ALBANY, NEW YORK

February 9, 1993

3:39 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: The Senate will come to order. Senators will please find their seats.

If you will please rise with me for the Pledge of Allegiance to the Flag.

(Whereupon the Senate joined in the Pledge of Allegiance to the Flag.)

Today, we're pleased to have the Reverend Peter G. Young, Pastor of Blessed Sacrament Church of Bolton Landing, New York, to give us the opening blessing.

FATHER YOUNG: Let us pray.

Almighty God, make Your grace enkindle in all of us a love for the many unfortunate people whom poverty and misery reduce to a condition of life unworthy of being human.

Arouse in the hearts of those who call You Father a hunger and a thirst for social justice and for eternal charity in deeds and in truth.

Grant, O Lord, peace in our day.

And we pray, too, for the continued good health of Mr. Ryan, who today is with us celebrating his 90th year of commitment.

We ask You this, now and forever. Amen.

ACTING PRESIDENT FARLEY: Thank you, Father Young.

The Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Monday, February 8. The Senate met pursuant to adjournment. The Journal of Friday, February 5, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing no objection, the Journal will stand approved as read.

The order of business:

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.

(Whereupon, Senator Christopher Mega was in the chair.)

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT MEGA: Senator Present.

SENATOR PRESENT: I move that we adopt the Resolution Calendar that's on our desks.

ACTING PRESIDENT MEGA: All those in favor, signify by saying aye.

(Response of "Aye.")

All those opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. While we're on motions and resolutions, I would like to hand up a privileged resolution. This mourns the death of

Honorable Edwin Margolis. And if I could -

ACTING PRESIDENT MEGA: Senator, I'm told that was on the Senate Resolution Calendar.

SENATOR LEICHTER: Oh, I see. We just passed that?

ACTING PRESIDENT MEGA: Yes, Senator.

SENATOR LEICHTER: All right. Then with your kind permission, Mr. President, I just want to say just a couple of words.

ACTING PRESIDENT MEGA: Senator Leichter on the resolution.

SENATOR LEICHTER: First, let me say anyone who wishes to add his or her name to the resolution, please do so. I think many of us remember Eddie Margolis, not so much as a jurist -- and he was an outstanding jurist of the Court of Claims -- but remember when he was one of us when he worked with us as counsel to Assembly Speakers for many years. Eddie was a delight to work with. I'm not going to go on at great length.

There was a very moving memorial held for him, and I think some of the members were there earlier today in the Assembly chamber. But I think it's fitting that we recognize that what is so important to the working of this Legislature is not the Assembly people or the Senators, although I guess we have some role to play, but it's the very dedicated staff people from elevator people to the most senior counsel.

Eddie was a senior counsel. He was an exceptional counsel, and I don't think there was a member, whether they were Republican or Democrat or Majority or Minority, that didn't get help from Eddie if they asked for it.

We're fortunate to have known him, fortunate to have his service. He provided great, great dedicated service to the people of the state of New York, and we should remember him.

Thank you, Mr. President.

ACTING PRESIDENT MEGA: Thank you, Senator Leichter.

On behalf of the chair, I'm glad that you brought that to the attention of the house and made those statements.

Senator Ohrenstein.

SENATOR OHRENSTEIN: Yes. I take note of the fact that we passed Resolution 337. I would like to make some brief remarks.

ACTING PRESIDENT MEGA: Without objection.

SENATOR OHRENSTEIN: Mr. President. This is a resolution memorializing the memory of Theodore S. Weiss, who served as the Congressman from the 20th District in New York City for a very, verry -- for a span of close to two decades.

Ted Weiss passed away on September 14, 1992, and I am glad that we were able to pass the resolution in his memory.

Ted Weiss was not only my colleague as a member of Congress, he was also a very personal friend. I got to know Ted Weiss as long ago as 1954, when we both had the privilege of serving as assistant district

attorneys in the office of District Attorney Hogan of New York County. And even beyond that, we were bachelors and we both became roommates, and we had an apartment on what in the future became part of my district on the West Side on West 93rd Street.

So during the years during which we served as assistant district attorneys we were also roommates on the West Side until he got married and I got married, and a very, very good arrangement was broken up.

But during -- as the years unfolded both of us became active in politics. We both ended up founding a club on the West Side of Manhattan which became one of the leading reform Democratic clubs and which became, in fact, the home and the genesis of many political careers on the West Side, including that of Congressman Bill Ryan, Assemblyman Kretchmer, Assemblyman Blumenthal and, in later years, of Senator Leichter and others of similar ilk.

Is life would have it, we had

this very close friendship during those years; but, of course, as we know when we get into politics, paths sometimes diverge. We formed this political club, but there wasn't room in it for the two of us. So he went and he formed his own club. I think some of you are familiar with those kind of histories.

We remained very close friends despite our momentary political disagreement, and history speaks of his career and, I'm proud to say, of my own career.

He was elected a member of the City Council of the city of New York, made an extraordinary contribution there particularly in terms of legislation affecting clear air and noise pollution.

He then was elected to the United States Congress some 15 or 20 years ago where he made an extraordinary mark.

Ted became, literally, known as the conscience of the House of Representatives. He was very independent. He was a loner. He believed that his constituency wanted someone in

Congress to articulate a liberal progressive point of view. And he did it without fear, without seeking political advantage and remained a voice, often alone, sometimes in the wilderness, but a voice that was clearly heard.

And to show you that despite his independence, despite the fact that he stood for himself and stood so often alone, at his memorial service at Stephen Weiss synagogue following his demise there were probably 200 members of Congress who came from Washington in order to sit with his family and his community in order to memorialize him. It was an extraordinary outpouring for a man who had carved out such an independent path.

It was very interesting that Ted Weiss was a peace activist. He was one of the earliest opponents of the Vietnam War; was extraordinarily articulate about it; opposed much of the military effort that went into the. But at his funeral at his request, his casket was draped with a United States flag made out of flowers in extraordinary display of

patriotism, and he had requested that a military honor guard come and participate in the service.

So that Ted Weiss while he was this extraordinarily independent and critic of much of the policies of the United States was also an extraordinary patriot.

He was born in Hungary, came to this country at an early age, and he came to love the United States of America. And when he spoke out as he spoke out, he did it because he believed it was right for the country, that his criticisms were right for the country. And it was clear that his sincerity and his dedication to this country and to the principles underlying it came from the heart and were so sincere that, as I said, hundreds of his colleagues in the United States Congress, many of whom disagreed with him over the years, came to honor him in his final resting place.

So speaking for myself and for my community, I'm very happy that we recognize Teddy's enormous accomplishments and his place

in the history of the state of New York.

ACTING PRESIDENT MEGA: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. A week ago, there was a resolution presented honoring Jim Ryan -- James Ryan, who is celebrating his 90th birthday.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEGA: Senator Leichter, why do you rise?

SENATOR LEICHTER: Pardon me, Senator Farley, but while we're on the resolution relating to Ted Weiss, I wanted to say a couple of words on that.

