ALBANY, NEW YORK

June 15, 1993

3:39 p.m.

REGULAR SESSION

LT. GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: Senate will come to order. Senators will find their places.

All rise and repeat the Pledge of Allegiance with me.

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

Please be seated.

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

(Whereupon, there was a moment of silence.)

Secretary will read the Journal.

THE SECRETARY: In Senate, Monday, June 14. The Senate met pursuant to adjournment. Senator Farley in the chair upon designation of the Temporary President. The Journal of Sunday, June 13, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Hearing no objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Secretary will read.

THE SECRETARY: Senator Marino, from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill Number 1313, by Senator Levy, an act to amend the Penal Law.

1622, by Senator Goodman, an act to amend the Social Services Law.

2057, by Senator Velella, an act to amend the Executive Law and the Social Services Law.

2686, by Senator Seward, an act to amend the Real Property Tax Law.

2820, by Senator Hannon, Retirement and Social Security Law.

2918A, by Senator Cook, an act to amend the Town Law, the Village Law, and the General City Law.

2956B, by Senator Pataki, authorize the town of Amenia, Dutchess County, to sell certain lands.

3024, by Senator Cook, an act to amend the Local Finance Law.

3265, by Senator Maltese, Social Services Law.

3575A, by Senator Volker, Retirement and Social Security Law.

3576A, by Senator Volker, Retirement and Social Security Law.

3735A, by Senator Levy, permitting transfer of credible service.

3737, by Senator Levy, to allow Ricciardelli retroactive membership in Tier I.

3837B, by Senator Sears, amends Chapter 711 of the Laws of 1992.

4295, by Senator Mega, an act to amend the Penal Law.

4305A, by Senator Mega, an act to amend the Penal Law.

4384A, by Senator Libous, an act to amend the Mental Hygiene Law.

4600A, by Senator Bruno, concurrent resolution, proposing amendment to the Constitution.

4603, by Senator Gonzalez, city of New York to reconvey its interest in certain real property.

4630, by Senator Johnson, retirement credit to Anthony A. Tafuri.

4684, by Senator Levy, in relation to affording retirement credit to certain employees.

4829, by Senator Volker, Criminal Procedure Law.

4890A, by Senator Libous, amends Chapter 113 of the Laws of 1992.

4891, by Senator Libous, an act to amend the Penal Law.

5007, by Senator Nozzolio, for Tier I status for Allen Ingalis.

5229, by Senator Seward, Public Service Law.

5270, by Senator Saland, Executive Law.

5359A, by Senator Levy, payment of transportation aid to the Roosevelt Union Free School District.

5436, by Senator Levy, Vehicle and Traffic Law.

5437, by Senator Levy, authorizing the assessor of the town of Babylon to exempt from real property taxes.

5499, by Senator Saland, Social Services Law, criminal screening of children day care provided, reported with amendments.

5500, by Senator Saland, Family Court Act.

5501, by Senator Saland, Domestic Relations Law.

5540, by Senator Johnson, Retirement and Social Security Law.

5584, by Senator Saland, Social Services Law.

5601A, by Senator Tully, Public Health Law.

5605, by Senator Tully, Public Health Law.

5680, by Senator Libous, Mental Hygiene Law.

5781, by Senator Montgomery, city

of New York to reconvey its interest in certain real property.

5799, by Senator Smith, authorize the city of New York to reconvey its interest in certain real property.

5806, by Senator Bruno, an act to amend the Tax Law.

5812, by Senator Libous, an act to amend the Tax Law.

5827, by Senator Espada, authorize the city of New York to reconvey its interest in certain real property.

5832, by Senator Velella, Insurance Law.

5836, by Senator Spano, County Law.

And 5842, by Senator Sears, an act to amend the Local Finance Law.

All bills reported directly for third reading.

THE PRESIDENT: Third reading.

Reports of select committees.

Communications and reports from

state officers.

Motions and resolutions.

Senator Present.

SENATOR PRESENT: Mr. President, I move that we adopt the Resolution Calendar on our desks.

THE PRESIDENT: On the Resolution Calendar. All those in favor, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The resolutions are adopted.

Senator Saland.

SENATOR SALAND: Mr. President, I wish to call up my bill, Print Number 3383, recalled from the Assembly and which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Saland, Senate Bill Number 3383, an act to amend the Social Services Law and the Executive Law.

SENATOR SALAND: Mr. President, I move to reconsider the vote by which this bill passed the house.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is before the house.

SENATOR SALAND: Mr. President. I offer the following amendments.

THE PRESIDENT: Amendments received.

SENATOR SALAND: Mr. President, I also wish to call up my bill, Number 3105B, also recalled from the Assembly.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Saland, Senate Bill Number 3105B, an act to amend the General Business Law.

SENATOR SALAND: Mr. President, I

move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is before the house.

SENATOR SALAND: Mr. President, I offer the following amendments.

THE PRESIDENT: Amendments received.

Senator Johnson.

SENATOR JOHNSON: Mr. President, I move to amend Senate Bill Number 4375B, by striking out the amendments made on May 25, 1993, and restoring it to its previous Print Number 4375A.

THE PRESIDENT: Without objection, so ordered.

SENATOR JOHNSON: Mr. President.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Also, Mr. President, I wish to call up Calendar Number 438, Assembly Print Number 4009.

THE PRESIDENT: Secretary will read.

THE SECRETARY: An act to amend the Environmental Conservation Law, in relation to state solid waste management.

SENATOR JOHNSON: Mr. President, I now move to reconsider the vote by which this Assembly bill was substituted for my bill, Senate Print Number 3534, on April 21.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is before the house.

SENATOR JOHNSON: Mr. President. I now move that Assembly Bill Number 4009 be recommitted to the Committee on Environmental Conservation and my Senate bill be restored to

the order of Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR JOHNSON: Mr. President. I now offer the following amendments.

THE PRESIDENT: Amendments received.

Senator Wright.

SENATOR WRIGHT: Mr. President. On behalf of Senator Sears, I wish to call up bill Print Number 4208, recalled from the Assembly which is now at the desk.

THE SECRETARY: By Senator Sears, Senate Bill Number 4208, an act to amend the Agriculture and Markets Law.

SENATOR WRIGHT: Mr. President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is

before the house.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

THE PRESIDENT: Amendments received.

You have another one, Senator Wright?

SENATOR WRIGHT: Yes, Mr. President. I would request that the sponsor star be removed from Calendar Number 1000, Print Number 4277.

THE PRESIDENT: So ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On behalf of Senator Skelos, I would like to place a sponsor star on Calendar Number 1103, Senate Print 5804.

THE PRESIDENT: So ordered.

SENATOR KUHL: Thank you.

THE PRESIDENT: Secretary will read.

THE SECRETARY: On page 21, Senator Libous moves to discharge the Committee

on Rules from Assembly Bill Number 7085A, and substitute it for the identical Third Reading 896.

On page 26, Senator Padavan moves to discharge the Committee on Rules from Assembly Bill Number 5084A, and substitute it for the identical Third Reading 1072.

On page 27, Senator Farley moves to discharge the Committee on Finance from Assembly Bill Number 1742A and substitute it for the identical Third Reading 1076.

On page 29, Senator Cook moves to discharge the Committee on Rules from Assembly Bill Number 8122 and substitute it for the identical Third Reading 1095.

On page 37, Senator Seward moves to discharge the Committee on rules from Assembly Bill Number 7815 and substitute it for the identical Third Reading 445.

THE PRESIDENT: Substitutions ordered.

Senator Present, are you ready to proceed with the calendar?

SENATOR PRESENT: Mr. President, will you stand at ease for a few moments.

THE PRESIDENT: Senate will stand at ease.

(Whereupon, at 4:00 p.m., the Senate was at ease.)

(Whereupon, at 4:01 p.m., Senate reconvened.)

SENATOR PRESENT: Mr. President, I think we're ready to proceed.

THE SECRETARY: On page 4 of the calendar, Calendar Number 163, by Senator Padavan, Senate Bill Number 245A, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On page 11, Calendar Number 615, by Senator Bruno, Senate Bill Number 4615A, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 616, by Senator Bruno, Senate Bill Number 4616A, an act to amend the Economic Development Law.

SENATOR LEICHTER: Lay it aside.

SENATOR GOLD: Lay it aside for Senator Leichter, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 617, by Senator Bruno, Senate Bill Number 4617A,

State Administrative Procedure Act.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

SENATOR GOLD: Lay it aside for Senator Leichter.

THE SECRETARY: Calendar Number 639, by Senator Stafford, Senate Bill Number 4237A, relating to state aid to the North Warren Central School District.

THE PRESIDENT: There is a local fiscal impact note at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 677, by Senator levy, Senate Bill Number 69C, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45, nays 3, Senators Farley, Johnson and Sheffer recorded in the negative. Excuse me. Those recorded in the negative are Senators Farley, Johnson and Seward. Ayes 45, nays 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 717, by Senator Bruno, Senate Bill Number 2700, an act to amend the Business Corporation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 763, by Senator Levy, Senate Bill Number 4804, an act to amend the Railroad Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 799, by Senator Johnson.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 896, substituted earlier today, by member of the Assembly Murtaugh, Assembly Bill Number 7085A, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1013, by Senator Holland, Senate Bill Number 736, an act to amend the Social Services Law.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1033, by Senator Tully, Senate Bill Number 4873, to authorize Christina Greenhouse to apply for optional retirement benefits.

THE PRESIDENT: There is a home rule message at the desk.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48, nays 2, Senators Gold and Leichter recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1036, by Senator Spano, Senate Bill Number 5018A, to require the Office of Mental Health and the Office of Mental Retardation and Developmental Disabilities to submit recommendations.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1044, by Senator Wright, Senate Bill Number 5472, State Administrative Procedure Act.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1050, by Senator Spano, Senate Bill Number 5750, an act to amend the Mental Hygiene Law.

SENATOR GOLD: Lay it aside for Senator Galiber, please.

THE PRESIDENT: The bill is laid aside.

Let's have some order in the chamber. It's hard to hear.

THE SECRETARY: Calendar Number 1059, by Senator Cook, Senate Bill Number 5890, in relation to authorizing the village of Monticello to issue serial bonds.

THE PRESIDENT: There is no home rule message at the desk. We will lay this bill aside.

THE SECRETARY: Calendar Number

1060, by Senator Hannon, Senate Bill Number 281, authorizing the county of Nassau to accept an application for real property tax.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1061, by Senator Jones, Senate Bill Number 1264, authorizing and directing the Comptroller of the state to grant a hearing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

THE PRESIDENT: The bill is passed.

(Applause)

THE SECRETARY: Calendar Number 1062, by Senator Daly, Senate Bill Number 1392, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1063, by Senator Seward, Senate Bill Number 1598, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51, nays 1, Senator Pataki recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1064, by Senator Sheffer, Senate Bill Number 1724A, Environmental Conservation Law.

SENATOR SHEFFER: Lay it aside for the day, please.

THE PRESIDENT: The bill is laid aside for the day.

SENATOR GOLD: Excuse me.

THE SECRETARY: Calendar Number 1065, by Senator Bruno, Senate Bill Number 1744, an act to amend the Executive Law.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1066, by Senator Kuhl, Senate Bill Number 1846, an act to amend the New York State Urban

Development Corporation Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1067, by Senator Skelos, Senate Bill Number 1933, an act to amend the Public Health Law, in relation to the Senator Tarky Lombardi Nursing Home.

THE PRESIDENT: Read the last section.

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

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

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: During his

tenure as a state Senator, I know Senator Lombardi loved being chairman of the Health Committee; and under his leadership with that committee, he passed many innovative programs such as the Nursing Home Without Walls program.

So I think it's a fitting tribute to his career as Senator that we name this program after him, and I vote in the affirmative.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1069, by Senator Cook, Senate Bill Number -

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1070, by Senator Seward, Senate Bill Number 2495A, an act to authorize the town of Lansing, Tompkins County, to use certain land.

THE PRESIDENT: There is a home rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1072, substituted earlier today, by member of the Assembly McLaughlin, Assembly Bill Number 5084A, Alcoholic Beverage Control Law.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 10 -

SENATOR GOLD: Hold one second, Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: On Assemblyman McLaughlin's bill, 1072, do you want to read the last section.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: I ask unanimous consent to abstain from voting on the bill.

THE PRESIDENT: Without objection, so ordered.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50, nays 2, Senators DeFrancisco and Sears recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1076, substituted earlier today, by member of the Assembly Brodski, Assembly Bill Number 1742A, New York State Printing and Public Documents Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1077, by Senator LaValle, Senate Bill Number 3755, Education Law, in relation to transportation of students.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52, nays 1, Senator Daly recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Excuse me, also Senator Jones recorded in the negative.

THE SECRETARY: Calendar Number 1078, by Senator Marino, Senate Bill Number 3827, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Thank you. Mr. President. If Calendar Number 1062 has not left the house, I understand that Senator Solomon would like that laid aside.

Yes, thank you. On his behalf, I would like to move to reconsider the vote by which the bill was passed.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is before the house.

SENATOR GOLD: Lay the bill aside.

THE SECRETARY: The bill is laid aside. That was 1062, right?

SENATOR GOLD: Yes.

THE SECRETARY: Calendar Number 1079, by Senator Holland, Senate Bill Number 3931, an act to amend the Public authorities

Law.

THE PRESIDENT: There is a home rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: Have some order in the house, please. The bill is passed.

THE SECRETARY: Calendar Number 1080, by Senator DeFrancisco, Senate Bill Number 4016, an act to amend the Town Law and the Public Officers Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1082, by Senator Skelos, Senate Bill Number 4182, Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1083, by Senator Cook, Senate Bill Number 4455A, an act to amend the General City Law, in relation to plumbing inspectors.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1085, by Senator Hannon, Senate Bill Number 4604, New York City Civil Court Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1087, by Senator Larkin, Senate Bill Number 4727, relating to the transfer of certain service credits.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53, nays 2, Senators Galiber and Gold recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Stafford, Senate Bill Number 4853, an act to amend the Environmental Conservation Law.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1089, by Senator Levy, Senate Bill Number 4901, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53, nays 2. Senators Gold and Leichter recorded in the negative. Also Senator Galiber recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1090, by Senator Hannon, Senate Bill Number 4907A, an act to amend the Public Officers Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1091, by Senator Velella.

SENATOR PRESENT: Lay it aside for the day.

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 1092, by Senator Saland, Senate Bill Number 5093, Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1093, by Senator Libous, Senate Bill Number 5134, authorize the county legislature of the county of Tioga to dissolve the Tioga County Solid Waste District.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1094, by Senator Daly, Senate Bill Number 5200, an act to amend the Environmental Conservation Law.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1095, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8122, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1096, by Senator Padavan, Senate Bill Number 5446, an act to amend the Penal Law and the Administrative Code of the city of New York.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1097, by Senator Volker, Senate Bill Number 5735, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1098, by Senator Seward, Senate Bill Number

5767, an act to continue the existence of the village of Croton Industrial Development Agency.

THE PRESIDENT: There is a home rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Excuse me. Ayes 57, nays 1, Senator Leichter recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1099, by Senator Sheffer, Senate Bill Number 5771, an act to amend the Vehicle and Traffic Law, in relation to the period of snowmobile registration.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1100, by Senator Levy, Senate Bill Number 5786, amends Chapter -

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1104, by Senator Marino, Senate Bill Number 5792, an act to amend the Village Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1105, by Senator Marino.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1106, by Senator Marino.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: The bill is laid aside.

That completes action on the non-controversial calendar.

Senator Maltese.

SENATOR MALTESE: Mr. President, may I ask unanimous consent to be recorded in the negative on Calendar Number 677.

THE PRESIDENT: Without objection, so ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, please place a sponsor star on Calendar Number 1068.

THE PRESIDENT: The bill is starred.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar 1097, please.

THE PRESIDENT: Without objection, so ordered.

Senator Bruno.

Senator Leichter, on 1097, to be recorded in the negative.

Senator Bruno.

SENATOR BRUNO: I request unanimous consent to be recorded in the negative on Senate 69-C, Calendar Number 677.

THE PRESIDENT: Without objection, so ordered.

SENATOR BRUNO: Thank you, Mr. President.

(Whereupon, Senator Padavan was in the chair.

ACTING PRESIDENT PADAVAN: Senator Farley.

SENATOR FARLEY: Mr. President, may we return to motions for a moment?

ACTING PRESIDENT PADAVAN: Motions and resolutions.

ACTING PRESIDENT FARLEY: Mr. President, on page 7, I offer the following amendments to Calendar 322, Senate Print 2730, and I ask that this bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT PADAVAN: Amendments accepted, and the bill retains its place on the calendar.

SENATOR FARLEY: On behalf of myself again, on the starred calendar, on page 35, I offer the following amendments to Calendar 204, Senate Print 992-A, and ask that that bill retain its place.

ACTING PRESIDENT PADAVAN: Amendments accepted. The bill retains its place

on the calendar.

SENATOR FARLEY: On behalf of Senator Cook, on page 38, I offer the following amendments to Calendar 633, Senate Print 3203-A, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT PADAVAN: So ordered.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT PADAVAN: Senator Present. Senate will resume to its business. We are on the controversial calendar.

The Secretary will read.

SENATOR PRESENT: Mr. President, will you call up Calendar 799, please.

ACTING PRESIDENT PADAVAN: 799.

THE SECRETARY: Calendar Number 799, by Senator Johnson, Senate Bill Number 4139A, Environmental Conservation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT PADAVAN: Explanation, Senator Johnson. 799, Senator.

