, Robach, Saland, Skelos, Winner and Young. Also Senator Flanagan.

Ayes, 39. Nays, 18.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 185, by Senator Duane --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 192, substituted earlier by Member of the Assembly Gordon, Assembly Print Number 9534, an act to amend the Penal Law, in relation to endangering the welfare.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th day.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT STEWART-COUSINS:

The bill is passed.

THE SECRETARY: Calendar Number 197, by Senator Aubertine, Senate Print 2813B, an act to amend the Public Authorities Law and the Executive Law, in relation to establishing.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 197 are Senators Golden, Marcellino and Ranzenhofer.

Ayes, 54. Nays, 3.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 200, by Senator Oppenheimer, Senate Print 3903A, an act to amend the Education Law, in relation to cooperative competitive bidding.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I'm voting in the affirmative. This is an excellent bill, especially in view of the fact that libraries are completely hammered by the Governor's proposed budget. And it's important to be able to do things much more efficiently, and by cooperative bidding, that will help.

And speaking of the budget, we're well past 10 days from the date that the Governor submitted the budget to the Legislature. And we're rapidly approaching April 1.

And the law that we passed to reform the system -- I know we have a lot of reformers in this room -- that law says that we're supposed to have conference committees appointed. Not only -- and a schedule of open conference -- joint conference committees by the Assembly and the Senate.

We are now approaching -- I think it's almost two and a half weeks to the budget, three weeks when we're supposed to have the budget in. So I would request that in addition to passing wonderful bills like this one, that I vote in the affirmative, it might be a good idea to follow the law that we already have and the reformers that we have in this room who sued for reform, who campaigned on reform, who got a majority based upon reform, who speak reform on a daily basis, follow the rules as they exist, because that was reform. And that would help us start the budget process.

And it doesn't help just to blame the Governor for his failures or his being distracted. The fact of the matter is the Governor proposed the budget, proposed 21-day

amendments. It's up to the Legislature to do their job.

So we're waiting, and we're waiting not so patiently.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator DeFrancisco, who was recorded in the affirmative.

And the bill has passed.

THE SECRETARY: Calendar Number 202, by Senator C. Kruger, Senate --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 204, by Senator Aubertine, Senate Print 4837, an act to amend the Highway Law, in relation to permitting.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Madam President. I rise in favor of this legislation, and I thank Senator Aubertine for introducing it.

It certainly is revenue-neutral as it relates to the state, because it simply authorizes farmers to advertise their goods on state highways.

And I think this is an absolutely wonderful idea, and I'm happy that we're paying attention in small as well as large ways to what happens to farmers upstate.

And I take this opportunity to thank the farmers, the many, many farmers who every weekend, even beginning now and on through the spring and through the summer and into the fall, come down to New York City and bring fresh produce to people in my district and all over the city. We welcome them. We thank them because, for many communities that I represent, they really are the only source of fresh produce.

And so it's the farmers in New York State serving the citizens of New York State in urban areas like mine where we don't have our own farms -- maybe one or two small ones -- but they really make the difference for us. And so we thank them. And certainly I'm happy to support them being able to advertise on the highways in our state.

Thank you, Madam President. I vote aye.

ACTING PRESIDENT STEWART-COUSINS: Senator Montgomery to be recorded in the affirmative.

Are there any other Senators wishing to explain his or her vote?

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 0.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 205, by Senator Farley, Senate Print 5182A, an act to amend the Alcoholic Beverage Control Law, in relation to exemption.

ACTING PRESIDENT STEWART-COUSINS:

Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 207, Senate Budget Bill, Senate Print 6602, an act making appropriations for the legal requirements of the state debt service.

SENATOR WINNER: Lay it aside.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside.

THE SECRETARY: Calendar Number 211, by Senator Addabbo --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside for the day.