ACTING PRESIDENT MEGA: Senator Leichter, without objection.

SENATOR LEICHTER: Thank you very much.

ACTING PRESIDENT MEGA: For the record, the resolution has passed, and you may say a few words on the resolution.

SENATOR LEICHTER: Right.

ACTING PRESIDENT MEGA: Senator Leichter.

SENATOR LEICHTER: Thank you, Mr. President. I would be remiss if I did not get up and say a few words about Ted Weiss and associate myself with the very moving and very accurate comments in describing Ted Weiss that my good friend Senator Ohrenstein made.

Ted was my friends for many, many years. We were political colleagues. It's hard, really, to capture the steadfastness, the integrity, the sense of purpose that Ted Weiss had in staying and in moving towards the goals that he felt were so important. He was a person of very deep convictions.

And maybe it's captured as well as anything by a story that Congressman Charles Rangel told at the memorial service that Senator Ohrenstein referred to. And he talked about how when a tough bill had to pass the Congress and the Speaker would meet with the various whips and say, "Well, look, these are the members that we've got to go after," and all the whips would

volunteer happily to take the various members, trying to impress the Speaker. But when the name Ted Weiss came up, there were never any volunteers. People knew that Ted made his decision on every bill solely on the merits as he saw it. He was that sort of a person.

He gave great service to his district, which was mainly the West Side but included also the Village and parts of the Bronx. But his service really transcended his district. It even transcended the state of New York. He gave great service to the whole country, and I think he showed what a public servant shall be, which is a person of convictions, a person of integrity. He will be sorely missed.

Thank you.

ACTING PRESIDENT LIBOUS: Does anyone else wish to speak on the Ted Weiss resolution?

(There was no response.)

Senator Farley.

SENATOR FARLEY: Thank you, Mr.

President. A week ago, there was a resolution presented honoring James, "Jim", Ryan on celebrating his 90th birthday on February 12.

Although this resolution was adopted last Tuesday, Mr. Ryan is with us today and with his family in the center of the gallery, and I respectfully request that the Secretary read Resolution 307, honoring one of our oldest Senate employees.

Mr. Secretary, do you have that resolution? If you would read that.

THE SECRETARY: Legislative Resolution, by Senator Farley, congratulating James Ryan on the occasion of his 90th birthday on February 12, 1993.

Whereas, Friday, February 12, 1993, marks the celebration of a milestone in the life of James Ryan, whose family, co-workers and friends, join in extending to him their warmest congratulations and sincere best wishes on the occasion of his 90th birthday.

James Ryan was born in 1903 in Watervliet, New York, where he attended local

schools. He was one of six children with two brothers and three sisters.

James Ryan exhibited at a very early age the strong virtues and impressive characteristics which define h8im to this very day. He is organized, industrious, dependable and intensely loyal to his family, his friends and his colleagues. His interests are limit less and his optimism is contagious and inspiring.

James Ryan's broad experience in all areas of the work force started as a young child when he was employed as a laborer at St. Agnes Cemetery; subsequent to that, he went on to work for the D & H and New York Central Railroads. He worked for the Albany police for several years before becoming an insurance representative for the Continental Company.

His long and rewarding career with the government of New York State started in 1968, when he served as a clerk with the New York Assembly; James Ryan added to his vast government experience by serving as a security

guard with the Assembly and spending some time in the Legislative Bill Drafting Commission.

Presently, and for a period spanning over an entire decade, James Ryan has worked in constituent relations in the office of Senator Hugh T. Farley, where his friends are many and where he is held in high esteem and with great affection by his fellow workers, whose loyal friendship and undying admiration he has justly earned.

James and Theresa, "Daisy", Ryan were married in 1927 and are the proud parents of a daughter, Dolores; they also have six grandchildren and three great-grandchildren.

Throughout his impressive lifetime and distinguished career, James Ryan, a very active, energetic and industrious gentleman has inspired and enriched the lives of his family, friends, and colleagues through his love and respect for others and the wisdom that comes from many years of experiencing life to its fullest.

It is the intent of this

legislative body to publicly recognize those who have reached such a significant milestone in their lives and who have witnessed and contributed to the developments and achievements of our country and state during this most fascinating period.

Now, therefore, be it resolved, that this legislative body pause in its deliberations to honor and congratulate this exceptional person upon the occasion of his 90th birthday on February 12, 1993; and

Be it further resolved, that a copy of this resolution, suitably engrossed, be transmitted to James Ryan.

SENATOR FARLEY: Thank you, Mr. Secretary. My colleagues, in the chamber with us is this young fellow Jim Ryan, who never misses a day's work, never misses a step as far as his duties are concerned with me, a real inspiration. This is a 90-year-old employee who really is a joy to be around. He brightens up the entire office.

And let me just say that his

entire family is up here. His bride, Daisy. Would you please stand up, Daisy. They have been married 66 years. Is that right? 66 years.

But I know that, Jim, we're so very proud of you. And on behalf of the New York State Senate congratulations, and we want to see you back here in ten years for another resolution.

(Applause.)

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Mr. President, thank you. I'm just honored to be able to stand here and say a word to Jim and to his family. I had the privilege of serving with Jim when he was in the Assembly. At that time, as you may recall, I was on staff with the then Speaker Perry Duryea. Jim always had a smile, always had a good word for everybody, and I got to tell you, he makes people look good. A testimony to that is Senator Farley.

(Laughter.)

I asked Jim what his secret was not in just his longevity but in staying fit and looking so well; and do nyou remember what you said to me? "It's that home brew that I make, and a great wife and not in that order."

My congratulations to you, Jim. It's great to see you and your family looking so well, and many more years of happiness and health.

(Applause.)

ACTING PRESIDENT MEGA: On behalf of the Majority Leader and on behalf of all the other members, we wish you a very happy birthday. I first came to the Assembly in 1974 and the first person I met was then Mr. Bruno who is not an Assemblyman, and then I met you and everything was okay. So, you know, you kind of gave me the right impression of what it's all about. We wish you well.

And, Daisy, he told me that he would never have accomplished anything without you. He told me that privately. So we congratulate you and the family for being here.

It's a very special day. And thank you for letting us be part of that special day.

Happy birthday.

(Applause.)

Secretary. Report of standing committees.

THE SECRETARY: Senator Cook from the Committee on Education reports the following bills directly for third reading:

Senate Bill Number 241, by Senators LaValle and Trunzo, approval of certain building aid for the William Floyd Union Free School District.

Senate Bill 279, by Senator Hannon, authorize payments in lieu of taxes by the county of Nassau.

Senate Bill Number 943, by Senator Saland and others, Education Law, in relation to requiring boards of education to provide transportation.

Senator Padavan from the Committee on Cities reports the following bill directly for third reading:

Senate Bill Number 280, by Senators Hannon and others, Real Property Tax Law.

Senator Levy from the Committee on Transportation reports the following bills directly for third reading:

Senate Bill Number 80, by Senator Levy, requiring the Commissioner of Transportation to conduct a review of the transportation of disabled children.