SENATOR JOHNSON: We have a request for an explanation?

This bill expands upon a regulation established to protect surf clams by protecting their cousins, the ocean quahogs, in the same manner by limiting the daily catch to 14 cages per vessel.

This is supported by the Marine Resources Advisory Council at Stony Brook University and the concerned industry members. The only ones who might not like it are several large Jersey boats who are coming into our waters and taking this resource.

SENATOR GOLD: Senator yield to a question?

SENATOR JOHNSON: Yes.

SENATOR GOLD: I want to ask this one quietly unless it sounds like I'm not too bright; but what is a quahog?

SENATOR JOHNSON: It is the first cousin of a surf clam.

SENATOR GOLD: Is that by marriage?

SENATOR JOHNSON: Quahog was the Indian name for clam, actually. But now they are differentiated. If you know Latin, I can tell you have all the differentiation, but essentially they're cousins, and they go into soups and chowders and things of that nature.

SENATOR GOLD: Yes. Will Senator yield to one more question?

ACTING PRESIDENT PADAVAN: Will the Senator yield?

SENATOR JOHNSON: Yes.

SENATOR GOLD: I have a piece of correspondence which says that the Department of Environmental Conservation opposes this as unnecessary. Have you seen the memo on that?

SENATOR JOHNSON: No, matter of fact -

SENATOR GOLD: I haven't either.

SENATOR JOHNSON: -- I haven't, no. Thank you, Senator.

ACTING PRESIDENT PADAVAN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 58, nays 1, Senator LaValle recorded in the negative.

ACTING PRESIDENT PADAVAN: The bill is passed.

Senator Present.

SENATOR PRESENT: Call up Calendar 1044, please.

ACTING PRESIDENT PADAVAN: Calendar Number 1044.

THE SECRETARY: Calendar Number 1044, by Senator Wright, Senate Bill Number 5472, an act to amend the State Administrative Procedure Act.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT PADAVAN: Explanation, Senator Wright.

SENATOR WRIGHT: Mr. President,

the bill restricts the circumstances under which a state agency can adopt a rule on an emergency basis.

We've had a number of continuing instances where the disclosure and publication requirements under the State Administrative Procedure Act have been avoided utilizing the emergency rulemaking, and we believe that's being done excessively.

We believe this bill addresses the original legislative intent, and by inserting the language "imminent danger" speaks to that particular issue.

SENATOR LEICHTER: Mr. President, would Senator Wright yield?

ACTING PRESIDENT PADAVAN: Senator, will you yield?

SENATOR WRIGHT: Yes, I will.

SENATOR LEICHTER: Yes. Senator, can you give us some examples of instances where the emergency rulemaking power was abused, in your view?

SENATOR WRIGHT: Yes. For

example, with the Department of Social Services, they promulgated rules as it relates to personal care services under emergency provisions and ultimately, they received a letter of non-compliance from the Office of Business Permits and Regulatory Assistance. Not only did they not use the State Administrative Procedures Act so that people could comment on it during the 45-day period but they also exceeded, in establishing reimbursement rates, their authority under statute by imposing late fees and a number of additional definitions that were never authorized in statute.

So it was not, number 1, an emergency; and, number 2, they took the opportunity without full disclosure and publication to really exceed their legislative intent.

SENATOR LEICHTER: When was that, Senator Wright?

SENATOR WRIGHT: That was March of 1993. So that's a recent example that we wanted to utilize.

SENATOR LEICHTER: You say that that particular rule was issued under the emergency power under Section 202, Subdivision 6?

SENATOR WRIGHT: Yes, it was proposed on an emergency basis.

SENATOR LEICHTER: Senator, I'm not aware of this particular instance, although I certainly accept your characterization. But I'm not aware that we've had a problem where this has occurred on an ongoing basis so as to necessitate a change in the law.

You have given us one example. There may well be others, but considering the fact that there are hundreds of rules that are issued under this particular provision, I just don't see that we've had a problem that requires us to so drastically change this law.

Can you give us any reason other than maybe some general animosity to rulemaking?

SENATOR WRIGHT: I can relate a series of additional examples, but I won't belabor the point with them. What I can reflect

is that, if you look at the number of rules that have been adopted under the emergency proceedings last year alone, it is some 25 percent of all the rules adopted. So we're exceeding 25 percent, and again this year to date, we're exceeding last year's efforts and we'll actually exceed 25 percent of all the rules by those agencies being adopted under emergency procedures.

I'm not convinced and I believe my colleagues would not be convinced. If you take the time to look at all of those instances, you will see that they are utilizing a very broad definition of emergency.

And, in fact, many of those examples relate to fees that do not have any particular impact on the public health, welfare or safety in this state. So I think there is a rather broad interpretation, and that's our reason for providing a more strict definition that would result in greater immediacy to the emergency.

SENATOR LEICHTER: Senator, is it

not a fact that many of the instances where the state agencies have to resort to the emergency power was because of fedeeral requirements? They were forced to do that because either a federal law or a federal agency that had superior power in that field required that that be done. Isn't that the case?

SENATOR WRIGHT: That's not the majority of instances. There are a few exceptions to that. But under other legislation that we previously debated, and this house has passed, we would address that particular difficulty by having adopted those federal standards as minimums.

SENATOR LEICHTER: Mr. President, on the bill.

I thank Senator Wright for his explanation, but I think what we see here is the general antagonism by many members of the Majority to rulemaking powers that exist out of necessity in state administrative agencies. We happen to live in an increasingly complex society where much of the fine tuning of

statutory direction and mandate must be done by agency.

I'm not saying it's always done well or always done properly. I'm not saying that there haven't been instances where emergency rules have been issued where you and I, Senator Wright, may agree that it should not have been done, but what you have done is to so narrow the power of agencies to issue these emergency rules because you keep on putting in the words "imminent danger".

What's an imminent danger? That people are going to be killed? That property is going to be destroyed? There are many instances where we need these agencies to act because one example I gave it's required by the federal government. Another one is because it would carry out legislative purpose and intent to get something that needs to be done immediately.

You are trying to hamstring government, and we saw what happens when you go into blind deregulation, and this is what the basic theory here is. We had blind deregulation

in the Reagan years. It ended up with the biggest scandal that we've ever seen, the $500 billion S and L scandal. I'm not saying this is going to lead to that sort of a problem, but I'm saying that blind deregulation, trying to cripple government, keeping agencies from doing what they need to do to protect the public or help the public, is not in the public interest.

I'm not aware that there have been any real problems with agencies exceeding their powers by resorting to emergency rulemaking. You have given an example. You are correct on that example. I'm sure there are others. But there isn't a pattern of abuse. There isn't a broad area of problem that requires this sort of overreaction by the Legislature.

And I say again that you have defined this so narrowly, the word "imminent danger". Again what is an imminent danger? Imminent danger is a catastrophe. That's the only instance you are going to allow these state agencies to act. I really think that's unwise,

Senator.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 57, nays 3, Senators Galiber, Gold and Leichter recorded in the negative.

ACTING PRESIDENT PADAVAN: The bill is passed. Senator Present.

SENATOR PRESENT: Mr. President, call up Calendar 1050.

ACTING PRESIDENT PADAVAN: 1050. Secretary will read.

THE SECRETARY: Calendar Number 1050, by Senator Spano, Senate Bill Number 5750, an act to amend the Mental Hygiene Law.

SENATOR GALIBER: Explanation.

ACTING PRESIDENT PADAVAN: Explanation. Senator Spano.

SENATOR SPANO: Mr. President, as most of the members are aware, we went through a very difficult period during the last budget process, which ultimately resulted in an agreement to close several of the psychiatric centers in the state. The Governor had presented us with an accelerated closure plan. We were able to reach an agreement with respect to Kings Park to hold it off for a year, Harlem Valley to hold off for seven months, and to make the decision to close the Gowanda Psychiatric Center.

What this bill does, very simply, is to amend the Mental Hygiene Law and delete Gowanda Psychiatric Center from the list of the hospitals that are named in that section of the Mental Hygiene Law.

ACTING PRESIDENT PADAVAN: Senator Galiber.

SENATOR GALIBER: Senator, do you have any -

ACTING PRESIDENT PADAVAN: Will the Senator yield?

SENATOR GALIBER: I'm sorry. Will you yield, Senator?

SENATOR SPANO: Sure.

SENATOR GALIBER: Senator, do you have any independent knowledge as to what will happen after this closure of Gowanda?

SENATOR SPANO: I know that currently part of Gowanda is currently a prison. There have been some discussions about the possibility of public corrections putting additional prison space over there at that facility, but at this point we haven't heard anything concrete about that at all.

The reason that we have this bill before us, Senator Galiber, is that there are currently twelve patients at this facility costing us approximately $1 million a year, and we feel that it would make sense to close it.

SENATOR GALIBER: Senator -- will you yield for a question, Senator?

SENATOR SPANO: Sure.

SENATOR GALIBER: Or a statement with a question form, anyway?

I know of your sensitivity in terms of closing these centers out. Would your position have been, if possible in the real world, to keep this open? Would you be in agreement to keep it open for the purposes that it was needed for?

SENATOR SPANO: For the purposes of a psychiatric center?

SENATOR GALIBER: Yes.

SENATOR SPANO: What we tried to do -- you know, we have Chapter 322 of the Laws of '91 that call for a comprehensive closure plan. There were a number of different facilities in the Buffalo Psychiatric Center catchment area that were open and improved, at the Orleans General Hospital, WCA of Jamestown, Lakeshore Hospital, and some others, that handled the overflow or handled the people who were being discharged from Gowanda. So it doesn't make sense at this point at all for us to try to keep that facility open serving people

who suffer from a psychiatric disorder.

So no, Senator, I could not in good faith suggest that we keep that facility open now, especially when they have already run down the census and its expectation of closing it.

SENATOR GALIBER: The money, if the top administrative persons -- I understand that a lot of this is heavy with administrative cost, that million dollars to service some twelve or fifteen patients. That money, if and when Gowanda is in fact closed, will that money go into any area of your concern, which would be community based centers, at all?

SENATOR SPANO: As a part of the budget negotiations, there was no money at all put into the mental health budget to operate Gowanda in the future. So the $1 million that they would have to spend to keep Gowanda open if we failed to enact this bill would have to come out of existing funds of the Office of Mental Health, because we didn't put any additional money in there at all.

There is no mechanism at this point for us to take or capture that million dollars that is going to be spent at Gowanda and reinvest it into the community, but I would expect that before we end this session, Senator, we will have a bill to that effect.

SENATOR GALIBER: Okay. One other question.

At the present time, you said, part of Gowanda that is a prison population now or part of it is a -- does DOCS have any responsibility for any part of Gowanda now?

SENATOR SPANO: The Collins Correctional Facility is currently collocated on that site, yes, and Department of Corrections has the responsibility for maintenance at that site.

SENATOR GALIBER: Would the Senator yield for another question?

ACTING PRESIDENT PADAVAN: Will the Senator yield?

SENATOR SPANO: Sure.

SENATOR GALIBER: Do you know

what the prison population is there at the present time?

SENATOR SPANO: I really don't know.

SENATOR GALIBER: Does anybody who might find it in their new Senatorial District know?

SENATOR SPANO: There are 1130 inmates at Collins, Senator.

SENATOR GALIBER: How many?

SENATOR SPANO: 1130.

SENATOR GALIBER: 1130. Thank you, Senator.

On the bill, Mr. President.

Mr. President, I know of Senator Spano's deep concern in this particular area, so at first blush I was concerned about the closing of any of these centers as he was.

The next issue -- I have no objection, of course, to the bill. It just gives an opportunity for me to again speak on the possibility, the horrendous possibilities on the one hand of opening up an additional prison.

We have been building prisons in this state for so many, many years, and there has been almost a screeching halt to it, an outcry, a hue and outcry, if you will, from the public that we do not need any more prisons.

Then on the other side we find that we still have prison overcrowdedness, and we have tried on this side of the aisle with some on your side of the aisle to say prison overcrowdedness can be solved, if you will. We need merely to look to alternatives to incarceration.

When we introduce pieces of legislation which would have that kind of impact which would relieve the prisons, if you will, of double bunking and all the horror stories that we hear coming out of these prisons, the notion is rejected, rejected by some over there and some over here, because of some ten years of getting tough on crime and that if there were in fact any reversal at this point in time it might very well be interpreted as being soft on crime, and certainly that is not the case.

So here we are at a point in time when we have a situation where we have double bunking, and certainly they are busting out at the seams in our correctional institutions, but we can resolve this another way, because those of us -- by merely passing some pieces of legislation, some of the programs that have come up from the second floor, some that have come from the Codes Committee, some that are in various committees right now. All we need is a few votes and we can relieve that prison population.

The danger, Mr. President, as I see it, and most of us do, when we build these prisons they become, of course, an economic development plan for that particular area, and we understand that, and we accept it. But, as such, once we build them, we have to fill them up. And when we start filling them up, we start doing crazy things, mandating more sentences, enhancing, if you will, which is the same thing, to fill those prisons up.

I say that we do not need any

more prisons. I fear, very frankly -- and I say fear and mean just that -- fear that when this hospital is closed that so many inmates at the present time as part of that development that we will quickly see the monies that should be directed to community centers and treatment centers that you and I both want to see in neighborhoods where folks, who are part of that system unfortunately, can be closer to home in smaller areas, those dollars and cents will not be used, Senator, for that purpose.

In my best judgment, it will be used to build some more prisons and create some more economic development, and we do not need - we need the economic development, but we do not need any more prisons.

And I'm not sure how the new Senator who has gotten that reapportionment feels about whether we should or should not have, or does he have -

Would Senator Volker yield?

SENATOR VOLKER: You want me to yield?

SENATOR GALIBER: Yes, as awkward as this is to put you in this, I know that you are prepared, of course.

Do you, Senator Volker, have any indication that when Gowanda closes that it will then be converted into a prison or -

SENATOR VOLKER: Senator, first -- I'm sorry.

SENATOR GALIBER: It's okay.

SENATOR VOLKER: Senator, first of all, as was said, there is a collocation here. There is also a collocation of districts here. The Gowanda Psychiatric Center actually straddles Senator Present's and my district.

There is some question, in fact, as to how much or part of the present building site that we're talking about, in other words the Gowanda Psychiatric Center, whether it's in Senator Present's district or mine. It sort of straddles the district. Collins Correctional is definitely now in my district, but that's adjacent to the present building that you are talking about.

Senator, the problem here is - there's a multitude of problems. First of all, if this bill passes, very honestly, unless the Assembly's attitude changes nothing is going to happen, because the Assembly got itself all wound up on the issue of correctional facilities some time ago when we were still trying to negotiate a way out of the problem that we're in in both probation and in overcrowding in the prison system and said that they would agree to close the Gowanda Psychiatric Center unless a rider were put on that said it could not be a correction facility.

Well, the Senate's position and the Governor's position, frankly, as far as I know is that's not the way to solve this problem.

So the answer I guess is that assuming that this bill the way it is now became law and the Gowanda Psychiatric Center were closed down, nothing as a direct result would happen from there, that it would not become a correction facility. Nothing would happen

unless there were some further action.

SENATOR GALIBER: Senator yield for one other question?

ACTING PRESIDENT PADAVAN: Senator yield?

SENATOR VOLKER: Yes, I will, Senator.

SENATOR GALIBER: SINCE it's a straddled district AND you share this with a colleague of yours and mine -

SENATOR VOLKER: Right.

SENATOR GALIBER: -- would you be in favor of Gowanda becoming a correctional institution?

SENATOR VOLKER: Senator, the situation we have in the prison system is nearly critical. We have at the present time increasing numbers of double bunking inmates, and the result of that is a very dangerous situation within the system.

We also happen to have something like 6500 inmates who were on work release in a myriad of programs that we have been trying over

the past few years to provide some diversion. Senator, one of my problems with some of the things that had been said by some of the Assembly people about how we can solve this prison problem is that we're not asking for building of new prisons, although let me point out that there was agreement a number of years ago -- and I can list the prisons -- for five new prisons which we have never built. Gowanda, by the way, was not one of those.

There was an agreement which has never been implemented, for various reasons, which would have relieved the prison overcrowding, would have allowed us to do a lot of additional programming, by the way, Senator, and, then, at the same time try to do some diversion programs some of which, Senator, have turned out to be semi-fiascos.

The problems with some of those diversion programs is they haven't worked, for various reasons, and my problem with the issue of some of these programs being used this year is they are very speculative.

The reason Gowanda seems so attractive at this time is simply because it would provide an avenue, a place. We don't need to build a prison. It's there. A facility is about to be shut down. The people are being excessed. By the way, it was done grudgingly, Senator Masiello, Senator Present, myself, a number of us, along with Senator Spano, tried to work out -- Senator Stachowski -- I'm sorry, Senator. I'm sorry -- tried to work out this issue with Mental Hygiene. We did not succeed very well for a long time, and that's why it's been dragged out. They are the real reason we are still trying to work this issue out, mainly.

But the problem here is, Senator, the reason that Tom Coughlin believes that Mental Hygiene should be converted to a correctional facility, the reason the Governor believes it, and the reason that we have acceded to that given the nature of the situation is it would provide an immediate ability to bring down the numbers of people in our system and avoid

some of the problems.

At the same time, Senator, we're more than willing to talk about and have been willing to talk about diversion programs, not let-them-out programs, not second felony offender that says, "Well, these are not non-violent inmates even though they may have eight or nine felonies behind them for violent crimes, but they're really not violent people." We can't accept that, Senator, and that is a big part of our problem.

