ALBANY, NEW YORK

February 28, 1995

3:00 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: Senate will come to order. Members will find their place. I ask those present in the chamber to rise for the Pledge of Allegiance to the Flag.

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

We're joined today by the Reverend Peter G. Young of the Blessed Sacrament Church of Bolton Landing for a prayer.

Father Young.

FATHER PETER G. YOUNG: May I take a moment of personal privilege and thank all of the many Senators that sent me letters of congratulations on my recent recovery from heart attack and open heart surgery. I want to again thank them for their generosity and their thoughtfulness.

Dear God, as we come together, may we pray in this great chamber for the progressive kind of work here that is being done in the name of Your good Senators and the people of this state.

We pray that You will guide them and give them Your health and Your love in their dedication and their energy to accomplish Your task.

We ask You this in Your name, now and forever.

Amen.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 27. The Senate met pursuant to adjournment. The Journal of Sunday, February 26, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no objection -

SENATOR CONNOR: Mr. President. I object to the Journal as read. There are omissions from the Journal which I believe a number of my colleagues would like to discuss; and, therefore, I would yield to Senator Paterson, who wishes to debate my objection.

ACTING PRESIDENT KUHL: Chair

recognizes Senator Paterson for the purpose of making some objections to the Journal as read.

Senator Paterson.

SENATOR PATERSON: Mr. President. At the end of two hours, the debate on the death penalty yesterday was circumvented; and because of that, many people who had issues that they had worked very hard on that their constituents would like to have heard, a controversial issue, one that received a great deal of media coverage, one that means a lot to people on both sides, one that has a very strong spiritual value to people whether they are for or against it, these individuals, five of them, were denied the opportunity to speak. We're not talking about a procedural denial. The denial was in accordance with Senate procedures. After two hours, a member can move to close debate. But we're talking about the vestige of civility if it still remains in the Senate and the opportunity for these individuals to be heard on this particular issue.

I myself wanted to talk about the

death penalty. I am opposed to the death penalty. I feel one of the reasons I'm opposed is that the death penalty bill as we saw it yesterday does not provide effective counsel. There are a lot of issues and a lot of cases in which the Sixth Amendment standard of effective counsel has not been met. There have been a number of cases that were overturned later because the defendant didn't receive effective counsel in other states, and their standards were similar to that which was presented in Bill 2649, which is the death penalty bill.

In addition to that, we read in the newspapers and saw very recently what I think was a very horrible situation in Mineola where an individual whose name is Colin Ferguson, who killed six people on the Long Island railroad, who injured 26 others, who certainly would qualify I think under many standards as being an individual potentially to receive the death penalty, and he was allowed to defend himself when he met the standard of the 730 psychiatric proceeding and was able to go

forward and assist his counsel. That was fine. However, how could an individual such as this have actually defended himself? Should this crime have taken place a year or two later when we have established a death penalty in this state, this individual would have actually been defending himself on his way to the electric chair or to some injection that would have ended his life. Is this effective counsel? Did we see this situation occurring right when we were debating the death penalty? I think it's absolutely outrageous.

An effective counsel and still a finding of guilt could have produced the same reaction. But since we didn't provide in that legislation the types of standards that we would recommend where there would be a sufficient capital defenders office, where there would be lawyers who were trained or had had experience in criminal prosecution for over five years, then we might actually have seen a better opportunity.

But the death penalty itself, I

wanted to argue but was not allowed to. I wanted to argue that the death penalty is really a shrill solution and does not solve the problems of crime in our society. In the states that have had the death penalty, the crime rate is increased.

One of the principal arguments against the death penalty is that of deterrence, and we've heard about crimes committed against individuals while the person is serving a life sentence. We always have options of security that we can use to keep a person incarcerated and to keep them away from even the corrections officers who are designed to make sure that they are secure in their facility.

And so, for those reasons and others that I would have liked to have discussed, I am opposed to the death penalty. We have some other Senators here that wanted to discuss that issue; and at this time, I would like to yield to one of them and that would be Senator Waldon.

ACTING PRESIDENT KUHL: Senator

Paterson, would you excuse me just a minute? Senator Skelos has an announcement he would like to make.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: I believe that speakers will be recognized through the chair. There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

Senator Paterson, are you through, sir?

SENATOR PATERSON: Yes, I am, Mr. President.

ACTING PRESIDENT KUHL: Other Senators wishing to speak?