Also, Senate Bill Number 191, by Senator Levy and others, Vehicle and Traffic Law, checks on school bus attendants.

Senator Volker from the Committee on Codes reports the following bills directly for third reading:

Senate Bill Number 546, by Senator Padavan, Criminal Procedure Law.

Senate Bill 564, by Senator Skelos and others, an act on amend the Penal Law.

Senate Bill Number 583, by Senator Volker, Criminal Procedure Law.

Senate Bill Number 648, by Senator Levy and others, an act to amend the Penal Law.

Senate Bill Number 776, by Senator Tully and others, an act to amend the Penal Law.

Senate Bill Number 779, by Senator Tully, an act to amend the Civil Practice Law and Rules.

Senate Bill Number 931, by Senator Volker and others, an act to amend the Penal Law.

Senate Bill Number 949, by Senator Skelos and others, Civil Practice Law and Rules, and the Public Health Law.

Also Senate Bill Number 919, by Senator Volker, an act to amend the Penal Law, in relation to resisting arrest.

Senator Spano from the Committee on Mental Health and Developmental Disabilities reports the following bill directly for third reading:

Senate Bill Number 1006, by

Senator Spano and others, an act to amend the Mental Hygiene Law.

Senate Bill Number 1009, by Senator Spano on others, an act to amend the Mental Hygiene Law.

All bills reported directly to third reading.

(Whereupon, Senator Hugh Farley was in the chair.)

ACTING PRESIDENT FARLEY: Without objection, all bills are reported directly to third reading.

Senator Present, I guess we're ready for the calendar. What's your pleasure?

SENATOR PRESENT: Proceed with the calendar.

ACTING PRESIDENT FARLEY: Non-controversial, Secretary will read.

THE SECRETARY: On page 4, Calendar Number 39, by Senator Farley, Senate Bill Number 718, authorize state aid to the town of Hadley, Saratoga County.

ACTING PRESIDENT FARLEY: There

is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 43, by Senator Stafford.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay the bill aside.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 48, by Senator Marino, Senate Bill Number 1650, proposing an amendment to the Constitution.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 49, by Senator Trunzo, Senate Bill Number 582, an act to amend the Civil Service Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 50, by Senator Bruno, Senate Bill Number 934, an act to amend the Civil Service Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 57, by Senator Nozzolio, Senate Bill Number 1530, amends Chapter 108 of the Laws of 1924.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present, that's the first time through. Controversial?

SENATOR PRESENT: Take up the controversial calendar, please.

ACTING PRESIDENT FARLEY:

Secretary will read the controversial calendar.

THE SECRETARY: On page 4, Calendar Number 48, by Senator Marino, Senate Bill Number 1650, proposing an amendment to the Constitution.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter, do you wish to speak?

SENATOR LEICHTER: Yes, I would like to speak on the bill, but if somebody wishes to explain it first -- I'm not asking for an explanation, but if -- Senator Bruno?

ACTING PRESIDENT FARLEY: Senator Bruno would be pleased to explain this.

SENATOR LEICHTER: No, I'm not asking for an explanation but if the Senator wanted to speak ahead of me, I would yield to him.

ACTING PRESIDENT FARLEY: We'll try to determine that. Do you wish to speak, Senator Bruno?

SENATOR BRUNO: I would like to speak.

ACTING PRESIDENT FARLEY: Senator Bruno would like to speak.

SENATOR BRUNO: Thank you. You are always a gentleman.

On this bill, Mr. President, we had this bill before us last year; and it passed as I recall by 42 votes. I had passed a similar bill in the previous three years.

It is important for us to recognize that the Governor of this state has stated repeatedly that he supports a cap on spending. He supports a cap on spending. I believe he mentioned it again in his State of the State. Several years ago, you may recall, we did a watered down version of a cap on spending, which is now part of the laws of this state, but that watered down version has allowed us in this chamber and the Governor to spend as freely as we have in the past. So it is not truly a cap on spending.

Why do we need a cap on spending? Because spending has been out of control in this state -- in the last ten years,

especially. Since this governor has been governor, spending has gone up approximately 114 percent while the inflation rate has gone up about 54 percent.

Now, what's wrong with spending? We all like to spend. Nothing is wrong with spending, except when you spend you have to create revenue; and if the revenue is not sufficient to cover your spending, unlike in your household budget where you cut spending or in your business where you stop spending, in state government what you do is you increase taxes, you increase fees, you increase assessments, you go out and borrow, you go out and do one shots. You destroy the integrity of the financial system in the state which we have accomplished in this state; in that we are now ranked what, 49th in credit standing in all of the United States?

So it is time for all of us - and I know my colleagues on that side of the aisle are supportive. I know you are supportive. Now is the time to stand up and

speak your piece and get counted.

What this bill does very specifically -- and it's common sense. It ties state spending to the personal income of the people of this state. It is 9-1/4 percent of the personal income of the people of this state, so we spend within our means, Senator -- within our means.

If this cap had been passed last year by the Assembly as we passed it in this house and signed by the Governor, our budget this year would have been 1.4 billion less - the Governor's proposal, 1.4 billion less. Now, what would that mean if the Governor submitted a budget with a cap? It would mean the personal income tax that's on the books would go into effect for 800 million. It would mean that the surcharge on businesses that's supposed to go from 15 to 10 percent producing 300 million would stay in place, and that 300 million would stay with the businesses to help create jobs in this state which we desperately need, and it would also allow the sunsetting of the gross

receipts tax, in essence, that we put on hospitals to the tune of a couple hundred million.

Now, if that's what you are voting on when you vote against this cap, you are voting to increase taxes, increase fees, continue the borrowing in this state that puts us on the brink of bankruptcy. So I urge you to set politics aside, act in a reasonable way and support this concept.

So Senator will say, what do you do in case of an emergency? You have a cap on spending. Supposing there is an emergency? We have to spend an extra half a billion dollars for something. That's in the bill. There are emergency clauses in that the Governor with the concurrence of two-thirds of the Legislature can declare an emergency and increase the cap for that period.

It also sets aside monies in a stabilization fund so that as the revenue increases in this state and surpasses that cap, it goes into a special fund. And in that

special fund, it would sit there in case there is a shortfall for the following year or two. After a certain percen tage of money is accumulated, you take that surplus; and what do you do with it? You don't spend it. You reduce taxes, and you reduce the debt. That's what you do with it.

It is a very common sense reasonable approach to return fiscal sanity to this state. It's time to do it.

Now, what you are going to vote on is a Constitutional Amendment. Why do we want to put it in the form of a Constitutional Amendment? So that after two separate Legislatures deal with it and it goes before people in a referendum and is approved, a future Legislature can't change it, can't invade it, without going through the Constitutional Amendment process. That's why.