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

SENATOR KLEIN: Madam President,

can we please go to a reading of the controversial calendar.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will ring the bell. Members are all asked to come to the chamber for the controversial reading of the calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 207, Senate Budget Bill, Senate Print 6602, an act making appropriations for the legal requirements.

ACTING PRESIDENT STEWART-COUSINS: Senator Flanagan.

SENATOR FLANAGAN: Madam President, could we get an explanation of the bill?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, an explanation has been requested.

SENATOR CARL KRUGER: Thank you. Through you, Madam President.

The bill is a simple one. It provides for the mandatory payment of our debt service for the fiscal year.

ACTING PRESIDENT STEWART-COUSINS:

Senator Flanagan.

SENATOR FLANAGAN: Madam President, would Senator Kruger yield to several questions?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you yield?

SENATOR CARL KRUGER: Let's take them one at a time.

SENATOR FLANAGAN: Would Senator Kruger yield to a question?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you yield to a question?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger yields.

SENATOR FLANAGAN: Senator Kruger, what's the total amount of debt service authorized in this bill?

SENATOR CARL KRUGER: $5.86 billion.

SENATOR FLANAGAN: My understanding --

ACTING PRESIDENT STEWART-COUSINS: Senator Flanagan --

SENATOR FLANAGAN: Through you,

Madam President, would Senator Kruger continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

SENATOR FLANAGAN: My understanding, in reviewing this with our own staff, is that the total appropriation authority is for $9.29 billion.

SENATOR CARL KRUGER: That's correct.

SENATOR FLANAGAN: Madam President, through you, would Senator Kruger continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

SENATOR FLANAGAN: I realize this is esoteric, it's technical, it's not the most exciting thing in the world. But I'm trying to figure out how can I go back, when people are going to ask potential questions about this, and properly explain the details. Because in reality, what we're doing as part of this exercise today is starting the budget

process, certainly in the form of passing bills.

So my initial two questions now give me a contradictory set of facts. On the one hand, you said it authorizes $5.86 billion. And then I asked you if it was really $9.29 billion, and you said yes, it was. So what is the answer? Is it $9.29 billion or $5.86 billion?

SENATOR CARL KRUGER: $5.86 billion cash.

SENATOR FLANAGAN: Okay. And Madam President, through you, would Senator Kruger continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger --

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger continues to yield.

SENATOR FLANAGAN: Senator Kruger, what makes up that difference? If it's $5.86 billion in cash, what's the rest of it? Because that's not a small amount of money.

SENATOR CARL KRUGER: No, it's a

large amount of money, actually.

It's contingent upon several factors. Firstly, we're also looking -- when you're talking about that $9.2 billion, we're also talking about a -- it's a -- well, let's go simple. I'll try to keep it for myself.

The $5.86 billion is an increase. When we start going to the $9.2 billion, an increased $718 million, which would be based upon the budget as proposed, which would be actual -- that would be the appropriation. So that's number one.

The total expenditures for the state debt service are projected at $6.4 billion for 2010-2011, which would be an increase of $8.12 million, which is a 14.3 percent increase.

SENATOR FLANAGAN: Madam President, through you, would Senator Kruger continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

SENATOR FLANAGAN: I believe you said $5.86 billion and then an additional --

was it $800 million or 600 million?

SENATOR CARL KRUGER: $718 million.

SENATOR FLANAGAN: Comprising what?

SENATOR CARL KRUGER: It's an increase year over year.

SENATOR FLANAGAN: I'm not worried about the increase year over year. I'm worried about what authority are we giving to DOB and to the Executive to play with that other money, the roughly $3.5 billion. What makes up that $3.5 billion?

SENATOR CARL KRUGER: Well, the contingent appropriation would be $2.766 billion.

SENATOR FLANAGAN: And what is that --

ACTING PRESIDENT STEWART-COUSINS: Senator Flanagan --

SENATOR FLANAGAN: Madam President, through you.

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

SENATOR FLANAGAN: What is that money supposed to be for? Because that -- again, if we're talking in the context of the budget, we're talking about a substantial amount of new debt or debt service being available to the Division of the Budget.