So the answer, Senator, is I wish there were another way. On the other hand, I think if the Assembly is going to deal with its responsibility, then it seems to me they will either have to agree to build a prison or they will have to agree, logically, to allow a place like Gowanda to become a correctional facility.

SENATOR GALIBER: Great answer. Mr. President, on the bill.

ACTING PRESIDENT FARLEY: On the bill.

SENATOR GALIBER: Senator Volker,

as usual when we debate bills, a good debater can take either side of the issue and do it effectively. Senator Volker has been consistent through the years in some instances dramatizing, if you will, the conditions in our prisons. But, Senator, there are alternatives, and there are very, very easy alternatives.

We have pieces of legislation for merit good time, good time off the minimum, which doesn't cut them loose, Senator. It doesn't let them out of jail. Good time off the minimum really puts them before the system earlier.

We also have in our prisons not those violent criminals that you make mention. They are there, and I dare say that I've often said and mean it sincerely that there are some of the crimes that are committed by some of those persons incarcerated should never, never see the light of day, and I believe that.

But I'm not talking about those extreme cases. I'm talking about the cases that there are some folks in under the Rockefeller

laws, A-1, A-2, A-3 categories where we have to take another look, if you will.

Mr. President, I can't hear myself, even.

ACTING PRESIDENT FARLEY: Let's have some order in the house, please.

SENATOR GALIBER: The programs in the A-1, A-2 category that I mentioned before, Senator, you're aware and I think you supported those of us who said, "Listen, Governor Rockefeller, you've gone too far." We reviewed the A-2 and A-3 categories, and there was a presumption that the A-1 categories were the big timers and, therefore, we reviewed them, let some of them out and some of them are still there in those categories.

So we ask for legislation which would say those persons as we review the cases, not violent crimes -- in some instances never been arrested before -- we have legislation which suggests if we up the amount that there may be a number of persons that could be let out, keeping in mind that public safety -- and

those of us who advocate alternatives, Senator Volker, are primarily concerned. Sometimes you don't believe us, not you personally, it's not believed as we debate it that public safety becomes paramount when we introduce this legislation or a lot of it.

When they diverse the program as you mentioned before, you mention the failures, but there are successes built into it. When we talk about the predicate felon category -- there is a predicate felon category. If we give the flexibility to the district attorneys or to the judges, does it mean we're soft on crime? Does it mean that we're letting the prison population out? The answer is absolutely not.

Senator, I dare say that if between the crime victims committee and your committees there are enough pieces of legislation to relieve the overcrowdedness in our prison system without putting the public in jeopardy keeping in mind public safety. We have the laws there, and you know it as well as I do.

I respect your position. We

respect each other's position, I would like to think. But the fact of the matter is there is an easier, safe way without spending additional monies to relieve the congestion in our prisons. Building more prisons, we can not build ourselves by building prisons out of this crisis that we have, can't do it. It's utterly impossible.

So I'm in favor of this piece of legislation and wanted the record to reflect my deep concerns about looking at alternatives to relieving the congestion in our prisons.

Listen to what the Commissioner says. The Commissioner is in favor of giving good time off the minimum. He is in favor of it. If we give him the responsibility, we should listen to him or get rid of him as a Commissioner. He has a number of programs that he favors. But when he comes to the legislative branch of government and says, Legislative Branch, I need some help. I want to relieve the congestion in our prisons. Help me do that by passing these pieces of legislation. And you

can pass these without being branded, if you will, soft on crime -- soft on crime which seems to be the criteria. The harsher penalties, you know it and I know it, if we look at the statistics, all the penalties, all the enhancements, all the mandated sentences, we still find today the same problem that we had before. We have not deterred any crime, and certainly you and I understand that should be and is the end of criminal justice.

So I wanted it just reflected for the record. I know there is an alternative. All we need to do is take the bull by the horns, so to speak, and look at those alternatives to relieve the congestion in our prisons.

ACTING PRESIDENT FARLEY: Senator Stachowski.

SENATOR STACHOWSKI: Will Senator Spano yield to a question?

SENATOR SPANO: Yes.

ACTING PRESIDENT FARLEY: Senator Spano, will you yield?

SENATOR STACHOWSKI: Senator, if

this bill passes and eventually is signed, does that mean then that OMB can no longer justify having the director of Gowanda still on full salary and the top five or ten positions that they transferred over to Buffalo Psych' Center and have those people there while they are cutting hands-on service people?

When they need to do cuts in their department, they cut like nurses, et cetera, but still maintain those top level employees from the Gowanda Psych' Center on the payroll at the same salary as when Gowanda Psych Center was fully operative and, even though there's that little unit left, those people are still there. Does this mean that they'll finally be gone, or will they find another reason to keep them at the same salary instead of putting this money either into community services or hands-on nursing type hirees?

SENATOR SPANO: As I said to Senator Galiber, Senator, there is no appropriation in the Mental Health budget for any continuation of staff at the Gowanda

Psychiatric Center. They will be maintaining some presence in the town of Collins, but whatever staff members they choose to bring over to the staff of Buffalo Psychiatric Center that would have to -- their salaries would have to be taken out of the current appropriation for the Buffalo Psychiatric Center.

SENATOR STACHOWSKI: Could I ask another question?

ACTING PRESIDENT FARLEY: Senator Spano, will you yield for another question?

SENATOR SPANO: Sure.

ACTING PRESIDENT FARLEY: He will yield.

SENATOR STACHOWSKI: I understand that part, Senator, but as you know from the hearings on the budget when we asked the Commissioner that very question of whether those people were on full salary at those levels, he justified it by saying that although there was not much service left, those people were still necessary because Gowanda was technically still open, which was very interesting, and I would

believe that they would still find a way to keep those people on.

And will we have any assurance that they won't be doing that or that at least they'll have the decency to give them different titles?

SENATOR SPANO: I can only express to you my opinion. My opinion or my hope would be that the high level positions that currently exist at Gowanda that those positions would be eliminated, those are administrative positions; that if it's no longer going to operate as a psychiatric hospital that they do not need a director, a full-time director.

But as you full well know, we do not dictate the policies of the Office of Mental Health, and it will have to remain to be seen. I will tell you, Senator, that we will closely monitor the activities of the Office of Mental Health in that area.

I know that you and the members of the western New York delegation have been

very sensitive to that issue and, frankly, very helpful in the closure of this facility and additional community programs. And as the chairman of this committee, I will work closely with you to make sure that if anything does happen out there like that where we are seeing direct care workers being eliminated from their jobs while administrators are kept on, we'll spring to action on your behalf.

SENATOR STACHOWSKI: Thank you very much.

ACTING PRESIDENT FARLEY: Senator Volker.

SENATOR VOLKER: Mr. President, very quickly. Let me just say I understand what Senator Galiber is saying. I think that his mention of the support of Tom Coughlin for some of these programs is kind of interesting.

Tom Coughlin, Corrections Commissioner, actually is the guy who proposed that Gowanda be converted to a correction facility. It was not the Senate that proposed that. It was Tom Coughlin.

I also point out something to my colleagues, and we have been trying to point this out to the Assembly. I happen to believe that if this issue is not resolved, if the issue of prison overcrowding is not resolved, that we will be back here before very long for a special session of the Legislature because my guess is that the situation will only get worse.

And the sad part of the situation is that we probably are only looking at a window of about a year because with the tremendous drop in arrests out of New York City that has occurred over the last several years, almost certainly the number of inmates in about a year is going to begin to fall off a cliff, and we should have some relaxation in our prison system.

But the tragedy of it is that some people in the Assembly have decided -- and I think they really don't understand the prison problem. The Senate has always been willing to talk about real transition programs and real programs to attempt to allow alternatives to

incarceration. But we have to -- it's absolutely imperative that we protect the public safety, and we think that the best way to do that is to make sure that not too many of these inmates are allowed to run through these programs and that we actually make sure that there is capacity to take care of the inmates in the facilities that we have.

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 61.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, may we call up Calendar 1106.

ACTING PRESIDENT FARLEY: 1106. The Secretary will read it.

THE SECRETARY: Calendar Number 1106, by Senator Marino, Senate Bill Number 5869, an act to amend the Tax Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for, Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President. Here in the Majority, Mr. President, we're very pleased to submit for the consideration of our body, and we plan passage, really a program which is going to be economic recovery. That's what it's all about.

Mr. President, in this state, we have lost jobs seven and a half times more than the average state. We simply have to do something about our tax structure. I know if we were an island and we didn't have to consider other states and we weren't in competition, Mr. President, we could maybe do as we would like and live with some of the taxes which we are going to remove.

I know, Mr. President, none of us want to have people in need. None of us do not

want to see education not supported, but I would submit that unless we have the economy, unless we have the business, unless we have the jobs to support this state, and to support our programs, we're going to continue in that direction of losing jobs seven and a half times more than the average for other states.

What does this bill do, Mr. President? I will go down and briefly explain.

The surcharge and amnesty. We reduce the current 15 percent corporate surcharge to 12 1/2 percent for tax years beginning in 1993 and create a three-month tax amnesty period during the current fiscal year.

Mr. President, corporation after corporation will be relieved by this 2-1/2 percent, corporations and businesses that can't afford to pay what they are paying now. The business simply won't support it.

And as far as amnesty is concerned, I will submit, Mr. President -- and we have suggested this in previous years, as you know -- this program will be more than

successful. Past amnesty programs have been. Billions and billions of dollars in the state and in the city, New York City, $40 billion. Think of it, $40 billion. I would suggest that we have shown and we'll be able to show what the past programs have made available, and it is most important in our opinion that we have this amnesty.

People will pay. Frankly, we all pay taxes. And I submit it's on anyone's mind whether they be a business person or an individual when they realize and they know that they do owe, and people will come and pay.

1993, for New York City alone, legal activity, $39 billion, $40 billion not taxed. Not taxed. That's a lot of money. And in the United States -- United States -- just to point out how large it is, it is $641 billion. I believe that's more than half a trillion.

When I came here -- just to bore you a bit. When I came here -- doesn't make any difference how long ago but when I did, the budget was $4.4 billion. $4.4 billion. And

when it got to 10 we thought that's the ends of the world. We've seen how it has grown.

But think of the tax we'd have on that $39 billion, and much of it would come in. I submit it just does not make sense not to have a three-month program.

Another proposal in the legislation, the BTU and clean air exemption. It exempts businesses and individuals from increases to utilities' gross receipts tax which would result from the proposed federal BTU tax or the Clean Air Act. In other words, it's uncoupled from the federal legislation. And that would be $75 million we suggest, and we're talking about the amnesty program for '93-94 saving $230 million.

A 5 percent hotel reduction. I live in a tourist area. I realize the concerns for the hotel and motel tax, and it's most, most -- well, let me put it this way. For all of us who have these, including the City, all of us who have hotels and motels, this has been a real concern.

In this program, we would suggest the state hotel tax rate is cut in half, and the corresponding reduction is provided for in the New York City hotel tax to promote tourism. In other words, a 5 percent reduction, which I think will be helpful. And that's $70 million.

Also, we would suggest operating losses. Currently, net operating losses for corporations in New York cannot be taken against minimum taxes as they can in other states and for federal purposes. This provision will aid companies which suffered losses during the recession to recover faster and reinvest in jobs and equipment. And any of your friends or professionals who have been hit by this recession knows how important and how helpful this will be. That's 60 million.

Next is the PBT and commercial heat exemption. This provision expands current residential heating exemptions to cover all commercial heating purposes including hospitals and not-for-profits. How many of you have been contacted by your hospitals or not-for-profit

organizations? And think, in effect, of a gross receipts tax which is almost impossible in many cases. That would be $50 million.

Also, Mr. President, the highway use tax Thruway exemption. This restores a previous exemption from highway use tax for miles traveled on the Thruway. We feel we're losing a great deal of traffic, and this would save us -- or we would have $10 million by having more truck activity here in the state.

Another provision, the taxpayer bill of rights cost recovery and interest. The state will have to pay interest if it fails to send refunds on a more timely basis. In addition, taxpayers would be authorized to recover costs expended to adjudicate cases where the Tax Department is found to have been wrongfully interpreting the law.

And I would make one point here, Mr. President. I don't mean to overdo this because it wasn't long ago that I was standing on the floor here defending our public servants, and I will defend many, many people who work in

the Tax Department, but we do have too many instances where people come to us. And they make the person who is paying who they are trying to get the money from feel like second-class citizens. And I think we should make sure that this is not the case, and if the Tax Department is wrong, let them pay the legal fee. Maybe they will be a bit more careful, and some who are just completely irresponsible and don't treat people as they should, maybe we should go even further.

The fuel tax refunds. It allows a refund for the PBT on carriers rather than just a credit, so you would get the cash. And that would be 2 million.

Corporate filing fee. It would reduce the $50 statements of filing fee enacted in 1992 to $5, an amount sufficient to fund the system for updating corporate addresses. And, Mr. President, how many of us here in this body have had friends of ours or ourselves have been involved in the business community and realize that the $50 statement is not that easy for

many, many people; and that would save $1 million.

Bad debt credit, bad debt credit, excuse me, allows a credit tax to pass through but cannot be -- allows a credit for tax which has been passed through but cannot be collected.

PBT manufacturer's exemption: Changes current entitlement to up-scale exemption. The fact is, what this is, this is very, very important to manufacturing because the petroleum or the energy that goes into the product you do not have to pay tax on because that's part of the product, the sheet of paper, and that would be very helpful to many of our businesses.

The alcoholic beverage enforcement, our industry is supporting measures to increase enforcement of the alcoholic beverage tax. The provisions are consistent with cigarette and motor fuel taxes, and we think this will be most helpful not only to the people who are in business legally selling the

product, but also provides more income.

Mr. President, I know that this is not easy. It's very easy for all of us to want to have services. How many of us, all of us as Senators, we've got to have this for our district, we've got to have this for our district, but, Mr. President, I've learned - and this is where I feel Senator Marino is right and all those who are supporting this bill and have their name on this bill -- that we have to have an economy which is viable, which is strong, which is growing, to produce the funds in order for us to have this state and the state services because, if we don't, if we don't, well, we know what happens. We have zero.

So, I would suggest that this is a good jump start for our economy, and I certainly would urge its passage.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Will Senator Stafford yield to a question?

SENATOR STAFFORD: Sure.

ACTING PRESIDENT FARLEY: Senator Stafford, will you yield?

SENATOR STAFFORD: By all means.

SENATOR GOLD: Senator, first of all, I want to understand the numbers. I understand the philosophy, now I want to understand the numbers.

SENATOR STAFFORD: Yes.

SENATOR GOLD: You have a number of provisions in this which are going to give certain benefits, but as you know, we start out with a balanced budget, so it's got to add up somewhere. Now, do I understand that all of these benefits will be funded by money that will come in from the amnesty program?

SENATOR STAFFORD: No question about it, the amnesty program, and there are a couple other instances where fuel comes in, but it's amnesty.

SENATOR GOLD: All right. And would you just tell me how much you're calculating the amnesty to be worth?

SENATOR STAFFORD: Well, you know, it's interesting, and I will share that figure with you, but when we come to these numbers, I found out a number of years ago that medicine is not an exact science, and I'll share it with you, the people that make these projections is not exact. It is what they propose, what they think it will be. I know there's a difference of opinion on how much it will be. I myself looked at it. We've looked at what past programs have supplied, and the annual savings, so to speak, say the -- would be actually -- want to make sure I give you the exact right figure as long as I have it -- $230 million.

SENATOR GOLD: Yes, all right. So if the gentleman will yield to one more question.

SENATOR STAFFORD: Sure.

SENATOR GOLD: Senator, in other words, your calculation, your best estimate - and I understand that it could be a little bit -- could be a little less, but the philosophy

upon which your bill is based is that we will have this 230 million and, therefore, we should do something with it, and your bill says what to do with it; is that correct?

SENATOR STAFFORD: I think that's fair.

SENATOR GOLD: All right. Thank you, sir.

SENATOR STAFFORD: Thank you.

SENATOR GOLD: Mr. President, I have served an amendment. I would offer the amendment, waive its reading and ask an opportunity to explain it.

ACTING PRESIDENT FARLEY: Amendment is here.

SENATOR GOLD: Mr. President, I want to thank Senator Stafford for putting me in this very comfortable position.

Senator Stafford, you say that we have an opportunity under an amnesty program to bring in $230 million. Well, 1986, we had an amnesty, people figured 75 million. I understand we took in 400 million. Based upon

your figures of $40 billion, who knows what it will bring in. So, Senator, I'm happy with your number. The only difference between Republicans and Democrats, Senator, is my amendment and your amendment.

My amendment says, if we're going to make this kind of money from amnesty, let's give it to the people, the people we promised it to. In 1987, we promised them certain cuts. My amendment will give them those cuts.

The Republican philosophy is a simple philosophy, and I appreciate the fact that you make it simple because then we can explain it to everyone. Your philosophy is quote, what's good for General Bull Moose is good for the U. S. A. If you got a dollar give it to business and, believe me, it will trickle down some day, and the guy that's starving some day there will be money for him and food for him.

We don't believe in that. Your bill, Senator, worries about corporate franchise taxes, and I do too, and you want to cut them.

The first chance you get you talk about filing reductions for statements and addresses of directors. You worried about $50 to $5.

They have corporate activity; new people are coming in, new blood, and you're worried about $45. You got to worry about that? I'm more worried about people who are trying to put bread and milk on their table and, more importantly than that, I'm worried about the honor of this chamber.

I know, when I was concerned in 1987, as was Senator Bruno, that we give people a tax reduction and that we bring these rates down, I took it seriously. I assumed your side took it seriously. I've read a lot of the campaign literature.