I'm going to conclude by just reminding everyone here that had this cap been in place since this governor has been governor, we would be looking at a surplus of $23-plus

billion -- $23-plus billion -- instead of looking at a deficit budget of 3.7 billion this year, 11 billion in the last two years, which is wreaking havoc on the health and welfare and quality of life of the people of this state.

And, by the way, the personal income -- and I'm not going to review it with you, but it's here -- the personal income of the people of this state has gone up every year for the past six years. So when we keep hearing about dropping revenues -- the income has gone up, Okay, to where now it sits at about $425 million. I've got the chart if anyone wants to look at it. Up every year.

So I'm going to sit down and ask you to reflect on being supportive, putting politics aside. I know that there are those that are saying, you know, you've got to have money to spend so we can take care of all of these constituencies. I know that, and I am sympathetic to that. But we can not continue to tax people out of business, out of their homes, cutting aid to education and localities, forcing

increased property taxes. We cannot continue to do that. We just can't. So the time is now for some action.

So, Mr. President, I ask that you act in the affirmative on this bill.

SENATOR LEICHTER: Mr. President.

(Whereupon, Senator Thomas Libous was in the chair.)

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Mr. President. Senator Bruno, let me first say I'm somewhat distressed. I think some of your comments were of a nature that they really bordered on the improper personal attacks.

I mean I think to criticize the way that you did the budget and, of course, therefore, the people who voted for it -- let me say I disagree with Senator Marino, but I think your attacks on him for the budgets that he has presented in this house and voted for, I think that was too harsh, Senator.

And I dare say, Senator, that

maybe some of your comments ought to have been made while you shave, while you look in the mirror. Because I seem to remember you voting for all these budgets, these terrible budgets. They're horrible.

Senator, it's this side of the aisle -- this side of the aisle that in the main or the majority of the members on this side of the aisle who voted against it. So who are you to lecture how terrible these budgets are? Please don't criticize Senator Marino's budgets in those terms again. He is a very fine legislator.

Mr. President. Let me just say we're going to have a slow roll call on this, and I see relatively few people here, and there's no sense going through a long debate if we're not going to vote on the bill today.

SENATOR BRUNO: We will vote on it today.

SENATOR LEICHTER: You intend to vote on it? Okay.

But let me say, I don't want to

be harsh on Senator Bruno, and I don't want to be harsh on the sponsors of this bill, and maybe we were too harsh on the, because I understand what you are saying. I understand what this is. This is a plea for help. This is a plea for help by people who say, "We can not control ourselves; we can not be trusted;" by people who say, "I cannot represent you. I cannot do what is in your interest. You must prevent me from doing you harm."

And, Senator, I understand that plea because I, too, agree -- maybe for little different reasons than you -- that these budgets that we've passed are budgets that have failed the people of the state of New York. They have been budgets that have been riddled with one shots and gimmicks and so on that you voted for, that the majority voted for.

And I understand. You are now coming and saying, "Keep us from doing more harm." I want to respond to that plea, Senator. I think it's a legitimate plea. When I take a look at what you people voted for in

the last few years, yes, you should be up here saying, "We cannot be trusted." Because I don't think you can be trusted.

But, Senator, I think there is a better way, and I think that this bill has a lot of problems. This bill would tie the state into budgetary and fiscal gridlock. But there is a way to deal with what you have confessed here, which is an addiction that the side of the aisle that you sit on has which is to vote for deficient budgets. And I suggest that you form a spenders anonymous. I think that's what you need. Because I know to throw the habit that you have, it's an addiction. Listen. There's addictions in our society. We accept it, and we want to help you, and we want to deal with it.

I mean take, for instance, Senator Marino. He came to this Legislature when I did. He voted for all the Rockefeller taxes. He voted for all the Rockefeller budgets. He's been voting for all these budgets that you attack so harshly.

You're not going to shake that

addiction overnight. You can't go cold turkey on that. It's going to take some time. I think the sort of counseling, the meeting together with people who have a similar affliction - you, Senator Bruno, ought to be part of that group, if I may suggest -- and you all ought to get together. In fact, if I may suggest it, I think the Majority Conference Room would be a good place for you to hold your meetings, and maybe you all should call the meeting starting next week with all the people who sponsored this bill who are saying, "I can not do the right thing; you've got to constitutionally bind me because otherwise I'm going to savage the taxpayers; I'm going to damage the people of the state of New York."

Some of us don't have that problem, Senator. So those who do, join spenders anonymous and try to deal with the affliction that you have.

But let me just say about this bill. I mean, really -- and I would never use the word hypocrisy in the same sentence as

Senator Bruno, and I know that it's just a matter of being misguided. But somebody else who might not understand what goes on here and your very sincere commitment to the welfare of your political position, you know, might say, My God, how can these people who passed all these budgets, who come here who increase the Governor's expenditure requests, who are always up here saying, please more money for schools, more money for this, who are $48 million in member items that -- you know, that really raise a lot of questions and always fighting to get even more of that, and who vote for things such as forcing the Thoroughbred Association -- not the Thoroughbred Association -- the New York Racing Association at gun point to give over their land and to sell it and to use it to meet ongoing expenditure, how can you come here with a bill like that? I think the only explanation is that you are indeed saying, we are out of control. We cannot be trusted.

But what this bill does -- and I thought it was well analyzed last year by

Senator Halperin. I know there's some new members here. Just briefly for their benefit I will point out, you know, government can't be run like a business. Senator Halperin rightly pointed out it is precisely at a time that government revenues are declining that government is going to have more demands on it. There's more demands to help people in need, there's more demands to try to spur on the economy. There's more demands to deal with infrastructure needs and so so. And the problem with this bill is that it allows absolutely no flexibility whatsoever.

If there is a need to reduce spending, we have all the power in the world to do it now. What keeps you from doing it? If there is a need to increase spending, we have that power too, and if we do it wrong, we have to answer to the voters.

Let me just say that when Congress tried through the Gramm-Rudman bill, to fix expenditures in a particular way, it didn't work. It didn't work, and no mechanical formula

can work. I think the beauty of our form of government is that we elect representatives and that they are charged with carrying out the interests of the people. You and I may see that differently, Senator Bruno, but we have that responsibility and carry out that responsibility. I don't think you need to be precluded from carrying out that responsibility. If you can't be trusted, then the people will say, that's not who we want as a representative.

But I think we ought to be honest with people. We ought to tell them what we've done. I mean for you to say if we had a cap we'd have a surplus now of $23 billion, Senator, that's so absurd that I'm almost surprised that somebody of your great intelligence would throw out numbers like that without at all taking into account inflation, without taking into account real dollars, without taking into account changes within the state, the demographics and other things that obviously have created a need to increase expenditures.

Maybe you can sell this to the public, but I think the public is a lot smarter. The public doesn't buy these sort of things any more, Senator. And the public might very well say, "Well, wait a second, what have you been doing in all these budgets that are so bad?" If these budgets are so bad, why did they pass?

Why did you vote for it? That's really the issue here. You are using this sort of as a fig leaf to cover the sins that you have committed in the past. Senator, I suggest you join spenders anonymous.