Senator Waldon. Chair recognizes Senator Waldon.

SENATOR WALDON: Mr. President.

I, too, am concerned about what happened here last evening, and I am, too, also concerned about the incompleteness of the Journal. Had I been allowed to speak yesterday with my prepared remarks, I would have spoken to the issue of racial justice in regard to the death penalty.

As I see it, this bill has three aspects that speak to the issue of racial bias and the imposition of the death penalty. It is interesting that this Governor would go to such lengths to address the question of racial bias.

First, the death penalty bill permits the Court to conduct individualized voir dire, individualized closed-door questioning of prospective jurors on any issue affecting their qualifications to sit as a juror, including whether the person harbors any racial biases.

Second, it requires the Trial Court to prepare a report for submission to the Court of Appeals to help the Court determining whether a particular sentence of death is disproportionate or excessive considering the victim's -- I'm sorry -- the defendant's crime

or crimes. These reports are then to be made available to appellants for use in capital cases.

Finally, in the direct appeal to the Court of Appeals, the Court must determine whether the sentence was as the result of passion, prejudice, or other arbitrary factors including race of the defendant or race of the victim and whether the sentence is excessive or disproportionate to the penalty imposed in similar cases by virtue of the race of the defendant or the race of the victim.

What this bill, my colleagues, does is admits that the death penalty has been imposed in a racially-biased manner. What it lacks is an effective mechanism to prevent racial bias from tainting the capital prosecution.

My colleagues, the language in this bill addressing racial injustice and the imposition of the death penalty is akin to mere window dressing. It allows the Governor to say that he is sensitive to discrimination issues

but it does not stop people from being put to death where it can statistically be demonstrated that their sentence is part of a disproportion ate sentencing pattern.

I submit that even if we were to adopt my amendment we could not guarantee that decisions related to whether a case which shall be punishable by death will be free from bias. No language, no matter how carefully drafted, can reach into a person's heart be they juror, prosecutor, judge, and expel his or her biases. This is simply not possible.

And, yet, the Governor has a section in his bill entitled, "Individual Questioning For Racial Bias." Interestingly, the section permits jurors to be questioned outside the presence of other jurors about anything including the possibility of racial bias, and the Governor thought racial bias worthy of inclusion in the title of this section.

Mr. President. Why do I consider racial justice to be an essential component of a

death penalty bill? Because almost all capital cases involve white victims. Eighty-five percent of the victims in death penalty cases are white, even though 50 percent of murder victims in this country are black. Just 11 percent of the cases in which the victim is black results in a death sentence.

I would like to have entered, as I would have yesterday had I been given the opportunity to speak, certain data which bears on the position I have taken with the amendment that I would have submitted, Mr. President, yesterday, had I been given the opportunity in this collegial body. I would have said -- I beg your pardon, Mr. President. I would have stated that those who have been executed in this country since 1976 who were white were 55 percent or 143. Those who have been executed in this country since 1976 who were black are 38 percent or 99. Those who have been executed in this country since 1976 who were Hispanic are 6 percent or 15, and the Native Americans show up as only one person executed equaling less than

zero percent.

Eighty-five percent of the victims in death penalty cases -- I'm repeating that. I apologize.

It is extremely important regarding what I wish to submit, Mr. President, or what I would have submitted yesterday to give you this information for the record. When there was a white defendant -- no. When there was a black defendant -- let's scratch that. Let me just put these notes down and finish my point.

The point I would have been able to make yesterday is that there is disparate treatment of those who are minorities in the criminal justice system in regard to capital punishment, and I would have hoped that the consideration of this amendment by my colleagues would have put on point that the system is unfair and that we have to include in it a degree of fairness, and my amendment would have accomplished that.

I thank you very much, Mr. President, for this opportunity to say today

what I would have said yesterday had I been given the opportunity to correct the incorrect record of yesterday by what I have included today. I hope that this information will help my colleagues in their deliberations not only today on the matters facing us but in future matters which will relate specifically to the death penalty and justice -- justice for all of us not just for some of us.

I thank you very much, Mr. President. I yield the floor.

ACTING PRESIDENT KUHL: The chair recognizes Senator Abate.

SENATOR ABATE: I, too, can not support the adoption of the Journal. I too would like to have had the opportunity to express my outrage around the violence that we see in our streets and talk about what I think is a rational solution to reduce that violence and protect the people that we have been elected to serve.