I know that it wasn't the fault of any Republican in this chamber that you were forced to vote for $5 billion in new taxes over a two-year period of time. I know you didn't want to do it. Mario Cuomo, with that huge strength of character in office, made you do it or maybe it was Fred Ohrenstein, I don't know,

but somebody made you do it because you certainly wouldn't have voted for 5 billion bucks on your own.

And now there's an opportunity with an amnesty program that you say, Senator Stafford, and I know you say it honestly because you're an honest man, I believe it's worth $230 million, and the first ones you want to give it to the corporations.

I want to give it to your citizens and my citizens. I think we owe that to them. We told them we would do it. We weren't able to do it, so you people said. We weren't able to do it. Not only that, you increased their taxes. Here, if you are right, Senator Stafford, and I got news for you, I don't want to argue right now whether you're right or not. You tell me there's $230 million; I'm content to take your number, only I want to do something differently, and I'm urging my colleagues to vote for this amendment so that we have this opportunity to keep faith with the general public.

I'm not concerned about business running away from New York if we lower the income tax rates. How many times have I heard that argument? You know, I know that there's a wall here and that when you talk we hear but when we talk you don't seem to hear, but I listen to what you say. I want to learn every day of my life, and you people have told us more than once that, if we can hold down income tax rates, we will attract people to New York.

Well, I'm giving you the opportunity to do it. I think holding down income tax rates is more important than whether or not some corporation files a statement for 50 bucks or five bucks. I think that's more important, and I think, when we take a vote today, there's going to be a lot of people on this side of the aisle who are going to be proud to cast their vote for my amendment which will be keeping faith with the public.

Senator, I even think you may be low on your figure. Maybe we can get the 300 million, 400 million, I don't know. Some people

are going to be skeptical, because I know that the last time we did this, I think there was some statement that said to the public, you better pay now or we'll never do it again. Maybe we said that with a big wink, I don't know, but the point is, Senator, if you want to do it and the purpose of your doing it is to give the money back to all of our people, those people in your area, the people in Syracuse, the people in Schenectady, the people in Nassau County, then I'm willing to take a look at it.

Lastly, let me say something. My distinguished colleague from Queens County, Senator Padavan, put out a press release. I think it was yesterday that I was delighted to see. Press release that said that he is opposed as am I, to the expansion of the United States Tennis Association in Queens, one reason being we don't see the lease and it looks like it's a bad financial situation.

So, yes, there's an issue of use of park land, but there's also an issue of what are you getting, and where, and where is it

coming from?

Senator, that's the problem with your bill. I'm not going to argue with you right now over the amnesty. If you think the amnesty can raise that money and we could give it back to the taxpayers, I would seriously consider the amnesty. If you're talking about amnesty because all you're going to do is give some favored packages around that -- to some of the the big corporations, then that affects the issue as to whether or not this is the right time for amnesty and whether we go for it.

So having said that, I would seriously hope that we can pass this amendment, have the bill back in a couple days and very proudly on a bipartisan basis, announce that we are keeping faith and giving the taxpayer cut.

ACTING PRESIDENT FARLEY: Senator Stafford.

SENATOR STAFFORD: Mr. President, very briefly, I would just suggest that I believe this would take about $700 million if we were -

SENATOR GOLD: Is that a question?

SENATOR STAFFORD: It's not a question.

ACTING PRESIDENT FARLEY: Not a question.

SENATOR STAFFORD: But I'll ask you. Go ahead.

SENATOR GOLD: Senator, my amendment would take care of half the year period and brings us down to about 300 million, and I think having talked to my experts, the difference between my 230 million and your 300 million is just as sound, I think it's based on the same sand -- I mean the same concrete that you built on.

SENATOR STAFFORD: Well, both our gall is divided into two parts.

SENATOR GOLD: I think so.

SENATOR STAFFORD: I would suggest this, that, you know, the business community or the business operation in this state, if you want to say it's a locomotive and

it's the engines that keep that locomotive running, and those engines are the businesses and, you know, I really think we do have a difference. $100, five to $50, that doesn't sound like any money at all, but for many, many people it is. We would be more than happy, be more than happy to see reductions in some other taxes.

But this today is to get a jump start to get the businesses running to make it possible to do business in New York State, to have this state business-friendly. We think it's many, many steps in the right direction. So, of course, I would ask that the amendment be defeated.

ACTING PRESIDENT FARLEY: On the amendment, all in favor say aye.

(Response of "Aye.")

Those opposed nay.

SENATOR GOLD: Party vote in the affirmative.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT FARLEY: Call the roll on a party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes 26, nays 35. Party vote.

ACTING PRESIDENT FARLEY: Senator Halperin.

SENATOR HALPERIN: Yes, Mr. President.

ACTING PRESIDENT FARLEY: The amendment is defeated.

SENATOR HALPERIN: Mr. President, there are two amendments at the desk that I have submitted.

ACTING PRESIDENT FARLEY: We have those amendments, Senator Halperin. Go ahead.

SENATOR HALPERIN: I waive their reading and will explain them.

The first amendment, Mr. President, would implement on the one hand the portion of the legislation that is before us on the floor which is the petroleum business tax elimination.

The second portion of the amendment does something different than what is proposed in your legislation, Senator Stafford, and let me state, as I know Senator Gold alluded to, that there's some very real questions about how much this amnesty proposal of yours will generate, and I intend to deal with that issue after these amendments are dealt with and when we talk about this bill.

However, for the purpose of this amendment, I will accept the fact that the amnesty might generate something and that it would be enough at least to cover the cost of these amendments which total only $50 million and not the number that you come up with, which I personally believe is highly unrealistic.

The second portion of this amendment, and what I'm suggesting we do, is to reduce the alternative minimum tax from five percent to three percent effective this year and the amendment would -- which was originally encompassed in legislation we passed in 1987, recognizes a very serious problem, but as we did

with so many other proposals of phasing out or lowering taxes, we delayed that, and so we now have businesses that are struggling to survive in this economy. We know how difficult it is. We know how they're fighting on a day-to-day basis to remain alive; and yet our tax policy taxes them not on their profits but rather on an alternative minimum base, which is simply a way of getting at their money without looking at whether or not they're coming out ahead at the end of the year.

We are, in fact, destroying businesses when we impose this tax upon them, because by definition the tax is imposed only upon businesses that are not making profits.

Now, some of those businesses may, in fact, eventually show a profit and they're going through a phase now that they are benefiting from certain deductions that are available to them, but others and many others of those businesses are truly on the brink of going under, and this tax can push them under.

So all that I'm suggesting is

that we give them a modicum of relief. I'm not even suggesting that we eliminate the alternative minimum tax, but simply that we reduce it from five percent to three percent.

I offer this amendment and hope that it passes.

SENATOR STAFFORD: Question.

ACTING PRESIDENT FARLEY: We have both. Do you want to call up both -- both amendments, Senator Halperin?

SENATOR HALPERIN: I'd like to do them separately.

ACTING PRESIDENT FARLEY: O.K. On the amendment, party vote?

SENATOR GOLD: Party vote, may be an exception.

ACTING PRESIDENT FARLEY: Party vote with exceptions?

SENATOR GOLD: Hold on, please. Hold on.

Yeah, party vote.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT FARLEY: Call the roll on a party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes 26, nays 35, party vote.

ACTING PRESIDENT FARLEY: The amendment is defeated.

Did you want to speak, Senator Daly?

SENATOR HALPERIN: Mr. President, I have another amendment.

ACTING PRESIDENT FARLEY: Senator Halperin has another amendment.

SENATOR HALPERIN: Nothing stops me.

The second amendment, Mr. President, would simply implement legislation which has been introduced in this house by Senators Sheffer, DeFrancisco, Farley, Hannon, Holland, Kuhl, Larkin, LaValle, Levy, Marchi, Nozzolio, Padavan, Pataki, Seward and Trunzo, which would phase out the hotel tax which is imposed on rooms which are priced at more than

$100 per night, phase it out so that by -- on April 1st of 1994, it would go from five percent down to three percent.

On April 1st of 1995, it would go down from three percent to one percent, and on April 1st of 1996, it would be totally phased out.

Now, if you want to talk about killing the goose that laid the golden egg, we certainly did that when we passed this hotel tax. Since the inception of the tax in 1990, the hotel industry has reported a loss of $255.9 million in hotel room revenues in New York City alone. The reduction elsewhere in the state for those hotels priced at $100 or more is about 7 percent of the New York City impact in total.

I note that this loss can be partly attributed to the national recession and the decline in tourism business activity, but that according to testimony which we heard, most of this is due to this -- to the total impact of the hotel taxes, and in New York City that impact is 22 percent, a 22 percent tax when you

add on the state tax and the various local taxes. That is just killing -- killing the industry in New York City.

Based upon hotel industry statements cited above, state and local governments in 1992 lost approximately $158.2 million in other taxes, all in order to collect $63.8 million from the hotel tax.

Now, that's just simply ridiculous. The total net loss for New York State amounted to $94.4 million in 1992 and will increase to $99.1 million by 1996 if the tax remains intact.

From the tax's inception until 1996, New York State and its local governments will lose close to a billion dollars in other taxes in order to collect less than a half a billion dollars from the five percent hotel tax. Therefore, the projected tax loss from other sources and from the tax's inception to 1996 would be just about a half a billion dollars.

Now, as I said, this makes no

sense. Many parts of this state, New York City and many other areas of the state, that rely upon the recreation industry, skiing industry, have tourist attractions are being clobbered by this tax. They are forced either to try to keep their hotel rates below $100 a night, which also means that they can't realize the amount of profit that they would ordinarily anticipate, or by raising it over $100, and inviting the application of this tax, they simply become non-competitive with other areas in this country; and at a time when our economy is hurting so very much, this just doesn't make any sense.

So I am strongly suggesting that we adopt this proposal. I know that there's a hotel tax proposal in the omnibus bill that you're presenting, but I point out very simply that this is the bill that the Assembly has indicated that it will pass. This is the bill that I believe 16 of your members support and that I know many of the members on this side of the aisle support, if not all the members on

this side of the aisle, and I think that in order to bring about immediately relief - immediate relief to help lift the boycott that's been imposed by the convention industry on the city of New York, that we should move forward with legislation that we know will pass and which will also, by the way, provide greater relief because whereas your proposal stops at two and a half percent, our proposal phases down all the way to zero percent and does so at a time when many conventions are now planning. We all know that these conventions do not pick - decide overnight that they want to hold a convention somewhere. They often plan two or three years ahead. If they see that we are serious about reducing this tax, then they will begin to plan their conventions in New York, something that all too many conventions are not now doing.

So I urge the immediate passage of this legislation, and we know it will pass in the Assembly, and I believe the Governor will sign it into law, and then we can begin to

rebuild the tourism industry in this state.

ACTING PRESIDENT FARLEY: Senator Markowitz.

SENATOR MARKOWITZ: Thank you very much.

First off, Senator Halperin, I want to commend you for your sensitivity to this important issue, your concern about the economy of New York City, something you've always exhibited all the years of public service, and the residents of New York City are grateful for your continuing efforts on their behalf.

I had a question and that is, you mentioned a number of Republicans on that bill, am I right? May I ask you a question?

SENATOR HALPERIN: Yes.

SENATOR MARKOWITZ: There were a number of Republican sponsors on a bill very, very similar to this. What -- what would be your opinion on all of our colleagues if they voted against your amendments, what would one - what conclusion could we draw, in your opinion, if they voted against this legislation, this

amendment, that is?

ACTING PRESIDENT FARLEY: Senator Halperin, will you yield to that question from Senator Markowitz?

SENATOR HALPERIN: Well, I -- I don't know. I guess someone might consider that they weren't -- they're not serious about the bill.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly, why do you rise?

SENATOR DALY: Would I be out of order?

ACTING PRESIDENT FARLEY: No, not at all.

SENATOR DALY: I'd like to answer that question.

SENATOR MARKOWITZ: Senator, I'm not yielding.

ACTING PRESIDENT FARLEY: Senator Markowitz will not yield to your question.

SENATOR MARKOWITZ: On the amendment. You'll have all the time you need to

go into his further explanation, I'm sure.

The -- bill is very important, this amendment, to the hotel industry and, you know, it's not just about conventions. It's about restaurants; it's about retail stores. It's about everything else that makes New York City New York, and it's important to the state of New York especially in terms of revenues that this state so desperately needs for all of the good work we have done and we hope to do in the future.

This is a tax that we voted on and the Legislature, just like any other institution, business, corporation or any other facet of life, occasionally makes mistakes. We make less mistakes perhaps than most other groups, but when we make a mistake sometimes it's a big one. And on this issue there's no question that we have hurt our hotel industry and I am very hopeful as I look around the chamber to our respected colleagues, all of whom or many of whom have put their name to a very similar piece of legislation, that this

particular amendment really has the opportunity to pass the New York State Assembly and can become law, can become law this session, and I hope that you will rise to the occasion and vote with us on this particular amendment, and I'm confident -- am I right, Senator? I'm confident -- I'm looking at Senator Present; he's got a smile on his face, and he's going to be the first one to vote in the affirmative for Senator Halperin's foresight and superb amendment for the benefit of New York City.

Thank you.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: I'll pass and talk on the main bill.

ACTING PRESIDENT FARLEY: On the amendment.

SENATOR GOLD: Party vote.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT FARLEY: Call the roll on a party vote with exceptions.

(The Secretary called the roll.)

THE SECRETARY: Ayes 25, nays 36, party vote with exception.

ACTING PRESIDENT FARLEY: The amendment is not accepted.

Senator Leichter, why do you -

SENATOR LEICHTER: Yes, Mr. President, on the bill. Is there another amendment?

ACTING PRESIDENT FARLEY: I have a list here on the bill, and Senator Daly was the first one, and I'll make you the second one.

SENATOR LEICHTER: Thank you.

ACTING PRESIDENT FARLEY: Then we'll get Senator Halperin and Senator Dollinger.

Senator Daly, you have the floor.

SENATOR DALY: Thank you, Mr. President.

Let me answer the question if I can, why would my colleagues on this side, if I

can be presumptuous enough to answer, why they would not only co-sponsor the bill that you mentioned, but today support this bill is because, you know, every -- that bill is an excellent bill.

I agree, Mr. President, that bill is a good bill. This is a better bill. It's the better bill, and if my colleagues on the other side would look, they would see those same names that appear on the bill that Senator Halperin was -- is discussing, on this bill and, you know, Mr. President, I always wonder why do we always seem to forget where it all begins? And the purpose of this bill today and this move today, in my opinion, is most appropriate, most fitting and very timely.

Where does it all begin? Senator Gold says he wants to help all the people. We, with this legislation, want to help the people who need the help the most, the unemployed. That's the major thrust of this bill, Mr. President, is to provide more job opportunities in New York State and, my God, how timely it

is. Haven't we read in the paper where, in this recession we've gone through, New York State lost more jobs, more jobs by far, than any other state. Doesn't that tell us something? Doesn't that tell us where our priorities should be, that our priorities should be right there, protecting that goose that lays the golden egg?

I would submit, Mr. President, that there's not one dollar generated in this state unless it comes from the private sector. Other sectors don't generate any money. We spend it. What is more important to a citizen in this state than the opportunity to make a good living and raise his family? This bill will help us do that. This bill is not only going to help industry in the monetary sense.

Symbolically, it's going to indicate that New York State realizes - realizes what's most important at this time. And I would again repeat, New York State has lost more jobs than any other state. We have to do something about it. How do we stop it? How do we try to change New York's climate so that

we encourage business and industry to expand in this state and to build?

The bill before you, my colleagues, is the best way of doing it. We have a limited amount of money that we can gain through the amnesty. We want to use that money to provide more job opportunities in this state, and I am a strong supporter of reducing the property -- the personal income tax when we can. I think that this reduction is more important right now, because this bill again, through this bill, we're trying to help those people who need help right now, and I seem to believe and I'm sure you will agree, that those people who are out on the streets looking for jobs are the people we should apply ourselves to, and we do with this legislation.

I also submit that this legislation does reduce the hotel tax and rightly so, another good thing, but again let's just look at the major purpose of this bill; that is to improve the business climate so that there are more job opportunities for the people

who need those jobs, and I personally can't think of anything more important that we can do for the people of the state than provide those additional job opportunities.

ACTING PRESIDENT FARLEY: Senator Halperin, then Leichter. I'm sorry, that's the order I put them down in, and then Senator Dollinger.

SENATOR LEICHTER: I'll yield to my friend.

ACTING PRESIDENT FARLEY: You all stand up at the same time, and I try to grab the -

SENATOR HALPERIN: I'm sure, Senator Leichter -- I thank you for permitting me to speak now. I'm certain that, given your depth of knowledge and profound understanding of the issue, that there's no way that I will even be able to cover a fraction of what you will cover when you speak. So -

I'd like to address myself to this amnesty issue. Certainly I'd love to reduce all the taxes that you are suggesting to

be reduced in your bill, but I have to remind you of something that may be a little disturbing. We've already passed the budget. We've already decided how many revenues or how much revenue we can expect this year and how much we think we're going to have to spend, and what this really is, is coming back after the fact and now, through the guise of saying we're going to be getting some money that I don't think we're going to get, that we're now going to be able to do some things that may have or may not have been done as part of an overall budget process.

So you're trying to renegotiate the budget, but I don't think you really have a basis for doing it without throwing the budget completely out of kilter. So my mind, it's no way that this amnesty would produce the $230 million that you want to spend. It just won't happen.