ACTING PRESIDENT LIBOUS: Senator Bruno wishes to speak.

SENATOR BRUNO: Thank you, Senator. Thank you very much. I really appreciate your offer of therapy, and I'm going to pass that on to Senator Marino, and I'm sure that by now he may be aware of that, and we may have to convene in the conference room. Okay? And I know you are well intentioned when you say that.

Now, what I'm also going to suggest -- and never once did I say that I was not party to all that has gone on in these last ten years, nor has Senator Marino ever stated he hasn't been party, too. But I'm going to broaden, I think, the therapy sessions, and we're going to ask -- Senator, we're going to ask your colleague, Speaker Weprin, to join us with all the Democrats in the Majority over there who were partners in everything that you recited, everything -- partners -- because, as you know, no budget takes place in this state without the Senate and the Assembly and signed by the Governor.

So, if you want, you suggest to Speaker Weprin that he's got to get his and his colleagues' act together and stop being such a spendthrift and say all the kinds of things that you just said to me and to my colleagues, because we are partners in what has gone on.

Now, Senator, I wanted to just for the record -- because we have a habit of speaking for the record -- want to remind you

that there is one chief executive in this state. Not 211. One. And that chief executive in this state has more power over the budget than the President of the United States.

Now, you in a cavalier way can talk about our being spendthrifts, and I'm going to redirect you to the chief executive of this state. And if you think I judge him harshly, I do. I definitely do. He has the power of line item veto. The President of the United States has been trying to get that power for how many years and doesn't have it. If the Governor thinks that we overspend, all he has to do is sit there in candlelight and put lines through the items that he doesn't agree with. Has he done that, Senator? No. He sits there, gleefully, as you people do on that side of the aisle, voting for the spending side of the budget. And when you did that, I was on the floor saying some unkind things about you. Because you were willing to vote for the spending side of the budget, so you could go back home and say: We did this. I did this. I

did that.

You all did that. Most of you did that, didn't you? Do you recall that, Senator?

But then when it came time for the revenue, for taxes and fees to pay the bill, you looked at us and said, pick up the tab. Okay. And then you have the audacity during the campaigns to go out there and remind our opponents of that. Not very nice. Not you, Senator, personally, but not very nice.

This governor has to take the responsibility for having increased spending 114 percent while he's been governor. I feel badly saying that. And also the fact that we have to keep deferring, like people who don't know what they are doing, a tax cut that we put in place three years ago for the people of this state and for the businesses in this state. It's like we are out of control. And yes, we are.

Now, I'm talking, Senator, on this floor about this budget. I was reciting history, but we're looking at each other here

this afternoon, today, talking about this budget. Very difficult times.

This budget that our governor has proposed to us increases general fund spending by 5.3 percent. Now, just think about that. The inflation rate is what, 3.3, 3.4? In times like these when we have more people out of work in this state than any other state in the United States, we have lost more jobs than any other state in the United States in these last three years, and we get a budget that increases spending by 5.3 percent in the General Fund, 6.6 percent overall with federal funds. And the Governor has moved off line out of the general revenue a half a billion dollars almost into "Special Revenue Other," so that he can say General Fund has gone up by 1.6 percent. You want to talk about mirrors? "Special Revenue Other" has gone up by 8 percent, off line. Average 5.3 percent. I think that is horrendous.

Now, who submitted that budget, Senator? I ask you that rhetorically. I didn't

submit it. The Majority in this house didn't submit it. The Speaker didn't submit it, the Governor of this state submitted it. And that's where I put the responsibility for the increased spending and the taxes and the fees and the assessments and the one shots and the bonding that we have put in place that has led us to the bottom of the financial world in their regard as to our ability to repay our debt, Senator.

So I appreciate your concern for my mental health and for that of my colleagues, and I confess -- I confess -- to be party and part of the addiction of spending. And I, again, submit to you that we have learned in this house, at least on this side of the aisle that what we have been doing is wrong. So, join us now, join hands, and we'll go forward together. And this governor who says he supports a cap, if we pass this bill and the Speaker passes this bill, it will go on into the next Legislature and, hopefully, the people of this state will approve it, and it will become law and then we won't have to deal with this

kind of debate, Senator.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Galiber.

SENATOR GALIBER: Senator, I have nothing to offer therapeutically, nothing whatsoever. What I do have to offer is this magnificent body that we are part of.

We're legislators. We take our responsibility seriously. We are legislators in the good times and we're legislators in the bad times.

In state is going through a bad period. We all recognize that. And it's relatively easy to point fingers, if you will, as to who is responsible. And I can recall last year we had this debate, and we talked about putting legislators into straitjackets, and that's what we're doing here. We're talking about a path which we should never, never pursue; and that path is to take the Constitution of this state and the Constitution of this country, one that has held us in good

stead so long, so that we can not do directly so we will do indirectly, and the answer to problems that can't be resolved, we suggest a Constitutional Amendment.

Haven't we learned our lesson with the Office of Court Administration? Haven't we learned yet that this is not the route to go, that we shouldn't change the Constitution? That's why some of us have fear about having a Constitutional Convention because all kinds of crazy things would probably happen at that point.

There is a rumor going around that we might even have to go the route of a constitutional change in order to get a death penalty passed, and that's sad. Because if we're not successful, let's change the Constitution.

And we've got some history to go to. We recognize that on a federal level -- and that's where the driving force comes from. The driving force comes from central government, and central government has tried to put caps,

artificial caps, if you will, on the spending, and the budgets keep flowing. And they keep getting higher, and they keep cutting back monies for the local government and the states. And there are mandates, and we find ourselves in a position where we have to do the kind of spending that we are doing.

Has it run out a bit? You better believe it has. We spent more than we should be spending. The Governor of this state has come from time to time and warned us about cutting taxes a few years ago, but we didn't listen to him. We went and cut the taxes and we're paying that price right now.

In fact, Senator, last year, as I started to mention, the debate went something like this. We've got to be concerned about Medicaid and the cheats and the expenditure of Medicaid. We've got to be concerned about welfare, and we've got to be concerned about those people who can least afford -- least afford to be in a straitjacket, if you will.

The problem with this piece of

legislation if it were to pass -- and, Senator, we know it's not going to pass whether we need to join or not. But I enjoy you bringing it to our attention each year because it gives us an opportunity to say that, yes, we're not as bad off as we were last year. We're going to have another couple of tough years, and New York is going to be last. Jersey is kind of pulling out a little bit. They are creating jobs. Whole reversals are taking place. Connecticut probably will be next.

New York State is going to be last. We've got a tough responsibility, but we can fulfill that responsibility if we take on the responsibility of legislators that join hands to accomplish and to solve these problems rather than blame an individual for the spending.