I do not believe and the record does not reflect that the death penalty is good

public policy. It is not good public policy in terms of deterrent, cost, or justice. And the victim community is not a monolithic community. They will tell you that they do not gain when one life is taken for another, and they understand that the law of the street and the law of the prisons is an eye for an eye, a tooth for a tooth.

ACTING PRESIDENT KUHL: Senator Abate, can I interrupt you for just a minute? There is far too much motion and far too much noise in the chamber. Senator Abate is making a very, very serious statement, and she deserves the respect and attention of all the people in this body.

Thank you.

Senator Abate.

SENATOR ABATE: Thank you, Senator.

And if I had been given an opportunity yesterday to speak, I would have said that this does not make sense and that we should not make the law of the land an eye for

an eye; and by passing the death penalty, we give legal credibility to the perpetuation of violence.

I also would have spoken to the contents of the bill itself and would have proffered a number of amendments. We are all concerned, whether you agree with the death penalty or you don't agree, that we must produce a death penalty bill if it's passed that assures that no innocent person is convicted and executed, and we must look at the trial phase to make sure that there is a fair trial, and there's no protection in terms of full and open discovery.

If we look at the current laws on the books now, discovery is inadequate even for a misdemeanor case. It says that Rosario material, police reports, do not have to be turned over to the defense until after a jury is sworn. Now, what does that mean in a capital case? That means that pleas will be taken by ill-informed defendants, and that might mean that people will be pleading to life

imprisonment or maybe to a capital offense without full knowledge of the evidence against them. It means that the prosecutors can withhold evidence to the 11th hour and thus also means the defense counsel can not adequately prepare a defense in these cases.

So if I could have been heard yesterday, my amendment would have reformed the discovery system in capital cases to allow the discovery process to begin 15 days after arraignment. The amendment would also have asked not only for this early discovery to prevent innocent people from being convicted, it would have also said that the district attorney had to preserve the evidence long after the trial, had to seal that evidence for the court to preserve that evidence for future appeals and that there would be appropriate sanctions if the district attorney did not abide by these rules and regulations.

It is very important at all phases of this trial through appeal that indigent people receive effective and adequate

counsel, and there is agreement by all parties that there should be a capital defenders office. But who -- and this is the question. Who should govern that board? Should it be we as legislators, as politicians? Should it be the Assembly and Senate or the Governor; or should it be people with real expertise - judges and lawyers and bar associations -- that should make up that board, people who have lived and labored in the courts who understand the complexities of the Penal Law and the Criminal Procedure Law.

I suggest if I had been given the opportunity to proffer that amendment that you would have listened and maybe that amendment would have been accepted.

And I think my third amendment would have been one that Senator Volker would particularly have been interested in, because he has long fought and even in 1985, and I have quotes by him in 1987, he talked about the necessity for effective counsel from charge all the way to the Supreme Court; and if it were

necessary to put all those protections in the law, sobeit. This bill that was passed yesterday retreats from the time-honored agreements that Senator Volker reached many years ago.

The funding for capital services, I believe does not go far enough. It only goes to one direct appeal to the Court of Appeals and one collateral motion, a 440 motion. It talks about one lawyer not two lawyers, and it's not clear when the funding of this counsel begins, whether it should begin when -- even though it's a murder two case when everyone knows that it's going to be elevated to a murder one, should those costs be funded early on so that everyone has a right to effective counsel?

I am disheartened. I know many of the people in the room are disheartened that they were not given an opportunity to speak yesterday. I hope in the future that the record will be a full record that reflects the thinking of our hearts and minds, the thinking of the hearts and mind of not just a few in the chamber

but everyone in the chamber.

And I hope if we're given an opportunity to debate this bill again, it will be representing a full airing and a full representation of a debate that's honest and real and we can go home in full conscience that we have done so.

With that, I object to the adoption of the record.

ACTING PRESIDENT KUHL: Chair recognizes Senator Dollinger on the motion.

SENATOR DOLLINGER: Mr. President. I rise to also object to the Journal for yesterday, the 27th of February 1995.

As everybody in this chamber knows, there was an extremely interesting, at times heated, at times passionate, at times extremely eloquent discussion that occurred which several members of this body did not have the opportunity to participate in, and I think for us to close the Journal on that day without a full reflection of the views of the membership of this body would be an error and would be

inconsistent with the traditions of this chamber.

In my own case, Mr. President, I had three amendments that I wanted to propose to the bill that was before us then that I was not able to put into the Journal, and I would just refer to them quickly here to give the Journal a full sense of what would have been discussed had I had the opportunity yesterday.