SENATOR CARL KRUGER: Just to clarify that point, Senator -- through you, Madam President -- there is no new debt in this bill. This is to pay our obligations of prior debt.

SENATOR FLANAGAN: Madam President, would Senator Kruger continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT STEWART-COUSINS: He yields.

SENATOR FLANAGAN: Senator Kruger, it's my understanding that there is money in here to provide for new debt service for capital projects that will be issued in fiscal year 2010-2011. Is that accurate or not?

SENATOR CARL KRUGER: There are no new capital programs.

SENATOR FLANAGAN: Madam President, through you, would Senator Kruger continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

SENATOR FLANAGAN: I appreciate the answer. That was not my question.

My question is, are we providing new authority to pay debt service for capital projects that may come into existence in the next budget? I know there are no new capital programs right now, but would there possibly be under this legislation?

SENATOR CARL KRUGER: Through you, Madam President, no.

SENATOR FLANAGAN: Madam President, through you. Would Senator Kruger continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

SENATOR FLANAGAN: Senator

Kruger, I have in front of me a list of new sales from five different authorities and agencies that are projected for fiscal year 2010-2011, approximately $4.5 billion in new debt, which would call for $155 million in new debt service that would be part of this bill that we're doing today.

I didn't make this bill, the Governor made this bill, and you're presenting it to us. So how is that -- how does that fly with what you're telling me? Because I'm going on information that was provided by the Division of the Budget and the Executive. It clearly says that we are giving them authority for the issuance of new debt.

SENATOR CARL KRUGER: Through you, Madam President, I guess in terms that we can understand, there is no new debt. This is debt to pay for existing programs as they move forward.

SENATOR FLANAGAN: I have one last question for Senator Kruger, if he would.

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger, do you yield?

SENATOR CARL KRUGER: My

pleasure. Thank you.

SENATOR FLANAGAN: I want to be clear. I do not for one second -- I don't think any of us want to be an agent of delay. But it is March 8th, and our fiscal year ends March 31st. Why are we doing this bill today when we haven't even started any other part of the budget?

SENATOR CARL KRUGER: Well, through you, Madam President, I guess we could say that we're sending, as my ranker on Finance wanted to point out -- you said this is the first budget bill. We want to send a very clear and compelling message to the bankers and to the bond markets and all the other folks out there that want to listen that we're in the process of developing a budget.

This is not new debt, this is debt that we're obligated to pay. And under authority, we will pay it.

SENATOR FLANAGAN: Madam President, on the bill.

Thank you, Senator Kruger.

SENATOR CARL KRUGER: Thank you.

ACTING PRESIDENT STEWART-COUSINS:

Senator Flanagan, on the bill.

SENATOR FLANAGAN: I just want to offer some general comments in relation to the process that we are purportedly starting today, otherwise known as the New York State budget.

When I was asking Senator Kruger questions, I want to again be very, very clear. I understand, we all understand we have debts, we have obligations, we need to meet those, we need to pay them on time, and I think we absolutely should be doing that. In conjunction with that, though, I think we have to take a fresh, new, hard look at every single thing that we do.

My reading of this bill is that there is $5.86 billion that needs to be paid now. Now. Cold, hard cash that needs to go out the door. That was our credit card. That's our minimum payment. That's what we need to do.

We also have a $250 million dry appropriation from the Debt Reduction Reserve Fund that may be available to help defease bonds. I think that's a good thing. And that

could be very helpful. But I also believe that we're providing a tremendous amount of latitude and authority to the tune of almost another $3.4 billion, for which I don't feel there's enough justification.

Now, I know people are going to say that's what the past practices are, we can't run the risk of doing this or sending the wrong signal to the markets. I think we can actually do both. What we should be doing right now is cleaning this bill out a little bit or whittling it out down to say tell us exactly what you need. Whatever it is you have to pay, we'll come up with the money and we'll pay it. And frankly, ladies and gentlemen, it's less than what this bill is calling for and asking for.