Yes, we differ, not on the therapeutic approach necessarily. We differ because we're concerned in government about all people. Caps have a way of putting straitjackets, as I mentioned before, not only

on us but on people. Who will be the beneficiaries in government when we need to move, whether it be an environmental -- we had the environmental hearing this afternoon, where we need more money for a particular purpose and we can't get it because there is a cap on it. And then in the real world -- most of the time we like to function in the real world. In the real world there were more gimmicks to this notion, even if this piece of legislation were to pass.

Senator Goodman last year reminded us of his background and expertise when he was finance person in the city of New York. But he told us also about tax expenditures and back door spending and all the other gimmicks that go with it. We're tired of taking the back room approach to solving some of these problems.

This piece of legislation costs us too much as legislators. We have the responsibility. We should take on the responsibility. We're not as bad off as we were last year. This is going to be a tough year, as

I said before, and maybe we'll have another tough year, but we're working our way out, and with a new central government. Because I have -- my party is there now.

With our President, I feel more monies and more benefits will be coming into the cities and the states throughout the nation and not cut off like it was before. But more important, colleagues, let's not give up our responsibility. Let's not tinker with the constitution. Let's not be bitter enders because we can not get what we want through normal channels and threaten constitutional changes. Because we don't have to go that route.

We tried the Gramm-Rudman bill, cap, so to speak, on the central government. It didn't work, and neither will this. So, Senator, I again say to you the main thrust of my comments are not profound in terms of how to resolve it, whether we put you in therapy or no, the point of the matter is that we should not tinker with the constitution. We should not

abdicate our responsibility of legislators. We should pull together to help all the people of this state, and we can not do that if we put a cap on spending which is almost un-American - almost un-American -- because there are in a democracy things that come up and needs of people in a democracy that, if we cap it, we can't supply those needs.

Now, some of you might not care. Very few of you in your heart's heart don't care. Most of you do, but it's a position that we take politically. For the folks that you represent and the folks that I represent, the urban centers where things change on a day-to-day basis, we need that flexibility in order to govern in our localities and in our state Senate districts.

This is a bad piece of legislation. It takes away from us as legislators. It's used as an instrumentality through which we want to change the constitution which is a dangerous thing to do in a democracy. It has held us in good stead for so long, let it

stay where it is.

This is a bad piece of legislation. I vote no.

ACTING PRESIDENT LIBOUS: Senator Saland.

SENATOR SALAND: Mr. President. On the resolution.

If I may just draw upon some of Senator Galiber's ideas and perhaps some of the Governor's ideas. I, for one, have heard the Governor on more than one occasion, state that New York standing alone were you to take its budget would be one of the largest economic entities on the face of this world. The state of California and perhaps eight or nine other states, perhaps, having larger budgets.

I have also heard the Governor, as recently as a few months ago, basically say if it ain't in the constitution, it don't count. And he said that in reference to his desire to take monies from the dedicated highway fund. He said, "So what? We made a promise. It's not in the constitution. It simply doesn't

count.

I heard Senator Galiber say what we do is we relieve ourselves of the responsibility to impose restraint. Well, I don't find it that difficult to deal with a 58 to 59 -- or $58 billion to $58-1/2 billion budget. This basically would not decimate the budget. This basically would make us responsible for dealing for, I would say, at least $58-1/2 billion worth of this year's budget on -- certainly not an impoverished amount of money. Certainly not a picayune and barely sustainable source of money, $58-1/2 billion. You are not talking chicken feed here.

The reality is there is nothing wrong with caps. It's not un-American. I guess the counter to caps is a commitment to tax and spend. I think there are some of us here who, for whatever reason, have said it's as good a time as any to draw a line. We're not attempting to ask you to violate whatever principles that you may have. We're not asking

to have our principles denigrated by some of your witty dialogue.

We believe in this, and we believe it's workable, and we believe if New York is ever going to be competitive -- and that's what we're talking about, competition, the ability to compete with 49 other states and foreign nations -- we've got to take our spending in tow.

It's certainly a responsible act. I would not attribute all the inappropriate commendations you would seek to heap on our shoulders. The reality is this is really very doable. And there is really nobody who is going to be hurt here.

There's only so much money in the pot. The pot does not grow. We can't have guns and butter. Those days are gone forever. They are gone at the federal level, and they are gone at the state level. And if you want to be competitive and if you want to bring jobs in this state, you're going to have to start doing what other people are doing. And if you can't

control your spending, and there is a host of other things that you have to do that we don't have to address at this time -- but if you can't control your spending, you're doomed.

This is a marvelous step, and I commend Senator Bruno for his comments, and commend Senator Marino for giving us the opportunity to vote on it, and I would only hope that the Governor, inasmuch as he said, "If it's not in the constitution, it don't count," would get on board with this as well; and, perhaps, he with the luster of his leadership can prevail upon the Assembly in order to make this pass in both houses this year and then, hopefully, pass the subsequent Legislature and get before the people of the state of New York, who I suspect will overwhelmingly adopt it.

Because people, in the absence of this, are going to vote the way they have been voting; and those votes basically say, "We're leaving New York looking for opportunity elsewhere." You don't want that for your constituents. I don't want that for my

constituents. I don't want that for my children or anybody else's children in this chamber.

Makes sense. We ought to do it.

ACTING PRESIDENT LIBOUS: On the resolution. Senator Dollinger wishes to speak.

SENATOR DOLLINGER: Thank you, Mr. President.

Since I'm a newcomer, I guess I can address everybody in the chamber and perhaps not point fingers one direction or the other.

All of this reminds me of the little story that my mother used to tell me about the boy with the weight problem who was caught with his hand in the cookie jar, and his mother said to him, "You ought to go on a diet." He couldn't respond because his mouth was full. He was still chewing. And maybe that's the lesson we should take here is that this discussion of whether there should be a cap on state spending is something that we can rectify ourselves.

I'll just address one tiny bit of the equation, and I think my colleague, Senator

Galiber, touched on it, and that's the question of trust. Senator Leichter touched on it, as well.

If the message is that the people don't trust us and the message that we convey with this piece of legislation is we don't trust ourselves, what are we left with in this state for the trust to build a government upon? It seems to me that this strikes at the very nature of representative democracy by saying that we don't trust ourselves, the people shouldn't trust us, and no one should have the trust to do anything.

Senator Bruno's comments about what the budget should be and how much we should spend, the comments that have been made here today on this amendment, it's within the power of this body to rectify. We can decide what the budget is going to be. We can decide what the revenue will be. We can decide what the spend ing will be. We can control the cost.

It's my hope that that's one of the things that everybody in this chamber is

committed to and that we will look to a future in which we will balance our budget. We will address the concerns that Senator Galiber raised about those who are poor and needy. We'll address the issues that Senator Saland addresses about the need to attract business, and we will do it in the context of a balanced budget.

All of that power rests within this chamber. We don't have to go outside to get it. I frankly trust my colleagues. I frankly trust this body to make the right decisions, and we ought to have confidence on an annual basis that we're going to do it in good faith and get the job done. There is no reason for this.

SENATOR PATAKI: Mr. President.

ACTING PRESIDENT LIBOUS: Senator DeFrancisco.