If we look, if we go back and we compare this situation this year with what we did in 1986, we'll find many significant

differences. Back in 1986 there was -- and, by the way, remember then we did it as part of the budget -- we had an appropriation in the budget to publicize the amnesty program. If we had not publicized the amnesty program, it simply wouldn't have worked. There is no such appropriation in your bill, and I don't think that assuming that -- I'm going to get to some other weaknesses -- assuming there's any chance of it working, it's not going to work if we don't publicize it. There is no provision, once again, for publicizing it. Also back in 1986, part of the advertising, part of the hype of the amnesty program, was that "the laws are getting tougher. If you don't settle up now, you're going to suffer."

Now, one of two things have happened: Either we convince people about that and so that your estimates of what amnesty will produce are completely off because people are so convinced that the laws are tougher, that they are, in fact, paying their taxes, or they're really not very frightened about the toughness

of the laws, so we had better come up with a new threat which you're simply not coming up with because that threat, coupled with the ability to promote it to the public, is what caused people and corporations to come in and pay their taxes. It wasn't their good will. These people were not paying their taxes, and that's how we convinced them to do it.

Also, unlike the 1986 bill, you are including corporate giants in this amnesty program. First of all, these are people that should be paying, everyone should be paying their taxes, they certainly should, but the Tax Department already heavily audits these corporations. It is highly unlikely that you're going to be able to generate the kinds of monies that you expect simply by including these big corporations, because they're already the focal point of tremendous efforts by our Tax Department, and if they're not -- if that's inadequate, if that's what your view is, then you should have put more money into the state Department of Taxation and Finance to go after

these corporations because they're relatively easy targets to get to. You don't need an amnesty to reward Daddy Warbucks for not paying his taxes all these years.

Also, let's -- so for those reasons, I just don't think that their amnesty is going to produce the dollars that you say they're going to produce. But I want to make another point. Even if it were to be successful, I think it's the wrong thing to do. Back in 1986, we said that this was once-in-a lifetime -- a once-in-a-lifetime opportunity to come in and settle up and that from here on in, the state of New York is not going to play games with tax cheats, but here we go again.

I mean I hate to think that my lifetime would be as short as a period from 1986 until now. Thank God it hasn't been that short. I don't know what "once in a lifetime" means, but certainly not eight years. That is -- that's not a lifetime and yet here we go again trying to reward people who cheated on their taxes.

We come into this chamber with all kinds of bills, and I vote for them, to toughen up on the laws for people who commit this kind of crime and that kind of crime, and now what we're doing is we're letting people off the hook and we're letting people off the hook the way this bill is drafted who are not going to have to pay their taxes, some of them in a very short period of time because we're letting people off the hook who have already been identified as tax cheats, who have already been audited, who have already been identified as and who already are in the process and will soon have to pay not only their taxes and their interest, as this bill provides, but penalties, so that it would be cutting off the opportunity to gain the money that will be coming in on the penalties, and I think we're just going to be demoralizing the Tax Department and undermining our credibility when we say we want to get tough with tax cheats.

So for all of these reasons, I cannot go along with this amnesty. This amnesty

is based on amnesia. We simply don't remember what we did a few years ago and how we made promises, and I really believe that what we're -- what you're doing here by presenting this bill with the guise of this amnesty that simply won't work is, as usual, political posturing, but generally when you are accepting a political posture, you should be able to stand up tall. This political posturing is more in the nature of a hunchback.

ACTING PRESIDENT FARLEY: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Will Senator Halperin yield for a moment?

SENATOR HALPERIN: In just a moment. I'm just finishing up with my allusions, Richard III.

So if you want to politically posture, do something that you can stand up straight with. Don't politically posture something that you should sort of bend over and hide from.

This is not the way to go. As

much as I'd love to vote for this bill, say I eliminate all these taxes in good faith, I don't think we can be doing that. If the -- if the raters of New York State see this thing and believe that it could ever pass, we'd be having all kinds of problems with our bonds again. We'd be going back to where we tried to leave a decade, two decades ago, and it's not what we have should be doing.

We should be having a responsible budget, not trying to backtrack now in order to curry favor with certain groups in the state, however much we might want to do that. And now I'd be happy to yield.

ACTING PRESIDENT FARLEY: Senator DeFrancisco, Senator Halperin will yield.

SENATOR DeFRANCISCO: Senator Halperin, you earlier raised two amendments to the package or bills or the bill that's presently before the Senate, correct?

SENATOR HALPERIN: Correct.

SENATOR DeFRANCISCO: Was that done in good faith?

SENATOR HALPERIN: I'll -- I'll leave that to your judgment. I will say -

SENATOR DeFRANCISCO: Well, the question -

SENATOR HALPERIN: I will say this: If you remember what I said before, I presented those bills. I said, if you wish to assume that the amnesty will produce those dollars, then, I would like to see these particular tax reductions implemented.

I also pointed out that the two of them together is valued at $50 million, not $230 million.

SENATOR DeFRANCISCO: But will you yield again for another question?

SENATOR HALPERIN: Yes.

SENATOR DeFRANCISCO: But if your amendments passed, would you support the amended version of this bill?

SENATOR HALPERIN: If my amendments had passed, would I support -- yes.

SENATOR DeFRANCISCO: Well, then, is it fair to say that you don't have any deep

seated hatred for the concept of a tax amnesty program which would reward people who have been cheating this community for years and the horror that would be caused the Tax Department?

SENATOR HALPERIN: Well, if it was properly structured, it would be better, but I also pointed out that I -- I do have problems with the tax amnesty program. I meant if I - if I were to have the tax amnesty program once again these bills come up and we don't have the opportunity to do exactly what we wanted and if I thought the amendment would pass, I -- that I would gladly have put forward a tax amnesty program that, number one, would not have applied to the large corporations as -- which is the way we handled it before, would not have let anybody off the hook that is, that have already been identified as -- as being tax cheats and already in the pipeline, so to speak, and then I could have gone along with it, although I still have problems with the notion of letting people off after we say we're never going to do it again.

SENATOR DeFRANCISCO: O.K.

ACTING PRESIDENT FARLEY: Senator Leichter, who was kind enough to yield to Senator Halperin.

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

I think it's sad, in fact I think it's appalling while we go through this exercise in "Fantasy Land" that rent control and rent stabilization are expiring and while this little game is being played ostensibly for the benefit of the people of the state of New York, when I think any sane person knows that, one, this program is going nowhere and, secondly, it shouldn't go anywhere except into the waste basket, that what needs to be done to address the concerns of millions of New Yorkers who might find themselves without the protection of rent control, that that issue is not before us and I can only say shame to the Republican Majority for their refusal to address the issue of rent regulation and rent control.

Now, if you didn't want to go along with Senator Goodman's bill, a member of

the Majority, a respected member I'm sure, to make rent control permanent, you could have gone and extended it for two years, or if you wanted to put up what I think is a foolish bill, frankly, which would have provided for elements of decontrol by Senator Bruno, bring that bill up. But by failing to do anything, you are dooming rent control and for the first time since, I believe, 1942 or 1943, there will be no protection for people in this state, in New York City, in Albany, in Buffalo, in Nassau County, in Westchester, who need this protection. They will not have it, and the failure to do this lies squarely with the Republican Majority.

And instead of dealing with an immediate need, we're engaged in playing around with funny money, because that's all it is. The amnesty, by no stretch of the imagination, could conceivably raise the monies that you're talking about, and if it did, it would be perfectly foolish to proceed on the tax reductions that you put forward.

Senator Daly speaks, and I'm sure

sincerely, about the need to do something about the state's economy. I don't know whether what is said, frankly, what is more unfortunate or what is more distressing than Senator Daly believes this or that we have before us a cynical piece of political propaganda because that every study shows that corporate taxes are not a key decision by corporations of where to locate, whether to expand. They are not a major loss to business. That's just simply so, it is a fact. That has been studied time and time again. Taxes are about the fifth or sixth consideration as far as corporations making a decision where they want to carry on business.

Secondly, the corporate taxes in this state as a percentage of the revenue raised happen to be much lower now than they were some years ago. Senator Stafford called to our attention that since he's been here -- and I don't know whether he wanted to claim that there was some correlation -- that the budget has gone up dramatically. But, Senator Stafford, when you first came here, a much larger portion of

our revenue came from the corporate tax.

Now, there are many reasons why this state has lost jobs, and I'm not suggesting that we don't need some sort of a policy, but the main problems that we've had outside of the recessionary factor, which is worldwide and over which we have very little consideration, is lots of manufacturing jobs, which we can not bring back in any appreciable extent.

The job loss that this state has had falls mainly in that area and our response has to be to find those new industries, those new job creations, businesses, which are going to help us grow our economy and what this probably means is investing in those areas where we have an advantage over other states and where we have the potential of bringing in businesses.

I suggest one to you is the whole biomedical area. We have wonderful medical institutions in this state. They may not be as strong financially as they once were, but they, together with universities, are the basis by

which we could attract some of these industries. So that, if you had money available you would want to put it there instead of an across-the-board reduction in corporate taxes which are not going to create jobs.

I don't know why I take your program seriously, because I don't think it's a serious program and, as I think Senator Halperin has pointed out, it is based on funny money and maybe sometimes it's fun to discuss these things even though we know we're engaged in a bit of unreality, but I think what makes it particularly dis... or what makes it distressing today is the fact that we're doing it when there is such pressing business that needs to be addressed, and that is the matter of rent control and rent stabilization.

ACTING PRESIDENT LIBOUS: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I'm just going to tell a brief little story about elected officials coming of

age in the era of Houdini economics. I've learned a little lesson about New York State, and it's been a wonderful, wonderful experience. I feel like I'm at a sideshow at a carnival.

When I came here, the first thing that I did is that I met one of the magicians, and the magician showed me his hat, turned over the hat and said, "See, there's nothing in there. I've spent all the money in the budget, I've got to cut money, I've got to cut some programs, but look at the top hat and you'll see there's nothing in there."

Then he put the top hat back on the table and, sure enough, about two and a half months later, Mr. President, he was joined by a couple other magicians. They waved this little wand and all of a sudden one of them put their hand in the thing and pulled out this rabbit, an 800 million, 650 million, $700 million rabbit, and he said, "Look what we found, $700 million worth of rabbit," and he handed it to the other magician is, and they felt the rabbit and it,

you know, feels like a rabbit, looks like a rabbit; my gosh, it is a rabbit, and said to the 61 people in this body, We've got a live rabbit; what are we going to do with it? We can do a lot of things with it. We could cut it up. We could spend money. We could, of course, give a business tax cut. We could do all the things that the chairman of the Finance Committee now suggests that we do. We could have done all those things with that live rabbit.

Well, instead, we sort of cut all the rabbit up and gave money to Little Leagues, we gave money to all these other programs, many good programs, many programs that I question, but, sure enough, we carved up that little rabbit and we parcelled it all around and there was no rabbit for a business tax cut.

So I figure that was the decision, right? Lo and behold, I find out this week that one of the magicians appears back on the stage, waves his hand over that little top hat which, of course, we were told was empty, you know, we were shown that little empty

top-hat so they fan it to the audience. Sure enough, now one of the magicians taps it three times, reaches into that heretofore empty hat, pulls out this big huge rabbit that says "tax amnesty". Got a big huge rabbit here. It looks like a rabbit. He hands it around to some of the other people on the and they all go, "What rabbit? I haven't seen that rabbit. Must be the reincarnation of Harvey. He's come back."

Sure enough, there's a rabbit that someone sees but, frankly, my cynical colleagues, Mr. President, on this side of the aisle say to me, "There's no rabbit there. That's just a figment of someone's imagina tion." Well, you know, I have to agree with the chairman of the Finance Committee, I see a rabbit there, and I like the idea of taking that rabbit and cuttin' it up into a business tax cut.

I'm willing to buy the proposition Harvey's come back. You got me. I'm going to vote in favor of this, but my

cynical colleagues over here who have been here for several more years, I'm starting to think something's wrong. Maybe I'm being hoodwinked. I see it, but all my colleagues don't. Maybe something's going on that if I am here for another term or another three or four terms or as long as Senator Leichter, maybe I'll stand there and say, "There's no rabbit there." Maybe it's just because I'm a newcomer that I happen to see a rabbit.

Maybe when I get more cynical, maybe when I've been around here longer, I'll just say this was a political ploy. I'm not prepared to do that. You got me; I see Harvey. I'm willing to spend -- I'm willing to spend him, but that little tiny voice in the back of my head that says, Gee, maybe when you grow up you'll realize that this is just Houdini economics. Maybe that's -- well, it's not quite taken over yet, but you got me. I see Harvey. I'm willing to spend the money. I'm willing to give us a business tax cut.

Some may say I'm grandstanding.

Maybe, but, as I said, I can only hope that a little bit more maturity in this chamber will give me further enlightenment, maybe make me a true adult. Maybe when I look at Harvey next time, I won't see anything there as some of my colleagues do now.

ACTING PRESIDENT LIBOUS: Senator Gold, why do you rise? Do you see Harvey?

SENATOR GOLD: Will Senator Dollinger yield to a question?

ACTING PRESIDENT LIBOUS: Senator Dollinger, Senator Gold would like to know if you would yield to a question.

SENATOR DOLLINGER: Mr. President, Senator Gold is interrupting my fantasy, so I'm -

ACTING PRESIDENT LIBOUS: Senator Dollinger will not be interrupted.

SENATOR DOLLINGER: I've made my point.

SENATOR GOLD: Senator, yes. By coincidence last night, I happened to be watching Hans Christian Andersen, and I just

happened to have come from the King's palace, and you want to buy this suit of clothes?

SENATOR DOLLINGER: Mr. President, I'll just conclude. I -

ACTING PRESIDENT LIBOUS: Thank you, Senator Dollinger.

SENATOR DOLLINGER: I'm prepared -- I'm prepared to go with this, and you've convinced me.

ACTING PRESIDENT LIBOUS: Senator Stachowski.

SENATOR STACHOWSKI: Just briefly on the bill, and I'm probably also going to vote for this because, if they say the money is there, then I hope the money is there. But I do have a question. It's a rhetorical kind of question.

Basically, on what Senator Daly said, where he talked about that this bill is the big bonus for the many unemployed men and women, working men and women, in New York State and I just hope John Daly is right on this particular instance, because I would hate to

think that we're going to do this business cut and that particularly the manufacturers who come to us all the time and say, you know, We have to have all these cuts; we're getting heavily penalized by the tax system, why manufacturers are leaving the state, and I would hate to think that they are going to use any kind of money that they gain by this bill if this bill would ever pass this house and then eventually the Assembly and signed by the Governor, and use that money not to hire the unemployed men and women but to use it as the seed money for the new factories that they're planning on building when the NAFTA agreement possibly is passed by the United States with Canada and Mexico, and they use that money to create new factories in Mexico because the people working there who are unemployed, agricultural people that used to have subsidized jobs on the farm, that are now looking to the plants where they can make all of the 59 cents a hour or dollar eventually if things keep getting better for them, and that the end result will be that this bill will have

caused the seed money to move the plants and move existing plants, and what we will have done is given them the impetus to lose more jobs in the state of New York, and I hope that's not the case and not that I'm saying that our fine manufacturers in New York would want to do that, but there's people that are in industries that never before talked about things like that and in particular the garment industry and everybody knows about the threat to the auto industries, and I know that the NAFTA has nothing to do with the legislation we're doing.

However, when we are worried so much about the manufacturers, and the high costs that they have of doing business in New York and the fact that they already say when they move not because they left for North Carolina, for example, because there was a sweetheart deal and no unions there and they pay less for the employees and they got all kinds of tax breaks that that had nothing to do with it, and not because they go to other states for the same reason where there is not organized labor and

now they have this whole new right arm area of Mexico where they'll have to pay very little labor, there's no environmental enforcement and that there's no worker protection kinds of things, not that they would take advantage of that and at the same time maximize their profits in New York, and then tell us when they move it's because we don't get enough easement from New York. Now that they want to make more profits.

I just hope that that's not the real reason that business is looking for all this and that, hopefully, we are helping the unemployed men and women in the state of New York.

ACTING PRESIDENT LIBOUS: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I rise for two reasons. The first is to ask unanimous consent to be recorded in the negative on Calendar Number 677, and the second is to be heard on the bill.

ACTING PRESIDENT LIBOUS: All

right. We'll do that without objection, but please speak on the bill.

SENATOR NOZZOLIO: Thank you, Mr. President.

I was intrigued by Senator Dollinger's metaphor, but concerned that, although brevity and levity are factors in this chamber that are often welcomed, the fact is that this is an extremely serious situation. Ask anyone who's lost a job in this state over the last year.

When I was growing up in the 1950s, New York State had one out of every three jobs was in manufacturing. Today it's one of every eight. During the current national recession, New York lost almost 40 percent of the entire manufacturing jobs lost in this nation. In 1992 alone, New York lost over 44,000 manufacturing jobs. That is very serious. There is nothing more serious that could be debated in this chamber than this issue of revitalizing New York's economy.

That we have a crisis that exudes

all proportion; that we have today a million manufacturing jobs in New York; that's the same number of manufacturing jobs that we had when Roosevelt was President of the United States. That's Theodore Roosevelt, not Franklin Roosevelt.

This is a serious situation in the area that Senator Dollinger, Senator Jones and I represent, along with Senator Daly, and that's the Rochester/Monroe County area which, once considered the strongest area in the state for manufacturing, has lost 37,000 jobs since 1980. That's more people than reside in the county that I reside in, Seneca.