And if we get in a situation where the Executive or the Division of the Budget has to come back and say, You know what, there have been some changes, rates have gone up, we have to do things a little differently, we want to do some swaps that may affect our debt service -- that's okay. That's okay. But I think we're missing the boat here by doing

this in the way that we've done it in the past.

Did I support the debt service bill last year and vote against the budget? Yes, I did. I know we need to pay our obligations. But to follow up on the comments of my colleague Senator DeFrancisco, I think it's also important to recognize that while we were taking this perhaps baby step forward, there are a litany of things that are left unanswered.

I raised a point that I believe is a hundred percent accurate, that we are providing the possibility for new debt, for capital programs that will come into being in this prospective budget. And that there will be debt service associated with that to the tune of $155 million or thereabouts.

I'd like to know what the programs are. I'd like to know what the distribution is. I think we should all like to know that, and we should want to know that. But part of the problem is we're not doing anything else. Here we are, it's now March 8th, and we have not followed the law. The majority in this

house, the Senate Democrats, have not followed the law.

There are well-known parameters in the Budget Reform Act of 2007 that are clear, concise, simple and easy to follow. What's lacking is the political will to do it. Why don't we have conference committees? Forget the conference committees, why don't we even have a schedule? Why don't we even have members named to the conference committees? We can't even name our members because we don't even know what the committees are.

The public, at this juncture, they may not expect to have all the nuances and all the details of the budget laid out, but they sure as heck think that we should be following the law that we all supported and enacted a couple of years ago.

This sends maybe a decent signal to the markets, but it sure as heck sends a terrible message to the taxpayers. I care about what the bond market thinks, but ladies and gentlemen, I care a heck of a lot more about what the taxpayer and the property taxpayer thinks. And if we start off like

this, then we're going down the same bad path that we started to last year.

I understand that we have obligations. I'm going to vote no on this bill because I think we should be making changes to keep DOB's feet and the Executive's feet much closer to the fire.

Thank you.

ACTING PRESIDENT STEWART-COUSINS: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

Let me add my voice to my colleague Senator Flanagan's voice. On the bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Marcellino, on the bill.

SENATOR MARCELLINO: Yes, we have to take our first steps with the budget. And this is the beginning of it. This seems to be the beginning.

There are other things, as Senator Flanagan has said -- and I won't go through it all again to add to our time, but that should be done by now. The law is clear. We're simply not following it, but we should, in my

mind.

I look at this bill as a checkbook. You put money in the checkbook to pay your bills. We should be paying the bills that we owe. If we owe money, we should pay it. And there should be money in the book to pay for the bills we owe.

You put more money in your checkbook than you need, you're going to spend that money. It's that simple. I understand that we may need a cushion, that there may be some adjustable rate situations that might come forward and might come up later on in the year. But as Senator Flanagan rightly pointed out, then let them come back to the chamber if need be and say look, this happened, this changed, conditions were altered, we need more money at this point in time, give us the authorization, here are the bills, here's the amount of money we need, here are the projects we have to pay for, this is why they're important, let us go forward. So we go forward, but we do so in an informed way.

I'm think I'm just getting to the point and I think my constituents are getting

to the point where we're tired of these so-called dry appropriations that put money out there. Yes, we've done it in the past. It was wrong. It's led us in the wrong position, it's put us in the wrong place right now. We can't afford to do that anymore. We have to change our methods. We have to change our procedures. And we should.

I'd be willing to work with you on that. Let's change the process now. Let's not continue to do the same-old-same-old, and ending up with the same old bad results. That's more debt. We don't need more debt anymore, we need less. We don't need more spending, we need less. And we need a process that will get us to the point where the public will begin to respect this Legislature.