Senator Pataki, why do you rise?

SENATOR PATAKI: Will Senator Dollinger yield?

ACTING PRESIDENT LIBOUS: Senator Dollinger, would you yield to a question from

Senator Pataki?

SENATOR DOLLINGER: Sure.

ACTING PRESIDENT LIBOUS: Yes, he will, Senator.

SENATOR PATAKI: Senator, I was listening to your comments about trust and how the public should have trust in the members of this body; and, of course, that is the case and we hope that they do.

But do you not agree that when you look at a budget there are two sides to the budgets, one which constitutes the spending and one which constitutes raising the revenue to pay for that spending? And would you think that the public should trust a Legislature or legislators who are willing to vote for the spending part of a budget so they can take credit for that, but then vote against the revenue necessary to pay for that spending? Is that an act to inspire public trust?

SENATOR DOLLINGER: I don't know. I have never been in a body that's done that. I've never been a party to that. "I

don't know" is the answer. I have no personal experience on that, Mr. President.

SENATOR DeFRANCISCO: Mr. President.

ACTING PRESIDENT LIBOUS: Senator DeFrancisco.

SENATOR DeFRANCISCO: Also being a newcomer in this process, I guess I'm looking from without at the process, and I see everybody pointing to everybody else, blaming everybody else in this debate. I think there is plenty of blame to share by the whole group, whether it be the Assembly or the Senate or each party of that particular body.

The fact of the matter is there is the power in this body and the other body plus the Governor to do these things. But, in practice, it just doesn't happen, and everybody in this room knows it doesn't happen.

And the reason it doesn't happen is because legislators -- it's a lot easier to say yes than it is to say no. It's easier to bring home a package than it is to say that you

can't bring it home because you're ineffective.

So as a practical matter, I think what this legislation is doing is saying we as a body are asking that the constitution be changed so that we operate government like the family operates their family budget. There is a fixed amount of money that is available to spend. Let's spend within that fixed amount of money.

And if there are priorities for the needy, for projects that bear prioritizing, then prioritize within that budget just like a family that has to prioritize. So it isn't the Republicans, it isn't the Democrats, it isn't the Governor, it isn't the Senate or the Assembly. It's the practice, despite the fact that we have the power.

So a spending limit will force us to do what we should have been doing over the last ten years and force us to do what would have avoided the terrible fiscal position that the state is in.

I would hope that both bodies, both the Assembly and Senate would get behind

this package.

ACTING PRESIDENT LIBOUS: Senator Espada.

SENATOR ESPADA: Just very briefly to follow this parade of freshmen. I also want to go on record as registering my concern about what I have heard. Certainly, I worked very hard like many of you, like all of you, really, to belong to this body, and to have to come here and listen to the placing on the agenda of these proceedings something that would automatically do our thinking, our problem solving for us is very disappointing.

The fact of the matter is one of the lessons that I've learned in my brief tenure here is that we don't have on this side of the aisle enough participation; that to put me on automatic pilot when I came up here, when so many of us on the Senate side or the Assembly side came up here with so much energy, with so much vision and expectation about participation, participation with formulas having to do with the restructuring of school aid to localities,

about trying to do something not about getting people off welfare but getting them onto the payrolls of small and minority owned and women owned corporations where I come from.

It is that kind of dynamic thinking that really I would like to be a part of, not something that would straitjacket us and put us into automatic pilot. So I ask for some more of that dynamic thinking for full participation by both sides.

Because, truly, I don't feel like a full participant. And certainly, you don't want to make decisions on automatic pilot by yourselves. I would welcome the opportunity - I'm sure most of my colleagues would -- to enter into dynamic give and take with you around this budget. I'm sure we can succeed if we approach it in that fashion.

ACTING PRESIDENT LIBOUS: If there are no other freshmen who wish to speak, we will take this to a roll call vote.

(Laughter.)

Can I see five Senators?

(Whereupon five Senators were standing.)

There will be a slow roll call on the resolution. Secretary will call the roll.

Sergeant-at-arms, will you please bring the members into the chamber. A slow roll call has been called.

Senator Present.

SENATOR PRESENT: Would you call Senator Sheffer's name out of order?

THE SECRETARY: Senator Sheffer.

SENATOR SHEFFER: Yes.

ACTING PRESIDENT LIBOUS: Senator Present.

SENATOR PRESENT: Senator Masiello.

ACTING PRESIDENT LIBOUS: Senator Masiello, how do you vote?

SENATOR MASIELLO: No.

ACTING PRESIDENT LIBOUS: Nay.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Connor.

SENATOR CONNOR: To explain my vote.

ACTING PRESIDENT LIBOUS: Senator Connor to explain his vote.

SENATOR CONNOR: Just very briefly. I think the fad of the last few years to rush to basic fundamental documents and to change them in order to address the concerns of the day are a mistake. I think that our state Constitution addresses broader issues of governance, the vesting of the people's power in different branches of government. I don't think it ought to substitute for the rules of the house of the Senate or the rules of the house of the Assembly.

I think political will, responsibility, the willingness to attempt to explain difficult decisions we may have to make

to our constituents ought to govern the way budgets are made and the rules and procedures that govern how they are enacted, and I don't think we ought to just be rolled over by pseudo-populist movements which encourage, "Oh, gee, we have to write every single little specification of law and limitations into a fundamental constitutional document."

I think this is a bad way to go. It's just a fad. It's a place to hide. It's wonderful for a one-house Constitutional Amendment for the very majority that will -- if the last few years are any indication -- be tempted to once again adopt a budget that doesn't make a lot of sense for the people either on the revenue side or the spending side, to hide behind, saying, "But, look, I want a Constitutional Amendment that will stop me from doing what I want to do."

Mr. President. I think that's a bad way to proceed in the governance of our state. I vote no.

ACTING PRESIDENT LIBOUS: Senator

Connor votes no.

Please continue the roll.

Senator Present.

SENATOR PRESENT: Mr. President, may I have Senator Goodman's name called and Senator Onorato.

ACTING PRESIDENT LIBOUS: Senator Goodman, how do you vote?

SENATOR GOODMAN: In the affirmatively, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Goodman in the affirmative.

And Senator Onorato -

SENATOR ONORATO: I vote aye.

ACTING PRESIDENT LIBOUS: - votes aye.

SENATOR PRESENT: As long as you are standing.

SENATOR LEICHTER: Thank you.

ACTING PRESIDENT LIBOUS: Senator Leichter -

SENATOR LEICHTER: No.

ACTING PRESIDENT LIBOUS: -

votes no.

Can we continue the roll, please.

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold, excused. Senator Gonzalez.

(There was no response.)

Senator Goodman voting in the affirmative earlier. Senator Halperin,

excused. Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Yes.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

ACTING PRESIDENT LIBOUS: Senator Jones, would you like to explain your vote?

SENATOR JONES: Yes, I would, sir. I would just like to explain that I've listened here today. When I first heard this idea last year, I definitely didn't think it was a good one only because I didn't think it was the whole answer. But I'm like the rest of the new kids on the block. I'm certainly not one to assess blame.