My colleagues, of all the reforms that are discussed, of all the issues debated, there are none more serious than this. We need to revitalize our economy. This program jump starts New York's economy along with the bill debated next regarding regulatory reform. We need these together. There were many reasons why -

SENATOR LEICHTER: Mr.

President.

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

SENATOR LEICHTER: Will Senator Nozzoli' yield?

ACTING PRESIDENT LIBOUS: Senator Nozzolio, do you yield to Senator Leichter?

SENATOR NOZZOLIO: I'm always happy to yield to Senator Leichter, although I would like to correct him that there is an "o" on the end of my name and it's been missing the last five or six debates. I know you would like to call me by my right name, or maybe you wouldn't. But Senator Nozzolio is my name.

ACTING PRESIDENT LIBOUS: Does that mean you won't yield to Senator Leichter?

SENATOR NOZZOLIO: Yes, I will.

SENATOR LEICHTER: I'm sorry. I have a name that's often mispronounced too, and I try not to be sensitive to this because I've done this also to Senator Kuhl. All right. That was a joke. But -- but we -

Senator, you're absolutely right,

the loss of manufacturing jobs, you're absolutely right that it's an extremely serious matter, that deserves a serious response, and I'm -- I don't need you to answer that because I know you agree that it needs a serious response.

I just want to know from you, do you think that reducing the business tax surcharge from 15 percent to 12.5 percent which, according to my figures, would yield $135 million, assuming that they are -- that that's going to bring back all these manufacturing jobs?

SENATOR NOZZOLIO: It's certainly a start in the right direction, Senator, and I believe that it not only is a step in the right direction, but it sends a very clear signal to those who are forecasting, right now in companies across this state, there are people called business planners, and those business planners are deciding whether or not to locate additional jobs in New York as the economy nationally rebounds or to move those jobs to

other states.

We need to send a good signal to those business forecasters, Senator, and I think that not only the dollars saved put into the economy but also the signal is very important and, remember, we're also extending the business petroleum tax exemption through this measure which adds another $38 million into the pockets of those who are making these decisions that could be worth another good signal, another addition to this revitalization.

SENATOR LEICHTER: Mr. President, if the good Senator would yield to another question?

ACTING PRESIDENT FARLEY: Would you yield again?

SENATOR NOZZOLIO: Certainly.

SENATOR LEICHTER: Senator, could you explain that if the corporate tax is such a factor in the loss of manufacturing jobs that this relatively minor reduction is going to be this great signal and is going to jump start the economy and all the other exciting metaphors you

-- and adjectives that you used, why during a time when the corporate tax was declining, and it declined significantly until the surcharge was put on; it declined in real terms, it also declined and continues to decline as a portion of the total state revenue, why was it during that period of decline that we were losing most of our manufacturing jobs which was in the early part of the -- really starting in the middle '70s and continuing into the 1980s?

SENATOR NOZZOLIO: Senator, we are being watched in this chamber by the manufacturing and business community of this state. They see Albany, particularly over the last five years, create an environment that was not conducive for expansion. As our economy rebounds nationally, we have to ensure that New York rebounds with it and that I believe that those forecasters now, as they look to the next five years, are looking to a revitalized economy throughout our nation, and that New York must comply, must comply with that rebound.

We cannot be against the trend,

Senator, and that's -- I believe that by your question, you are stating that to do nothing is the appropriate path? I hope you're not suggesting that, Senator, but it seems like you are. It seems as as though you're saying to do nothing is better than doing something; to send no signal to business is better than sending a positive signal to business. To me, Senator, that's miscast.

SENATOR LEICHTER: Mr. President, just a final -

ACTING PRESIDENT FARLEY: One final question.

SENATOR LEICHTER: Sir, I'm suggesting that doing something that I consider foolish is, indeed, the wrong thing to do and if you had listened to my comments before, Senator, I pointed out some of the things that we could be doing and some of the industries that we could be helping, some of the jobs that we could be creating. It also would be creating more jobs and helping some of our small businesses in export, but it is clear that New York State will

not be able to recapture the manufacturing activity that it had in the 1950s and 1940s and it's perfectly senseless to try to talk as if that was something that was in hand. It's not in hand for us, and it's not in hand for most of the Northeast and probably for that matter it's probably not in hand for major portions of the United States.

I would -- I would suggest, Senator, that we deal with reality instead of with slogans, and I think then maybe we could - we could begin to address the economic malaise in this state which I submit to you that this bill does not do.

ACTING PRESIDENT FARLEY: Senator Nozzolio, you have the floor.

SENATOR NOZZOLIO: Thank you, Senator.

Senator, to surrender regardless of whether you believe manufacturing has a future in this state, and I believe it does - talk to those manufacturers, particularly the upstate area, who are looking to expand, who

have developed new product, good product, who have good resources, who have a good work force, the only thing they need is to be able to convince their forecasters that New York does mean business again.

That's why I support this measure, Mr. President. I think it is the absolute essential reform that this house, this Legislature, this government could enact. I applaud it. I'm supporting it.

This, along with the bureaucratic reform which, in my view, will end the "radar trap" mentality that bureaucracy has had in this state for too long, are the one-two punch needed to be enacted this session.

Thank you very much.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: Yes, briefly, Mr. President.

I just feel bad that one of my colleagues from Monroe County seems -- is so concerned and so uncomfortable. I wouldn't like

to see that continue.

The rabbit problem: I really believe that the rabbits multiplied too fast and Senator Dollinger missed one because the rabbit amnesty was there all the time. He couldn't see it. It sat right in the middle of a negotiating table in the budget. We've been talking amnesty now for six months. We knew it was there. Unfortunately the Assembly and the Governor wouldn't talk to us, and this is our way of raising the question again, and a very legitimate way.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Senator Jones.

SENATOR JONES: Yes. To speak on the bill.

I'm left with a few questions, I guess, on this bill but, you know, kind of more rhetorical questions than anything. Since I'm the new person here, I guess I'm left wondering where these terrible taxes came from that obviously have been harmful to business, and my

second question that I keep asking myself is, why didn't we fix them during budget time?

Obviously I can't take the blame, and I'm surely not going to assess it either. My -- Senator Daly just mentioned it was there, the amnesty was there all the time; we couldn't see it. That's correct because we weren't in on the budget negotiations. I didn't see it, but nevertheless, all those things aside, I really applaud your efforts because I agree with Senator Nozzolio, I certainly have had the business people at our door, I know our own Eastman Kodak had to make a further announcement today of further cutbacks. They're selling off one of their businesses. So no one has to tell me what upstate New York is suffering in the manufacturing line.

I certainly am not privy to how the numbers are multiplied or added around here because it is a mystery how money keeps turning up, but I'm going to make the assumption that, as my colleague did, that they're correct, and I really hope we're not just sending a signal. I

really want to send a real relief package that is going to boost the economy of this state. So I'm hoping that is what we're doing today, and I also am going to say at this point, I will look forward to working with all of you next year at budget time, since I'm of the opinion this is a one-time thing and we will certainly have to make some significant cuts next year if we're going to be able to send out a balanced budget and maintain these relief tax -- tax relief packages that we're giving today.

ACTING PRESIDENT FARLEY: Senator Stafford to close.

Was there somebody else? I'm sorry.

SENATOR ONORATO: Mr. President.

ACTING PRESIDENT FARLEY: Senator Onorato.

SENATOR ONORATO: I just wonder if the sponsor would yield to a question.

ACTING PRESIDENT FARLEY: Senator Stafford, would you yield?

SENATOR ONORATO: It isn't often

that we have an opportunity to vote on some tax reductions and give some business relief to our state. I was just wondering, your assumptions are that we'll generate $230 million from the tax amnesty. We know positively that you've got $230 million worth of tax cuts and tax relief. Do we have a failsafe mechanism like, you know, when we go to the track and we make a bet on a horse we know we're betting against someone else's money, and we know if we bet on a two-to-one shot we're going to get two-to-one return on our money. But here you're assuming $230 million in amnesty funds that will come in. If we do not generate the $230 million, is there a failsafe mechanism in here to ensure that we don't come back with a $200 million deficit after providing $230 million worth of tax relief?

SENATOR STAFFORD: That's an excellent question. I mentioned earlier, Senator, that I found a number of years ago that, as I said, science is not -- or medicine is not an exact science, and I assure you all of

these proposals and projections that we're given every year by the various offices, whether it's legislative, executive or other, they're not final; we're not sure and all we do is try to do the best we can in making these projections.

I certainly would not stand here if I did not think we could get $230 million. We're not certain that our projections last year were exactly right.

SENATOR ONORATO: Well, I just felt that perhaps it would make more sense to predicate the tax relief based upon the monies that were generated from the tax amnesty. Once we have the monies in the pot, then we know exactly how much we can give.

SENATOR STAFFORD: I see your point.

SENATOR ONORATO: I think that would make a lot more sense.

SENATOR STAFFORD: Possible, excuse me. Also when you said that you have a two-to-one that you always double your money, that's not always been the case with me.

I would share this with you also. I would share -

SENATOR ONORATO: You should have a better betting system.

SENATOR STAFFORD: You're much better than I.

I would suggest, if we could do that with the whole budget as a matter of fact. We don't know exactly what their projections are or what the exact number is, there's no question about it, but you can believe it or not, you can get people that are very, very expert and they will give you three different numbers and we actually have a word for that in the budget and to -- and I would say, as far as Senator James Stewart is concerned -- I'm talking about Harvey -- wait until he's been here long enough and he starts to hear a carrot make a noise, then he really knows there's a problem.

But I say on a very serious note, on a very serious note, these are steps in the right direction, and I think, again, Senator Marino and all the sponsors and all who have

worked on this proposal are to be complimented. This is a direction we have to go, and I'll finally say this because it's been said too many times today, we have to support and get the business engine going in this state. We have to work toward that end and, if we don't, all is for nought.

That's why this bill is good, and I certainly hope that it prevails.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 41. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

SENATOR LIBOUS: Mr. President, may I explain my vote.

ACTING PRESIDENT FARLEY: Senator Libous to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT FARLEY: The

hands of those that are going down.

SENATOR LIBOUS: Thank you, Mr. President.

You know, it's interesting, last week I had the pleasure of touring several manufacturing businesses in my district along with Senator Seward, and at each stop we talked about this proposal, and many of the business owners said to us, Why would anybody be against this proposal? It's good for business. It's good for the state's economy. It's going to create jobs. It's going to get things started again. Why would a legislator want to vote against this proposal?

I wish those people were here today because I couldn't explain it on that day. There should be no reason why anyone in this chamber doesn't support this legislation. You know, I heard throughout the debate how we have to -- we have to move forward, and then I heard a little bit about history and how we tried the tax amnesty and we tried a number of different things.

The bottom line is business is hurting in this state. We have to do something to create jobs. This proposal is a start in that direction. We've got to become business-friendly in this state. That's a term I hear all the time in talking to my businesses and for those of you who don't believe that just a slight rollback to 12.5 percent is important, it sends a positive message. And I heard somebody say, Well, that's just a slogan. Well, sometimes slogans work and I think this legislation is excellent.

It is a message to business. It is a message that every legislator should vote aye for and send to business because we want to do one thing, and that's put people back to work in this state. So we can talk about the past; we can listen to history and you can tell me how nothing ever works and how these proposals didn't work before. We've got to try to do something.

I urge you to vote with me and vote yes on this proposal.

ACTING PRESIDENT FARLEY: Senator Bruno to explain his vote.

SENATOR BRUNO: Mr. President, I would just stand and remind my colleagues that have been speaking in opposition to this package that they ought to refresh themselves on their leader in this country when he repeatedly said, "It's the economy, Stupid."

Remember that, ladies and gentlemen, as you vote against a tax package/ regulatory reform package that is intended to help fix the economy. So just remember what your leader trooped around this country saying, "It's the economy, Stupid," as you vote against this package. You take that message back to your constituency that you had an opportunity to do something about the economy and you rejected it, and hopefully those same people will reflect on that a year from this November.

I vote yes.

ACTING PRESIDENT FARLEY: Senator Halperin to explain his vote, then Senator Stachowski.

SENATOR HALPERIN: I'd like to make it very clear. I'm not against these tax cuts. I believe that they would be helpful in stimulating business but, as good as they might be, we will be doing more harm to ourselves if we begin again to go down the slippery slope of fiscal irresponsibility.

If you were really so committed about these tax cuts, then why didn't you bring them up as part of the regular budget along with spending cuts, spending from some of the programs you like? Because that was too difficult.

So now you come ahead with a bogus amnesty program that, even if it did work -- and it won't work -- but even if it did work, all this does it's another one-shot. It's another $230 million we'll have to find next year, and I'm sure I've heard a lot of criticism from the Republican Party against the mayor of the city of New York and the City Council and the Republican members of the City Council who all voted against the irresponsible city budget

that was balanced on one-shots and how terrible that was.

Well, what do you think you're doin' here? This is a one-shot. Next year you're going to have to find, assuming this thing works which I doubt, I think you're going to have to find a way to pay back the deficit, the shortfall, from last year and you'd have to find out how to make the one-shots up for next year.

It's not going to work. It's just not going to work. It's irresponsible. The rating agencies are going to clobber us if they ever thought this was serious and that would hurt us more and hurt the businesses more in this state than your proposal would help.

So if you want to do this, come up with a balanced budget and do it as part of a balanced budget, not in this irresponsible manner.

ACTING PRESIDENT FARLEY: Senator Stachowski.

SENATOR STACHOWSKI: I'm just

rising to vote yes on this bill. I just hope that hopefully it works out as proposed that we can stimulate business, and I'm sure Senator Bruno is just reminding us about all these taxes, all of which he voted for and that we're finally going to take these off of business and continue the economy growing.

ACTING PRESIDENT FARLEY: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1106 are Senators Connor, Espada, Gold, Halperin, Leichter, Markowitz, Mendez, Montgomery, Ohrenstein, Smith and Waldon, also Santiago. Ayes 49, nays 12.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Sears.

SENATOR SEARS: Mr. President, on page 12, Calendar Number 677, Print Number 69-C, could you record me in the negative, please.

ACTING PRESIDENT FARLEY: Without objection.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we return to motions for a second?

ACTING PRESIDENT FARLEY: We certainly can, I guess. It's up to Senator Present.

SENATOR LIBOUS: Thank you, Mr. President, and Senator Present.

Mr. President, I wish to call up my bill, Print Number 3815-B, recalled from the Assembly which is now at the desk.

THE SECRETARY: By Senator Libous, Senate Bill Number 3815-B, an act to amend the General Business Law.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT FARLEY: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

ACTING PRESIDENT FARLEY: Bill is before the house. Senator Libous.

SENATOR LIBOUS: Mr. President, I now offer up the following amendments.

ACTING PRESIDENT FARLEY: Amendments are received. Bill will retain its place.

SENATOR LIBOUS: Mr. President, I have one more motion.

ACTING PRESIDENT FARLEY: Certainly.

SENATOR LIBOUS: Mr. President, on behalf of Senator Kuhl, I wish to call up his bill, Senate Print Number 2667-A, recalled from the Assembly, which is now at the desk.

THE SECRETARY: By Senator Kuhl, Senate Bill 2667-A, an act to amend the Navigation Law.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT FARLEY: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 61.

SENATOR LIBOUS: Mr. President, I now hand up the following amendments.

ACTING PRESIDENT FARLEY: Amendments are received, the bill will retain its place.

Senator Present.

SENATOR PRESENT: Mr. President, we call up Calendar Number 1105, please.

THE SECRETARY: Calendar Number 1105, by Senator Marino, Senate Bill Number 5868, an act to amend the Executive Law.

ACTING PRESIDENT FARLEY: Senator Bruno.

SENATOR BRUNO: Mr. President, we have an opportunity in this chamber late this afternoon, early this evening, to do something for the people of this state that my colleagues who have commented were right, we didn't do earlier in this year. But you, again, will recall -- and I didn't make it up -- and reflect on, better late than never. I didn't make it up; I read that somewhere. I heard that

somewhere.

Now, Senator Leichner, I am absolutely amazed, as I sat here and, believe me, I had all I could do to stay in my chair when you talk about business not minding paying taxes in this state, and that it is not expressive and oppressive, but that issue temporarily has been dealt with, thanks to the Majority in this house, and a few of your colleagues who have great wisdom to join us.

We dealt with that issue, but there are two parts to what has created the problems that we suffer in our economy in this state. One is the high taxation and the other is the excessive regulation of businesses in this state.

Senator Marino, in his wisdom, has seen fit to provide the leadership with the Majority in this house, hopefully with many of our colleagues on your side of the aisle, to try and do something to move the economy forward in this state, to create jobs, to help businesses create profits so that they can expand their

businesses.

The objective of this package, if it has escaped you, is to do something specifically with some of the harshest taxes that we have to levy on the people of this state and remove them, and at the same time recognize that the over-regulation that is smothering businesses must be faced.

If you're not aware, and I've heard the statistics mentioned by Senator Daly and so many of the others here, just focus on the fact, Senator Leichner, and I have to look at you and talk specifically to you because of the observations and comments that you were making.

43 percent of all of the jobs lost in this country came from New York State until the last three or four years. Does anyone in this chamber think that that's an accident; that that just happens? Does anybody here think that? We must take the responsibility, we in this chamber, for having done some things wrong, led by the chief executive of this state, our

Governor, led by our Governor.

So while you take great pleasure in talking about the tax packages that we voted for, bear in mind that it's your Governor, our Governor, that proposed these budget and these tax packages to cover the spending that he also proposed.