The Governor, for good or ill, with all his distractions, presented us with a budget and he presented it early. He gave us his 21-day amendments. Do I agree with everything in them? Absolutely not. Do I agree with everything in the Governor's budget? Absolutely not. If you put that on the table, I'd vote no right today here and

now.

However, we should be going through a process now to reconcile those issues. Where's the Assembly's budget? Let's get that out here. Let's get our budget out on the table. Let's move forward together in a bipartisan way. That word is used a lot, but it's not acted on. We say it, but we don't do it. We talk it, but there's no action. Let's get some action here.

Again, I will not -- I didn't support this bill last year, and last year's budget, and I was right. Last year's budget was out of whack even with this. And the way we're going right now, we're going to have another budget that's out of whack, because we're doing it quietly, we're doing it behind the scenes, and we're doing it out of ignorance. We don't know, nobody here knows what's in the proposed budget. Nobody.

The other side, our side, nobody knows what's in a proposed budget -- because we don't have one. And there's no process that I can see moving forward that's going to bring us together so we can come together with

a real budget to show the people of this state that this is not a dysfunctional house, that this is not a dysfunctional legislature, and that this we deserve to be where we are.

I just attended a meeting of the Council of State Governments over the weekend. We are the laughingstock of the nation. When everybody has a problem, they say: "Oh, you don't want to be like New York." Or "You don't want to be like California." We're getting laughed at. I don't like that. I don't enjoy that. It's not fun. And I know you're not enjoying it either.

Anybody, everybody around here, we all feel it. We're all getting it. But we're doing the same things that are going to lead us down the same path to another budget that isn't balanced, to another budget that won't work, to another summer where we're going to be called back to fix it. This is not the year you want to come back in the summertime to fix a budget. We will have other things to be doing at that point in time.

So, ladies and gentlemen, I suggest this bill be pulled, this bill be pared down,

this bill be put, as Senator Flanagan rightly said, to what we absolutely need to pay so that we can meet our obligations and we can send the right message to the bonding institutions that this state is operating on a fiscally prudent method, in a fiscally prudent way. We will pay our bills. But we're not going to put that slush fund out there so that maybe, in case, possibly, on some unknown issue, something happens and then we're out there and the taxpayers are going to foot the bill down the road.

Madam President, I'm going to be voting no when this bill comes up. I would prefer to vote yes. But I would prefer to vote yes on a bill that is to the point and to the dollar that we need, not on some mythical number.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Are there any other Senators wishing to be heard on the bill?

Hearing none, debate is closed. The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 207 are Senators Alesi, DeFrancisco, Flanagan, Griffo, Hannon, O. Johnson, Larkin, LaValle, Libous, Marcellino, Maziarz, Nozzolio, Ranzenhofer, Robach, Winner and Young.

Absent from voting: Senator Volker.

Ayes, 42. Nays, 16.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

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

SENATOR KLEIN: Madam President, on behalf of Senator Smith, I hand up the following leadership notice and ask that it be filed in the Journal.

ACTING PRESIDENT STEWART-COUSINS: To be filed in the Journal.

Senator Klein.

SENATOR KLEIN: Madam President, can you please recognize Senator Ruth Hassell-Thompson for an announcement.

ACTING PRESIDENT STEWART-COUSINS: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you.

Madam President, at 6:30 there is a meeting of the Majority Conference.

ACTING PRESIDENT STEWART-COUSINS: At 6:30 there will be a meeting of the Majority Conference.

Senator Klein.

SENATOR KLEIN: Madam President, is there any further business at the desk?

ACTING PRESIDENT STEWART-COUSINS: Senator Klein, the desk is clear.

SENATOR KLEIN: There being none, Madam President, I move that we adjourn until Tuesday, March 9th, at 3:00 p.m.

ACTING PRESIDENT STEWART-COUSINS: There being no further business to come before

the Senate, on motion, the Senate stands adjourned until Tuesday, March 9th, at 3:00 p.m.

(Whereupon, at 4:35 p.m., the Senate adjourned.)