But what I have found since I have been here is that there clearly is some major problems. And while I don't think this is

going to solve them, I'm willing to go along with it and support it.

I believe that the taxpayers that we're asking for more money deserve to see that we're willing to limit the money that's going out. I'm left with a little confusion as to why the same body that wants to be fiscally conservative like this is not willing to itemize their own budget, but I'm hoping that I'll see more of that.

And I'm going to vote yes.

ACTING PRESIDENT LIBOUS: Senator Jones votes aye.

Continue the roll, please.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

(There was no response.)

Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle, excused. Senator Leichter voting in the negative earlier. Senator Levy.

SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Marino.
(Indicating aye.)
THE SECRETARY: Aye. Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Masiello voting in the negative earlier. Senator Mega.
SENATOR MEGA: Yes.
THE SECRETARY: Senator Mendez.
(There was no response.)
Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nolan.
(There was no response.)
Senator Nozzolio.
SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Ohrenstein.

(Indicating no.)

THE SECRETARY: No. Senator Onorato voting in the affirmative earlier. Senator Oppenheimer.

(There was no response.)

Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Pataki.

SENATOR PATAKI: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Sheffer voting in the affirmative earlier. Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Solomon, excused. Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky, excused. Senator Trunzo.

(There was no response.)

Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
(There was no response.)
Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT LIBOUS:
Secretary will read the absentees, please.
THE SECRETARY: Senator Babbush.
(There was no response.)
Senator Gonzalez.
(There was no response.)
Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Mendez.
(There was no response.)
Senator Nolan.
(There was no response.)
Senator Oppenheimer.
(There was no response.)
Senator Trunzo.
SENATOR TRUNZO: Yes.
THE SECRETARY: Senator Waldon.
(There was no response.)

ACTING PRESIDENT LIBOUS: Results.

THE SECRETARY: Ayes 38. Nays 12.

ACTING PRESIDENT LIBOUS: The resolution is adopted.

Senator Present.

SENATOR STACHOWSKI: Mr. President. Could we return to notions and resolutions?

ACTING PRESIDENT LIBOUS: Senator Paterson.

SENATOR PATERSON: Thank you.

Mr. President. This has been a very long, cold, desolate, inexorably freezing winter; and by the time we reach a new season, we have lost a great number of Americans.

I was reading of the passing of the economist Eliot Janeway today. Ironically, a number of entertainers and public servants and those of political conscience have passed on recently from the African-American community. Most notably the entertainers Charles "Honey"

Coles and Dizzy Gillespie; the community leaders such as Clara "Mother" Hale and George McMurray.

Just a few weeks ago, Senator Galiber introduced a resolution memorializing the passing of former Supreme Court Justice Thurgood Marshall. Today, Senator Galiber suggested that we put a resolution forth honoring tennis great Arthur Ashe, born in Richmond, Virginia, performed on the public tennis courts in Virginia; won the United States Open first in 1968, where he served a record 27 aces in that tournament; was still an amateur at that time. In 1973, he won a visa to go to South Africa to talk about the apartheid conditions there; won the Wimbledon Tournament on July 4, 1975, in a stunning upset victory over tennis great Jimmy Connors; and then his tennis career was preempted by an unfortunate heart attack that he sustained in 1979, forcing him to have operations for poor heart condition in 1979 and 1983. It was during an operation in 1983 that he contracted the HIV virus through an unscreened donation of blood that was infected.

It caused his death last Saturday, February 6, 1993.

Arthur Ashe was more than just a tennis professional. He would remind one of the efforts of Paul Robeson, who was an actor, a scholar, a political activist and a philosopher. In addition to his natural athletic talent, Arthur Ashe was a trailblazer in tennis synonymous with the efforts of Althea Gibson or Jackie Robinson. But he went beyond the tennis courts to influence the culture and the life that we live in.

I particularly want to thank the majority for having the foresight for permitting this resolution on such short notice even though it contains a lot of language about the protest that Arthur Ashe led about this state's investment in the 133 corporations that do business in South Africa. This is something Arthur Ashe opposed. This is something this body never had the foresight to pass but did have the dignity and the graciousness to recognize an American who disagreed and fought

very hard in his disagreement.

So we on the other side of the aisle understand that Arthur Ashe had a problem with our country's current policies under a Democratic administration with respect to those who are trying to flee the country of Haiti. He went to Guantanamo Bay to visit those refugees. He was arrested in a demonstration in Washington, D.C., just a few months ago. He fought up to his dying day to try to win some rights of citizenship for Haitian refugees.

Although not everyone here would have agreed with some of the actions, we recognize those individuals in this country such as Patrick Henry such as Paul Revere, who often broke what would have been the civil law for a higher human cause that might have had something to do with the founding of unions in this country. It may have had something to do with the founding of the Republican Party in 1854 in this country.

These are people of rare skills. Their truth is their only motive; their work not

the benefits that others derive from it is what they consider to be the achievement. And work and effort and truth is in itself the basis of achievement.

And so we pause in our deliberations today, hopefully, to recognize the great effort of Arthur Ashe, who was a great American. It is very sad to know that for all that he gave to our society that his privacy with respect to his own illness could not be respected despite the fact that it didn't do any public good for the last year of his life to be lived in ridicule, in conjecture, and also in intense public scrutiny about the nature of his virus. But when he was forced to come forward and reveal that he did, in fact, have the HIV virus, he then became very prominent in the fight to save those who have the disease now and to prevent others from getting the disease.

The same day of his passing, he recorded a videotaped announcement that would be played that evening at an event that he could not speak. He appeared at the Associated Black

Charities on the Wednesday of a week that he himself would not finish.

And so when we think of great tennis players, we often describe them as world class. When we think of great people, we describe them as world class. I think it is the only fitting description of Arthur Ashe -- the "world" being that he thought of more than himself; the "class" being the dignity that he brought to it.

And there may be better tennis players, but he will always be ranked number 1.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Secretary please read the title of the resolution.

THE SECRETARY: Legislative Resolution, by Senators Paterson, Galiber, and others, expressing sincerest sorrow upon the occasion of the death of tennis immortal Arthur Ashe.

ACTING PRESIDENT LIBOUS: On the resolution. All in favor, indicate by saying

aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

SENATOR DALY: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Daly.

SENATOR DALY: I understand that some of my colleagues would like to join me as co-sponsor of the Legislative Resolution honoring Assemblyman Matt Murphy. Could we keep it open at the desk for anyone who wishes to be a co-sponsor.

ACTING PRESIDENT LIBOUS: The resolution will be kept open at the desk.

Senator Present.

SENATOR PRESENT: Mr. President, there being no further business, I move that we adjourn until Monday, February 22, at 2:30 p.m., intervening days being legislative days.

ACTING PRESIDENT LIBOUS: Senate stands adjourned.

(Whereupon at 5:02 p.m., the Senate adjourned.)