Excessive taxes, excessive regulation, 43 percent of all the jobs lost in this country come from New York State. For the first time this year since 1906, we have less than a million manufacturing jobs in New York State. Since 1906. Senators will say, what are you goin' to do about it? Manufacturing jobs are gone from New York State, and they're gone forover, quote/unquote.

Well, that's just a lot of nonsense. That's all it is. If we have the guts to do what has to be done, Senator Marino and the Republican Majority in this house is leading the way and showing the way. If you've got the guts to join, we can do something to turn this economy around.

The Governor has said we will lag the rest of the country in the recovery. Why? Why must we lag the rest of the country? We in this house should refuse to accept that. We should lead the way. We have a package that does away with much of the over-regulation that is smothering, suffocating, stifling business in this state, creating the 650,000 jobs lost in the last several years.

Now, maybe we can't do all that we'd like to do in tax relief, but, Senator, examine this program; maybe you can support lifting the costs of these regulations that stifle business, smother business, drive them out of the state, drive them out of business, create the unemployment that we have suffered from in this state.

I'm not going to go through specifically all parts of this legislation because I have a feeling a few of you stayed up late last night studying this legislation and are prepared to address some of the specifics. I know Senator Mendez was probably up until 3:00

or so, reviewing this legislation, and I know many of you were studying it. Senator Leichner is still studying.

Generally, we talk about doing something about fees that are passed on to the consumers in this state. We're saying things that are so practical, like if you paid a fee for a permit to the state, presently you pay 100 percent of the fee. It might be six months, it might be a year, it might be never when you get that permit. What we say in this legislation, when you apply for a permit you pay one-third of the cost; you in business, keep the rest of the money. When you get the permit or if it's denied and there is a cost associated, you pay the other two-thirds. Just practical common sense. When you get the goods delivered, that's when you pay, not what we're doing now.

We're talking about things like getting rid of that "southern sheriff radar" mentality of trapping people as they go through their town to fine them. We're talking about taking the fines that the agencies like to levy,

because by levying fines they fund their own agencies, just totally unfair to business, non-productive. We're talking about taking those fines, putting them into the general fund.

We're talking about sensible things like improving the IDA in the way they function. We're talking about sensible things like negotiated rule-making, negotiated regulations. Very simply, if an agency is going to regulate a business or a profession, they must indicate so publicly and then give that profession or industry a chance to put together a committee with an independent arbitrator appointed by the Office of Business Permits and Regulatory Assistance, an independent arbitrator that would participate in the process of rule-making as an agency is going to regulate a business or a profession. Just sensible, giving people input.

We're talking about the hundreds of economic development programs in this state that don't work. We're talking about getting

the private sector involved in helping them establish goals and objectives and then reporting those goals and objectives back to the Legislature and whether or not they're met.

We're talking about trying to make those programs more efficient, but let private sector people have an opportunity to refine these literally hundreds of programs, some of them meaningless, that aren't working. If they were, we wouldn't lead the country in job loss, if they were working, so let's try and fix them, since they're apparently broke.

We're talking about setting up an independent agent within several of the state agencies that impact business the most, like Ag and Markets, labor, EnCon. This independent agent would be responsible to the Office of Business Permits, not to the agency, and that individual would be there within the agency to make sure that the agency is responsive, to try and refine the work of that agency to be available for businesses that reach that individual to help cut through the red tape in

that agency. Common sense. You would wonder why it's not done now.

I could go down with a litany of other regulations that are stifling businesses that we have an opportunity now to do something about. Senator Wright had an idea that is in legislative form that's incorporated here that talks about establishing an office of administration, which is designed to take the agency bugs out of the business.

We talked about prohibiting agencies from promulgating new regulations that suffocate and smother businesses. That's what we're talking about in this package, very comprehensive.

I've given you ten minutes worth of some of the highlights, not even all of them. Look at it closely, study it and recognize that what we're trying to do in this house is serious business. We're trying to help create jobs for people in this state that desperately look to us for leadership.

So join with us in this effort to

help this economy recover, create jobs in this state, get people off of welfare and unemployment. You have an opportunity to do that, and I hope you will take advantage of it.

ACTING PRESIDENT FARLEY: Senator Stavisky was first. I'm sorry, Senator Leichter.

SENATOR STAVISKY: Mr. President, I wonder if Senator Bruno would yield for just one question.

SENATOR BRUNO: Yes, Senator.

SENATOR STAVISKY: I note that in a summary of the provisions of this bill, the removal of enforcement fines as a revenue source, am I correct in stating that?

SENATOR BRUNO: In that they would go directly to the agency, not necessarily removal of the fines. The fines would go into the General fund.

SENATOR STAVISKY: O.K. Let me ask you this question: Does this provision apply to the penalties provision of the Taylor Law which, as you know, requires that for every day

that a public employee is striking, there is a two-for-one strike penalty, and not only is there one day withdrawn from the worker's salary, but two days are withdrawn and very frequently, the employers -- in this case government, local government, state government, the school districts --have, in fact, used the strike penalties, the two-for-one penalties, as a means of funding even the small settlement that may finally be arrived at.

In order to be fair to labor, to employees as well as to the employers, does your bill address that unfair provision contained in the Taylor Law?

SENATOR BRUNO: Yes, it applies to the Taylor Law if the fines would accrue to the state. It applies to all state agencies. All fines collected would go into the general fund.

SENATOR STAVISKY: What about subdivisions of the state like school districts?

SENATOR BRUNO: It does not address subdivisions.

SENATOR STAVISKY: Or a county. So a county or a school district, under the provision of the law that we passed, a state law known as the Taylor Law, which was supposed to remove the unfair provisions of the Condon-Wadlin Law -- I remember that debate in the middle of the night in 1967 --so this proposal for fairness doesn't provide fairness for employees, only for employers, am I right?

SENATOR BRUNO: Senator, your -

SENATOR STAVISKY: Yes or no.

SENATOR BRUNO: You're talking about the Taylor Law, you're talking about school districts, you're talking about municipalities. I am answering your question as forthrightly as I can. Does not apply to municipalities or school districts. It applies to all state agencies, and fines that are levied by state agencies. Can't be any clearer than that, Senator.

You want to speak on the Taylor Law, be my guest'. I'll sit and I'll listen to you.

SENATOR STAVISKY: I'll be very happy to, Senator Bruno.

It appears that we are fair in one direction. It appears that we are unfair in one direction, and we in the state of New York and I don't -- I don't recall that you were a member of the Legislature at that time, I think you were a staff member, we in the state of New York imposed a set of ground rules not only with regard to state government employment but with regard to local government employment, counties, municipalities, school districts, and we said that, if someone goes out on strike because there was no negotiation, because only one side was willing to negotiate, that there will be a penalty provision, a two-for-one penalty provision under the -- under the law that we in the state adopted, and what you're saying here in this interest of fairness -- and I listened to you very closely, Senator Bruno -- you said that we would remove the enforcement fines as a revenue source.

Senator Bruno, if you're serious

about this, you ought to apply -- you ought to apply the same standard to another law that we approved in the state of New York during a Republican governor, with help obviously from two houses of the Legislature, and we ought to make it fair for employees as well as employers, and that's where I think you are not dealing equitably with both sides of the negotiating table, and sometimes there is no negotiation and as Assemblyman Rossetti said during that night, he said it better than anybody else, he didn't say labor is not a commodity, which is what the constitution says, he said, "You see these hands? You can't make them work against their will." And he opposed the Taylor Law because of that use of the penalties provision as a revenue source, as a revenue source, exactly what you claim you'd like to eliminate here but are not.

So I say there are some flaws in your approach. It's not even-handed.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes. Senator Bruno has put forward this bill as the economic universal solvent. About the only things you told us this bill wouldn't cure, Senator, I guess you just forgot it, was in-grown toe nails. Except for that, this -- oh, this bill is going to make everything the -- the New York State will prosper and the economy, and we're so grateful for the brilliant leadership of Senator Marino and the Majority. And the thing I find interesting is, because I'm very fond of Senator Marino and my Republican friends, but you're slow on the learning curve, and it became clear to me, Senator, when I heard you talk in explaining your vote on the previous great bill that we had, the one that restores manufacturing in this state to 1950 levels, when you said, "It's the economy, Stupid," and it's usual the Republicans are always too late in understanding it.

Yes, it was the economy, Senator, but there was --and it wasn't that George Bush, your candidate, didn't speak about the economy.

He did; but he talked about the economy in ways that people understood that he needed a reality check and, Senator, frankly, you need a reality check, and this bill, if it were subjected to a reality check, would not make it.

Frankly, this bill sort of reminds me of the town dump. It has every idea that hasn't done anything, you know, you throw away, and sometimes in the town dump you find a few things that shouldn't have been thrown away and indeed there are provisions in this bill that, if it were broken out in separate bills, I'm sure would gain substantial support from members of this side of the aisle, that maybe I would support too.

But overall, this bill is founded and based on anecdotal evidence, a failure to understand what the real thrust of the economy is in this state, a point that, Senator Bruno, you got up before and -- and you're wrong.

ACTING PRESIDENT FARLEY: Senator Bruno, why do you rise?

SENATOR LEICHTER: Can I just

finish this sentence, and then I'll yield.

ACTING PRESIDENT FARLEY: He won't yield.

SENATOR LEICHTER: You said 43 percent of all the jobs lost in this country come from New York State. 43 percent of the manufacturing jobs, that's a big difference, it's significant, but it's a big difference.

Senator, we're dealing here with people's lives, we're dealing with something that's very real, which is economic problems in this state, that we can probably affect to a very minimal degree and to that effect -- to that extent, we ought to do it, but we ought to do it with something serious.

I'll yield.

ACTING PRESIDENT FARLEY: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

Senator, there is always an excuse by you, your Governor, not to cut taxes when they're proposed, not to cut regulations,

always an excuse, always.

Now, I wrote like to ask you, Senator, what part of these regulations that we're trying to remove or trying to improve do you think are silly or a waste of our time and effort? Name one here that you don't think would be productive if we enacted into law, just one.

SENATOR LEICHTER: Senator, fine. Let me -- let me first point out, and I think it was stated by Senator Stachowski, but it deserves to be reminded and I mean you castigate the Governor on all of these terrible ideas; you're voting with him. We voted against these taxes.

I think the Governor has made some mistakes. The fact that he's from my party, I can say he's made a mistake. The fact was that it was the Republican Party and the Republican Governor, Nelson Rockefeller, that jacked up the taxes in this state, that had out-of-control spending.

SENATOR BRUNO: Senator -

SENATOR LEICHTER: That had out-of-control spending; so let me just say this, certainly on the bill, I'll tell you some things.

First of all, you set up and you people love to do this, you know, you talk, we're going to reduce the administrative burden. The first thing you do is you set up about four or five or six or seven boards that didn't exist before and then when somebody says, But wait, isn't is that going to cost money? Oh, no, no, no, no, that, we're -- we don't have to fund them.

SENATOR BRUNO: Senator, could you just share with me one thing, share with me what specifically you think -

SENATOR LEICHTER: I just told you. Secondly, you have an incentive -- you have an incentive tax program here; we have tried that. It was a colossal failure, Senator, and I can continue going. Unlike Senator Mendez, who stayed up all night studying this, I thought I had something better to do. I went to

sleep, and frankly, if I had read this, it would have put me to sleep very quickly.

SENATOR BRUNO: (Inaudible).

SENATOR LEICHTER: But the proposal -- the proposal for DEC, that's one of the real bugaboos that you people hate. So what are you going to do with DEC? You're going to impose controls by putting in people through a legislative process.

ACTING PRESIDENT FARLEY: Will you yield to that question from Senator Leichter?

SENATOR LEICHTER: I was answering him.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT FARLEY: I can't tell -- just a moment. Let's have a little order here. I can't tell who has got the floor or who is asking questions or who is answering them.

SENATOR LEICHTER: Senator, maybe you've been up too late studying this. I've got the floor.

SENATOR BRUNO: Mr. President, who has the floor?

ACTING PRESIDENT FARLEY: I think Senator Leichter does at the moment, Senator Bruno.

SENATOR BRUNO: Then, Mr. President, would you ask the good Senator in his good grace if he would answer my question without going on with all of this filibuster and all of this rhetoric and foolishness? Just give me one specific.

ACTING PRESIDENT FARLEY: Just a moment. Senator Leichter, will you yield? Just a moment. Senator Leichter, will you yield to a question from Senator Bruno?

SENATOR LEICHTER: Yes. Yes. Senator, I -

SENATOR BRUNO: Just answer the question.

SENATOR LEICHTER: Senator, as I mentioned before, specifically on page 24, as I said, the industrial and commercial incentive board, I think that's a mistake. We've had that

in the city of New York. We found that it was not particularly effective.

Secondly, you have, I think, the New York State Private Industry Review Council. Senator, I question the value or the benefit of that. I saw that you seek to impose some constraints on the DEC. I find that that is unwise and, as you yourself said, there are other agencies where you seek to intermingle legislative and executive functions as a means of impeding those executive agencies in carrying out their functions. Those are some of the things that I find wrong with -- with this particular bill.

Senator, I think there are improvements that we can certainly make in our administrative procedures. I have no question but that, in some instances, it has been difficult for businesses to do some of the things that they want to do, and in some instances, Senator, we had to do that, because we were under federal mandate regarding clean water, clean air.

We also have a responsibility, Senator, for the physical health of the people of the state of New York, and that requires that when it comes to wetlands and when it comes to other environmental areas that the Department of Environmental Conservation has to make rules, has to take actions relating to pesticides and -- and so on.

But what I find particularly distressing, Senator, and there I just think you completely lost the message about "It's the economy, Stupid." Didn't say, it's the economy stupid, and that anything you do is O.K. Anything you may do may be very stupid, Senator, and the point is to take a look at what the problems are of the state of New York. To a large extent, it isn't because of the Governor; isn't even because you voted for all those taxes, Senator Bruno.

It's because we're in a world recession, and that is the basic problem that we have. It's also that we -- the nature of the economy is changed; manufacturing has declined,

and there's no way we can bring it back. We know that the key factors for businesses are such things as the cost of doing business.

Do you have a well-trained work force? Our work force is not nearly as well trained as it used to be. One of the reasons is because of the cutbacks that we have had in CUNY and the community colleges, and so on. That's the first thing businesses look for.

They look at the cost of utilities, transportation. There are studies, Senator, which show that these factors are so much more important to businesses than taxes. Taxes, yes. Taxes certainly is a cost of doing business, but it's relative to these other items, it's a much -- it's a much smaller cost.

So I just want to point out that -

ACTING PRESIDENT FARLEY: Senator Bruno, why do you rise?

SENATOR BRUNO: Mr. President, would Senator Leichner yield to one more question?

ACTING PRESIDENT FARLEY: Would you yield?

SENATOR LEICHTER: Yes, yes.

SENATOR BRUNO: Senator, do you know that the National Federation of Independent Businesses did a survey two years ago, '91, and the survey showed that 72 percent of all the business in New York State, small businesses especially, felt that government was hostile to their business, and that 49 percent of them said they'd leave the state if they could.

Do you know also, Senator, that The Business Council, this very day, wrote a report, testified to a lot of the things we're talking about here and how critical this package is, this package to move forward, and do you know that The Business Council in March this year did a survey and that 79 percent of the business people surveyed said New York State is a very, very difficult state to do business in, more difficult than any other state, almost 80 percent of all businesses.

My question is, Senator, do you

go on with business as usual or do we recognize these things and try and do something about it as we are here today? That's my question, Senator. Do we do something about it?

SENATOR LEICHTER: Senator, and my answer to you is, do something that is intelligent. Do something that I think, to the limited extent that we can affect the economy, because clearly if you have a world economic recession and you have a national recession particularly severe in New York and in the Northeast, no state has the power to pull itself up by the bootstraps.

I think there are things that we could do that make some difference. I tried to point out before, and I'm not going to repeat what some of those things are dealing with exports and -- and trying to bring in biomedical industries, and so on, which I think we can do to a much greater extent than we've done, Senator.

But I think that here and there, you could find ways to make doing business in

this state better, but the major things that I try to point out to you, a well-trained work force, utility costs, transportation costs, these factors I don't see that any of them have been addressed by the package of bills that you put forward.

You start out, you get a sum of money, you give a tax deduction which, frankly, is almost meaningless as far as job creation and, therefore, denies the opportunity even if your money wasn't funny money, it was monopoly money, but let's say it was real money, something that came out of the federal mint, you wouldn't use it that way, then you come up with what you claim is great regulatory administra tion reform where you create more boards than we had. We end up with more administrative boards under your plan than we started out with. You have all sorts of tax exemptions, tax abatement programs, and you stifle some of the agencies in doing what they need to do to protect the people of the state of New York.

You're going to make the quality

of life worse, and that is essentially why people say, I'd like to do business somewhere else than in New York State.

I think we can do better than this. I think we've got to do better than this, but I think we'll only do better than this when we -- when we get away from sloganeering, from the shibboleths, when we start looking at what the real concerns are that we must have in this -- in this state, what the real needs are.

There are things that require our attention. This package of bills, frankly, doesn't do it.

ACTING PRESIDENT FARLEY: Senator DeFrancisco.

SENATOR DeFRANCISCO: I think the only way the quality of life in this state is going to be made better for more people is if people can work and, although it probably need not be said, but listening to some of the debate I think probably it should be said that in order to create jobs, businesses have to make money, and I don't think there's anything inherently

wrong with that concept.

To make money, it's got to be a situation in the state that is friendly to business so that the businesses can operate without impediments to doing business. Can you imagine, and I want to refer to one part of this bill because I started drafting some legislation on it myself, and that's the bill, the part of the bill that says agencies are no longer going to be able to fine and assess people to put it back in their department, rather it's going to go into the general revenue, general fund and there's nothing to do with the Taylor Law.