The first amendment was what I call the double indictment amendment. What that would have stated is that a grand jury upon the indictment of an individual for a capital offense would then be asked to determine with 24 members present with those members present and analyzing the evidence to find out whether there is reasonable cause to have someone held over for a capital indictment. They would then have the opportunity to determine whether or not there was reasonable cause to conclude that if a jury found them guilty of those offenses a capital punishment would be required under the laws of the State of New York.

The benefit of that double indictment by the grand jury would be to remove in the highly charged political environment that often faces district attorneys faced with absolutely atrocious crimes. The political pressure mounts; the newspaper pressure mounts. The hot klieg lights of the television cameras often times affects district attorneys who may or may not be running for reelection, their judgment about the appropriateness of capital punishment.

By having a double indictment process in our criminal procedure law, we would be in a position where we would remove the other taint, not just the taint of racism, not just the taint of fairness, but the taint potentially of political motivation in pursuing the death penalty. Because the Journal was closed yesterday prematurely, I did not have the opportunity to argue that amendment. My hope is if this bill comes back, we will have that argument and that debate in greater detail.

The second amendment I wanted to

propose was an amendment that dealt with the concept of perjury. Perjury is not dealt with in the bill that we discussed yesterday.

My amendment, had I been allowed to stand on this floor and articulate it, would have required an increase in the penalty for perjury in a capital case or capital investigation. Why do so many innocent people get convicted erroneously of capital offenses? Because accomplices, other people who could corroborate are lying to the police, lying under oath, yet under the State of New York and the law in the State of New York we have no increased penalty for perjury in a capital case. In fact, you can now lie under oath in a capital case in this state, and I believe it's merely a Class D felony. My proposal would have increased the penalty for perjury in a capital case to provide a greater deterrence to those who will lie and if their lies could cost the life of someone else.

Again, I wasn't given the opportunity, Mr. President. It's not in the

Journal. I regret that it wasn't there.

The last amendment was a simple one, and it would have provided that there would be a sunset provision in the bill that we passed yesterday. Why do we have a sunset provision in a death penalty? It seems to me it's pretty clear. We have an entire list of statutes which this Legislature in its infinite wisdom subjects to a sunset -- our banking regulations, our NYPHRM, our hospital regulations, our collective bargaining regulations, our agency shop, are all subject to an analysis that requires the Legislature periodically to take a look to see whether the predictions that we had about their success or failure warranted their continuation in this state.

We had the opportunity yesterday, had I had the opportunity to talk before the Journal was closed, in which we could have debated a sunset provision, so that the issues of racial fairness, the issues of cost raised by Senator Nanula, the issues of fairness and counsel fees raised by Senator Abate, all could

have been discussed at great length at another time, at the time that the sunset expired, when, if the will of the people of this state was to continue with the death penalty, we could analyze all those issues with the absolute skill of knowing first hand what it cost, knowing who had been accused, knowing whether racial taints, whether cost factors, whether fairness had affected the process. It seems to me that if there is a compelling argument for a sunset provision, it should have been in the bill yesterday. It should have been on the floor. It should have been a part of the Journal.

The Journal, I believe, carries an important message to our future, an important message to a generation from now, to a hundred years from now. When I was a member of a body before the Senate, a legislative body, I had the opportunity to go back and look at the Journal from 100 years before. It was an interesting experience to see what was important then. I think by prematurely closing the Journal yesterday on the issue of the death penalty, we

did a disservice to the members of this chamber and to our collective legacy to the people of this state. I object to the Journal for February 27, 1995.

ACTING PRESIDENT KUHL: Chair recognizes Senator Nanula.

SENATOR NANULA: Thank you, Mr. President. I, too, rise in objection, in opposition to the adoption of yesterday's Journal. In conjunction with a number of my colleagues, I, too, had an amendment at the desk. We were not able because of the closure of debate on this particular topic to substantively discuss, in addition to a number of these other measures and these other amendments, my amendment which is a simple one. It requires DCJS and OCA to prepare an annual report on the fiscal impact of the death penalty, its prosecution to the state including costs borne by the court system and by state agencies.

In a time when our colleagues on the opposite side of the aisle are talking about

fiscal responsibility, it's very confusing and alarming to me that we are not looking at the fiscal implications of this legislation, especially in localities. I know that our D.A., Kevin Dillon, in Erie County is very concerned over the projected cost of implementing the death penalty. We were not able to discuss this because, again, the Journal was closed, the debate was ended, and I would have liked to have spoken and requested some information from the sponsor in regards to things that I think are admirable regarding this bill.

As an example, this bill provides for the appointment of counsel for indigent defendants in capital cases for trial and direct appeal with fees to be paid out of the state budget. I don't know. I have not been told. There isn't any information in this bill regarding where those fees are allocated in this year's state budget.

In addition, it creates a capital defender office whose expenses, again, are supposed to be paid out of the state budget.

Where are these allocations stipulated in the budget? In addition to that, this bill has a tremendous impact, as I previously stated, on localities, on local D.A.s. Again, in a time of fiscal responsibility, in a time where certainly in Erie County and in the city of Buffalo, we are under the heavy hand of cuts, under the heavy hand of cutbacks, extraordinary aid, things that were supposed to be in last year's budget that are now being projected to be cut, I think it's an egregious act by the members of this house, of this chamber, to pass a bill that does not have a fiscal aspect to it in regards to the legislation of the death penalty.

Again, I think it's also disheartening that we were not as a chamber, as a legislative body, able to debate and discuss this measure to the proper length that it deserved. I also feel in a proposed era of new cooperation, something that sounds exciting, that we would instead have leadership that denounces the ability for members to present opinions and objections and amendments.

For all those reasons, I again rise to oppose -- in opposition of yesterday's Journal.

Thank you very much.

ACTING PRESIDENT KUHL: Question is on Senator Bruno's motion to accept the Journal as read.

All those in favor, signify by saying aye.

SENATOR PATERSON: Party vote in the negative, Mr. President.

SENATOR SKELOS: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Secretary will record the party line votes.

THE SECRETARY: Ayes 32, nays 20; party vote.

ACTING PRESIDENT KUHL: The motion is adopted.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Secretary will read.

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

Senate Print 1304, by Senator Cook, an act to amend the Education Law, in relation to providing legal services.

1538, by Senator Cook, Education Law, in relation to the establishment of and maintenance.

1637, by Senator Johnson, an act to authorize payment of transportation aid.

Senator Lack from the Committee on Judiciary reports the following bills:

Senate Bill 2135, by Senator Lack, an act to amend the Estates, Powers and Trust Law, in relation to the division of trusts.

Senator Volker from the Committee on Codes reports the following bills:

Senate Print 303, by Senator Kruger, an act to amend the Penal Law, in relation to increasing the criminal penalty.

Senate Print 474, by Senator Holland, Penal Law, in relation to the possession of noxious materials.

574, by Senator Johnson, an act to amend the Penal Law, in relation to the term of licenses.

692, by Senator Saland, an act to amend the Penal Law, in relation to the minimum period of imprisonment.

985, by Senator Lack, Penal Law, in relation to the possession and sale of fireworks.

1088, by Senator Spano, Penal Law, in relation to the crime of criminal employment.

1113, by Senator Volker, an act to amend the Penal Law, in relation to the crime of false impersonation.

1417, by Senator Saland, an act to amend the Criminal Procedure Law and the Family Court Act, in relation to the access of records.

Senator Larkin from Committee on

Local Government reports:

Senate Bill 1937A, by Senator Skelos, an act to amend Chapter 7879 of the laws of 1936.

Senator Levy from the Committee on Transportation reports:

Senate Print 334, by Senator Levy, Public Authorities Law, in relation to the implementation of recommendations.

Senate Print 372, by Senator Levy, Vehicle and Traffic Law, in relation to increasing the penalties for aggravated unlicensed operation.

429, by Senator Levy, an act in relation to authorizing the Commissioner of Transportation.

610, by Senator Stafford, an act to amend the Vehicle and Traffic Law, in relation to the operation of school buses.

972, by Senator Levy, an act in relation to the requiring of Department of Motor Vehicles to include certain information.

1409, by Senator Goodman, Vehicle

and Traffic Law, in relation to increasing penalties for subsequent violations.

2270, by Senator Levy, Vehicle and Traffic Law, in relation to the proof required.

2356, by Senator Johnson, an act to provide for the issuance of special vehicle identification.

2191, by Senator Levy, an act to amend the Public Authorities Law and the Administrative Code of the City of New York, in relation to creating the committee.

Senator Hannon from the Committee on Health reports:

Senate Print 642, by Senator Lack, Public Health Law, in relation to penalties.