The Taylor Law has nothing to do with this. It's where the money goes in. It doesn't go to the agency any more, it goes directly to the general fund, wherever it comes from.

Could you imagine being able to start a business where you have absolutely no overhead whatsoever because the state's going to pay for it? They'll pay your payroll for an agency and, if you need more people or you need

more money, then all you got to do is go out and look for problems and find somebody and, if you don't want to find them, you could create another assessment and if you don't really want to get to that particular problem that day, just hold off that permit application and we'll wait until we get some more people after we find another company.

I mean it's absolutely amazing that we would be in a position in this state to allow agencies to be the arbiters of the fines that they impose that are -- go back into their own system to pay for their own salaries. It's absolutely unbelieveable and what this bill does, one component of the bill does, is it says, We're not going to allow that any more. You're going to have to live on your own merit if you're an agency and you're going to have to fight with everybody else for funds out of the general fund, and then maybe when you need some money out of the general fund, there will be a tax base from which to get money, and that's a tax base that is collected from businesses that

stay here when the business climate is more friendly than it is right now.

And it's not a question of being for people or for business. It's a question of creating jobs in this community, and that's the only way it's going to happen.

You know, there may be other ways to do this and more intelligent ways to do this, but before you criticize something as not being intelligent, it might be a good idea to read the bill first, rather than to go to sleep because the bill is too long or too complicated.

But the fact of the matter is, this is one plan and one group of ideas that will at least deserve a chance of success. You know, the Governor could do a lot of this by a stroke of the pen. He's the executive. He chooses not to.

The fact is, we can do something if this passes the Assembly as well. It may not be the best plan or the absolutely perfect plan but it sure is a step in the right direction and I would urge all of us, because this doesn't

cost us anything. In fact, it's going to save us money. It will save us money if we're eliminating the incentives for agencies to go out and create business. We might not need some of the people in those agencies. This could save money. It's not going to cost us money.

So I would urge all of us to support this. Just because it's not your idea doesn't mean it's not a good idea, and we're, on both sides of the aisle, guilty of that fallacy.

You know, it's a good idea. I think it should be supported by everyone and once again, it will send a message that the business -- to the business community that we're trying up here to do something to make things better. When you're making your decisions now, as to whether to stay here or expand, look to the Senate today and realize that we're trying to turn the corner rather than saying it's not intelligent; it's not a good idea, with no basis behind it.

So I urge everyone to unanimously

support this legislation, to send a strong message to the other body of this government for which you have a majority on the other side of the aisle, because they're going to have to pass on this as well.

ACTING PRESIDENT FARLEY: Senator Wright.

SENATOR WRIGHT: Mr. President, I'd like to speak to the issues of regulatory reform that are contained in this bill. In my district, I don't have the luxury of large financial institutions or real estate institutions or the banking community or the insurance community.

I have manufacturing, and I have agriculture and when I have the opportunity to speak with individuals in that manufacturing community and the paper industry, they tell me regulation is one of their primary concerns of doing business in this state, and then when I talk to the small dairy farmer, he tells me the same thing, regulations are their concern in terms of doing business and maintaining their

farms in this -- in this state, and I came to this Legislature with that as an item on my agenda, to address and to deal with, and I tried to do that in the course of the last five months and I was encouraged to hear the Governor in his State of the State message speak to the need for regulatory reform.

I, in turn, have been encouraged throughout the legislative session with the cooperation and assistance of my Assembly counterpart in developing legislation that would change the regulatory process and diminish the impact of regulations on businesses as well as our local governments.

So I think, in fact we believe, there is a consensus among both our houses and within the administration that we need to address regulatory reform. This bill does it. We're not talking as was implied earlier about totally deregulating things. There are some who may advocate that. I've never advocated that on this floor.

What we're talking about is

reducing over-regulation. The pendulum has swung too far. We need to achieve balance. We need to restore balance to the regulatory rule making process. This bill speaks to that specifically. It has specific provisions that will restore that balance. To ensure that there's fairness, to ensure that there's impartiality, that it's not simply the agencies determining the rules, serving as the umpire, making all the decisions but the regulated communities, be they manufacturing, be they local governments, be they the dairy farmers, have the means to participate, and we have a more level playing field as we develop those regulatory controls, because if you look at this bill, you'll see specific examples of how we can open up that process to better participation.

We have a provision that talks about changing the adjudication of contract disputes, so it's not the agency negotiating the contract, it's not the same agency overseeing the contract. It's not the same agency hearing the disputes, and it's not the same agency

making the decision and then hearing appeal. In fact, we take it outside and we use the standard business technique of using the American Arbitration Association. So there's an impartiality, a fairness. The state's interests are protected, but so is our business community.

We have a provision that provides for negotiated rulemaking, as Senator Bruno spoke to. Again, that process does not diminish the interest of the state. It simply opens the doors. It allows those individuals who are going to be regulated to participate. It allows those individuals who are going to incur the costs of those additional regulations to participate. It provides some protection and some balance. It does not deregulate. It reduces the overregulations. It opens the door. It provides balance.

And the third provision does the same as the establishment of the independent hearing examiners. Anyone who has been involved in an administrative hearing realizes that that hearing examiner serves in the agency, serves

that commissioner. This sets up again independence. It does not diminish the process, does not change the process, does not in any fashion compromise the state's interest. It merely says there will be an independent and impartial hearing examiner to oversee these issues.

And we even allow that that should be a demonstration, that we'll evaluate that and we'll come back and we'll fine tune it if it needs it. But we all recognize, and even the Governor acknowledges, there is the appearance of bias and, therefore, it needs to be remedied and addressed.

Those are but three examples. I won't belabor the balance of the bill. There are numerous other examples. But those three speak to restoring the balance in the state, reducing the overregulation, opening the doors so that individuals can participate in the process, not at the expense of the state, but at the expense of the public interest, but clearly in the public's interest to open those doors.

I think if we accomplish that, we will not only be addressing the needs of our business community and our local governments. We will be addressing the needs of the people in this state.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Senator Espada.

SENATOR ESPADA: Yes, Mr. President. Will Senator Bruno yield for a question, please?

ACTING PRESIDENT FARLEY: Senator Bruno, will you yield?

SENATOR BRUNO: Yes.

SENATOR ESPADA: There is a provision in this legislative bill that proposes or designates fifteen additional economic development zones. The question would be, where and/or by what criteria would these zones be developed and designated?

SENATOR BRUNO: As you know, we have a whole process that presently takes place creating the economic development zones, and the

objective is to help depressed, suppressed areas in the state to revitalize their economy.

So all we're really doing is expanding an existing program that has worked well in other areas of the state, just expanding it to other distressed areas.

That criteria can be established along the same lines that exist, or it will be subject to negotiation as we implement specifically the legislation to fund and do whatever is necessary. So it simply expands an existing program that in some areas has worked well to create jobs.

SENATOR ESPADA: Mr. President. On the bill.

ACTING PRESIDENT FARLEY: On the bill. Senator Espada.

SENATOR ESPADA: I think it a unique advantage that before coming to the state Senate and entering governmental life that I did have a small business, that -- or two in my lifetime that has dealt with state government, with city government, and regulations that seek

to regulate those businesses.

I have been involved in human service delivery and have interfaced with governmental agencies both on a statewide basis and on a local basis.

And I know it's not popular to break rank. Indeed, it's not the kind of thing I like to do, but the fact of the matter is that I recognize that there is a solid line of demarcation that sometimes prohibits some good things from happening.

This package, as it were, does have some provisions that ordinarily if they stood on their own I could not support. Does this package promote economic recovery? I don't know. Is it worth a chance? You betcha. It has to be given a chance. We have to, as we say in the street, move off the dime, get on with something, initiate something, and then we can judge the results.

I find in reading this, and I have, there is some things I don't quite understand. There's some problems. Like I

would have liked some specificity and designation of certain zones. I would have liked to not go for something that would not give state agencies the right, on occasion, on a rare occasion I would argue, to exceed federal requirements.

But as a whole, if we are to make some progress, I would argue that on the whole, regulatory reform, the burdensome hand of government would bring relief to business and to others that do business with this state.

I would support this particular legislative piece.

ACTING PRESIDENT FARLEY: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

A bit earlier, I heard Senator Leichter in some of his comments, and I heard him make reference to the fact that what we need here in New York is the ability, I believe he stated, in part, to have an educated work force.

And if I can somehow or another

narrow this down somewhat selfishly to the area that I represent in the mid-Hudson, Dutchess County and Columbia County, I can assure you that there is no area that has a greater educated, skilled work force anywhere within this state or, for that matter, anywhere within the nation.

We find ourselves, however, plagued, plagued now by recent events, principally the downsizing of IBM which has seen the loss of some 6,000 jobs in my immediate area, a very significant loss of jobs in a relatively short period of time. Needless to say, that's at the very least destabilizing. It's extraordinarily traumatic.

I don't think we ought to be wringing our hands in despair and waiting for the federal government to do something. Because what we have seen basically down in Washington, at least most recently, is the inability to act, in effect the kind of a paralysis that can only ensure a deeper and more troublesome economy.

I think we have to take it upon

ourselves, notwithstanding the fact that we're one of 50 states, to do the best we can for our state with what it is that we have the ability to work with. Within the confines of our borders, we have to do something to become more competitive.

I, for one, would certainly find it impossible under any standard not to be supportive of this omnibus measure, a measure which includes a tremendous amount of regulatory relief, a measure which by any standard certainly would make New York more competitive. And, really, that's what we're talking about is making New York more competitive.

We don't have the ability to serve as a national legislature. We're here as a state legislature, part of the state Legislature. Our duty, our obligation is to try and make our state more competitive, for a very simple reason. Competition is what lures jobs. Competition is what makes our people have bread on their table, money in their pocket, money that they spend that, in turn, winds up filling

the coffers of this state by way of revenue.

To ignore regulatory relief, to bad mouth regulatory relief is sheer folly. It bears no relationship to reality and borders on sheer lunacy. What is wrong with cutting down the types of paperwork that we have to contend with and our businesses have to contend with? What is wrong with establishing independent hearing officers? What is wrong with giving the businesses that you wish to regulate greater say in the process by which they are being regulated?

It makes sense. We have moved ourselves out of the market. We have done it to ourselves. We have let it happen. We're now trying to do a correction here. There's no reason why we shouldn't all embrace this correction.

Let's not wait for Washington. Let's not wait for the sky to fall. Let's not be a bunch of Chicken Littles. Let's try and grab opportunity from what is a bad situation and make the best of it.

This bill and the bill that we did a bit earlier, which contained a tax cut package, certainly at the very least the cut in the corporate franchise tax, sends a marvelous message to the business community that we're serious. This, in turn, delivers that message even more forcefully, and I think is an enormous step in the right direction, in the direction of competition, economic development and the restoration of New York's economy.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 130. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT FARLEY: The bill is passed unanimously.

(Laughter.)

Senator Present, what's your

pleasure?

Yes, Senator Galiber. Why do you rise?

SENATOR GALIBER: Mr. President, can I have unanimous consent to be voted in the negative on 1106.

ACTING PRESIDENT FARLEY: Without objection.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Yes.

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar 1105. Was it 1105 we just did?

1105, yes.

SENATOR GOLD: 1105, yes. Are you in the negative?

SENATOR LEICHTER: Yes.

SENATOR GOLD: Negatives?

ACTING PRESIDENT FARLEY: Okay. Shall we reopen the roll, Senator Present? What's your pleasure?

SENATOR PRESENT: Mr. President, I think that it would be easier.

ACTING PRESIDENT FARLEY: Just a moment. I can not hear the -

SENATOR PRESENT: Mr. President. I think it would be easier or either according to those -

ACTING PRESIDENT FARLEY: Just a moment. I cannot hear.

Senator Present. Do you wish to reopen the roll?

SENATOR PRESENT: Reopen the roll, yes.

SENATOR GOLD: Those in the negative.

ACTING PRESIDENT FARLEY: Negatives raise their hand. 1105. This is the bill that just passed.

Senator Bruno explained Senator Marino's bill, which is 1105. It just passed. It passed unanimously a moment ago.

(Laughter)

THE SECRETARY: Those recorded in the negative on Calendar Number 1105 are Senators Connor, Galiber, Gold, Leichter,

Ohrenstein and Stavisky. Ayes 55, nays 6.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Levy.

SENATOR LEVY: Yes, Mr. President. I would like to remove the sponsor stars from Calendars 765, 890, and 892.

ACTING PRESIDENT FARLEY: The stars are removed at the request of the sponsor.

Senator Hoffmann.

SENATOR HOFFMANN: Mr. President. I would like to request unanimous consent to be recorded in the negative on Calendar Number 677.

ACTING PRESIDENT FARLEY: 677, Senator Hoffmann will be in the negative.

SENATOR HOFFMANN: Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Are there any other housekeeping orders?

(There was no response.)

Senator Present.

SENATOR PRESENT: I believe you

have a message from the Governor at the desk.

ACTING PRESIDENT FARLEY: We do have a message from the Governor.

Secretary will read it, concerning Senator Johnson's bill.

THE SECRETARY: The Governor returned without executive approval Senate Bill Number 1326, Veto Number 5, by Senator Johnson, an act to amend the Environmental Conservation Law, in relation to water quality standards in Long Island Sound.

ACTING PRESIDENT FARLEY: The bill will be laid aside and put on the table.

Senator Present.

SENATOR PRESENT: Mr. President. May I ask that we stand at ease for a few moments.

ACTING PRESIDENT FARLEY: We will stand at ease.

SENATOR LEVY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Levy.

SENATOR LEVY: Mr. President, I

inadvertently removed the star from 765. There is no home rule message on it.

ACTING PRESIDENT FARLEY: Leave the star on 765 at the request of the sponsor. The bill is starred.

(Whereupon, at 7:38 p.m., Senate was at ease.)

(Whereupon, at 7:59 p.m., Senate reconvened.)

ACTING PRESIDENT FARLEY: Senate will come to order.

Senator Present.

SENATOR PRESENT: Mr. President, we're going to continue to stand at ease. I would like all the members to call the Senate operator at 10:00 o'clock, at which time hopefully you will be advised as to what holds for the future.

Before we go into complete recess, I think Senator DeFrancisco has something he would like to say.

ACTING PRESIDENT FARLEY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Request unanimous consent to vote in the negative on 677.

ACTING PRESIDENT FARLEY: 677, Senator DeFrancisco will be in the negative.

SENATOR MEGA: Mr. President.

ACTING PRESIDENT FARLEY: Senator Mega.

SENATOR MEGA: Mr. President, may I star one of my bills?

ACTING PRESIDENT FARLEY: If we can get some order you can. Could I ask that the conversations be held down for a moment.

Senator Mega.

SENATOR MEGA: Page 18, would you place a sponsor star on Calendar 824, Senate Print 3769-A.

ACTING PRESIDENT FARLEY: We got it.

SENATOR MEGA: Thank you.

ACTING PRESIDENT FARLEY: The bill is starred.

Senator Present.

SENATOR PRESENT: Mr. President, would you repeat what I said.

ACTING PRESIDENT FARLEY: I will.

SENATOR PRESENT: We'll continue to stand at ease.

ACTING PRESIDENT FARLEY: The Senate is not adjourned. The Senate will be standing at ease. Check with the Senate operator at 10:00 o'clock tonight to find out what our orders are.

SENATOR PRESENT: Good.

ACTING PRESIDENT FARLEY: Be ready to return. The Senate will stand at ease.

(A Rules Committee meeting was announced.)

(Whereupon, at 8:00 p.m., Senate was at ease.)

(Whereupon, at 11:54 p.m., Senate reconvened.)

ACTING PRESIDENT FARLEY: The Senators will please take their seats.

Senator Marino.

SENATOR MARINO: Mr. President.

Would you return to reports of standing committees, please.

ACTING PRESIDENT FARLEY: Secretary will read the report of the standing Committee on Rules.

THE SECRETARY: Senator Marino, from the Committee on rules, reports the following bill directly for third reading.

Senate Bill Number 5923, by the Committee on Rules, an act to amend Chapter 576 of the Laws of 1974, amending the Emergency Housing Rent Control Law.

ACTING PRESIDENT FARLEY: Without objection, the bill is reported to third reading.

SENATOR MARINO: Call up 1153 please, Mr. President.

ACTING PRESIDENT FARLEY: Secretary will read 1153.

THE SECRETARY: Calendar Number 1153. Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8516 and substitute it for the identical

Calendar Number 1153.

ACTING PRESIDENT FARLEY: Substitution is ordered.

SENATOR MARINO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT FARLEY: There is a message at the desk, Senator.

SENATOR MARINO: I move we accept it.

ACTING PRESIDENT FARLEY: All in favor of accepting the message, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The message is accepted.

SENATOR MARINO: Mr. President. I have just received a call from the Speaker, who said I have his personal commitment that he will discuss everything having to do with vacancy decontrol, luxury decontrol, the entire question of rent control and rent stabilization with no conditions attached.

On that basis, I accept the

Speaker's word, would strongly recommend we pass this legislation.

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 61.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR MARINO: Thank you, Mr. President. There being no further business I move we adjourn -

ACTING PRESIDENT FARLEY: Hold on. Move we -

SENATOR MARINO: I move we adjourn until tomorrow at 11:30.

ACTING PRESIDENT FARLEY: The Senate stands adjourned.

(Whereupon, at 11:59 p.m., Senate adjourned.)