724, by Senator Cook, Public Health Law, in relation to potable waters.

Senator Tully from the Committee on Environmental Conservation reports the following bills:

Senate Print 418, by Senator

Cook, Environmental Conservation Law, in relation to permitting certain directional signs.

Senate Print 620, by Senator Stafford, Environmental Conservation Law, in relation to permitting certain advertising.

Senate Print 2322, by Senator LaValle, an act to amend the Environmental Conservation Law and Chapter 262 of the Laws of 1993.

Senator Saland from the Committee on Children and Families reports:

Senate Print 207, by Senator Rath, an act to amend the Family Court Act, in relation to the return of children.

466, by Senator Holland, Social Services Law, in relation to access to the statewide register.

1741, by Senator Skelos, an act to amend the Social Services Law, in relation to the access of certain conviction records.

Senate Print 2105, by Senator Saland, an act to amend the Social Services Law

and the Public Health Law, in relation to the disclosure of HIV-related information.

2108, by Senator Saland, an act to amend the Family Court Act, in relation to judicial notification.

2115, by Senator Saland, Family Court Act, in relation to the placement of children upon disposition.

2119, by Senator Saland, Social Services Law, in relation to bona fide research projects.

Senator Goodman from the Committee on Investigation reports:

Senate Print 267, by Senator Farley, an act to amend the Arts and Cultural Affairs Law, in relation to the use of permanent durable paper.

Senate Print 927, by Senator Goodman, an act to amend the Arts and Cultural Affairs Law, in relation to the sale of consigned works.

Senate Print 983, by Senator Goodman, an act to amend the Arts and Cultural

Affairs Law, in relation to the New York State Fine Arts Collection.

Senate Print 1540, by Senator Lack, Executive Law, in relation to authorizing the Division of Human Rights.

And Senate Print 1921, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law, in relation to information required.

All bills ordered directly to third reading.

ACTING PRESIDENT KUHL: All bills are reported directly to third reading.

Chair would recognize Senator Bruno.

SENATOR BRUNO: Mr. President. I would like at this time to introduce to my colleagues some people that I invited here to the chamber. Jamie Adams that is here in the front of the chamber with her mom and dad, Burke and Carol Adams, and her brother, Dan, and sister, Julie.

You may not recognize Jamie, but

she was the 1995 Cerebral Palsy Poster Lady, and this past year, they raised more money than they have ever raised in previous years; and if you visit with Jamie, you will see why. So we're happy to have Jamie and her family in the chamber and hope that you will have a very enjoyable day here at the capitol.

Thank you.

(Applause.)

ACTING PRESIDENT KUHL: Reports of select committees.

Communications and reports from state officers.

Motion and resolutions.

Senator Bruno.

SENATOR BRUNO: May we at this time, Mr. President, adopt the Resolution Calendar with the exception of Resolution 395.

ACTING PRESIDENT KUHL: The motion is to accept the Resolution Calendar with the exception of Number 395.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolutions are adopted.

Senator Bruno, that brings us to the calendar.

SENATOR BRUNO: Mr. President. Can we at this time read Resolution 395 in its entirety.

ACTING PRESIDENT KUHL: Secretary will read Resolution Number 395 in its entirety.

THE SECRETARY: In Senate. Legislative Resolution Number 395 commending Vincent J. Graber, Sr., former New York State Assemblyman from the 148th Assembly District for his years of dedicated service.

Whereas, it is the sense of this legislative body that those who give positive definition to the profile and disposition of the communities of the State of New York do so profoundly strengthen our shared commitment to the exercise of freedom; and

Whereas, attendant to such

concern and fully in accord with its long standing traditions, it is inherent of this Legislative Body to commend Vincent J. Graber, Sr., former New York State Assemblyman from the 148th Assembly District for his years of dedicated service; and

Whereas, Vincent J. Graber, Sr., is married to the former Patricia Murray of Troy, New York, the Grabers are parents of ten children, Mrs. Judy Siwy, Mrs. Lynn Carrow, Vincent, Jr., Robert, James, Daniel and Peter Graber and Kevin, Christopher, and William Thompson; and

Whereas, Vincent J. Graber, Sr., a Democrat, former Speaker Pro Tem of the Assembly, represented the 148th Assembly District in Erie County; the district consists of the Towns of West Seneca, Lancaster, Elma, Clarence, along with part of the city of Buffalo; and

Whereas, during his legislative career Mr. Graber served as the chair of the Assembly Transportation Committee, 1979-1988;

vice chair of the Legislative Commission on Critical Transportation Choices, 1979-1988; chair, Subcommittee on Railroads, 1975-1988; member, National Conference of State Legislatures; member, Eastern Region Council of State Governments; chair, Council of State Governments National Transportation Positive Guidance Committee; in 1985, United States Department of Transportation Secretary, Elizabeth Dole, appointed Mr. Graber a member of the National Commercial Motor Vehicle Safety Regulatory Review Panel; and

Whereas, Vincent J. Graber, Sr., commitment to the people of the State of New York mirrors those prerogatives of personal initiative and accountability so paradigmatic of our American manner; and

Whereas, the laws sponsored by Vincent J. Graber, Sr., have helped New York become the leading state in the nation in reducing highway deaths and injuries caused by drinking and driving; in 1984, he authored the present law requiring the use of seat belts in

vehicles required to be equipped with the same; this measure was the first such statute to be enacted in the United States; it was the continuation of the Assemblyman's interest in this area that led to the successful sponsoring of a similar law relative to child restraints in passenger vehicles; the Assemblyman was successful in 1988 in sponsoring the law which requires New York State to conduct the first bridge inspection program in the nation; he also saw passed into law his bill creating an addiction interlock program to combat repeat DWI offenders; and

Whereas, the legislative career of Vincent J. Graber, Sr., reflects an unyielding commitment to the very principles and ideals upon which this beloved nation was first founded; and

Whereas, through his long and sustained commitment to the positive and salutary definition of the State of New York, Vincent J. Graber, Sr., did so unselfishly advance that spirit of united purpose and shared

concern which is the unalterable manifestation of our American experience; now, therefore, be it

Resolved, that this Legislative Body pause in its deliberations and most joyously commend Vincent J. Graber, Sr., former New York State Assemblyman from the 148th Assembly district for his years of dedicated service fully confident that such procedure mirrors our shared commitment to persevere, to enhance, and to yet effect that patrimony of freedom which is our American heritage; and be it further

Resolved, that a copy of this resolution, suitably engrossed, be transmitted to Vincent J. Graber, Sr.

ACTING PRESIDENT KUHL: Chair recognizes Senator Volker on the resolution.

SENATOR VOLKER: Mr. President. Let me just say that this resolution is in behalf of somebody who I think just most everybody in the chamber probably knows Vince; been a long-time friend of mine and colleague in

the Assembly; and if I might say in behalf of anybody in the chamber that would like to go on the resolution, why, you know you are more than welcome to go on as a co-sponsor.

In fact, I -- should we do what we have done in the past, is to say unless somebody doesn't want to -

ACTING PRESIDENT KUHL: Senator Volker, why don't we take the procedure that we'll put all the members on unless there is some member who does not wish to be on the resolution if they would come up and signify that to the Secretary; otherwise, we'll put all members on the resolution.

SENATOR VOLKER: Fine. This is a busy day. I know that there is a lot going on, so just let me say a couple words in behalf of this. First of all, I think there's some people that are not aware that he is the only person that ever defeated me in an election. I have to say that, and I'm the only person that ever defeated him in an election, so we beat each other at one time or another, became very close

personal friends; and as I think obviously you are aware became, shall we say, mates in an attempt to restore the death penalty in this state, and I promised him that when the time comes that we are actually doing it that I'm going to have him up here. In fact, he is coming up next week I just want to tell you for a little party, and I expect by then we will, hopefully, have the death penalty pretty well wrapped up if everything goes well.

I also want to say that there is a couple of other things that I don't think people are aware of. Vince Graber and I tried more overrides than any legislators in the history of the New York State Legislature. There is also something else that is not well-known, because we are probably better known for our failures than for our successes, but we also succeeded more times than any legislators in the history of the Legislature, and that is on several other issues that over the years the two of us attempted and were successful in. Unfortunately, not in the death penalty but we

were on several other issues.

I certainly miss Vince and I think a number of people here do, who was a strong and powerful voice for those of us particularly I think in Upstate New York and in criminal justice. He -- as I say, we expect that he will be here next week. I guess they are having a party for him, and I would just say that I was proud to have him as a friend and that -- and that -- also, as George [Onorato] is looking at me here, I can see that he also wants to say that he was an excellent golfer, although George is a lot better than he is.

But, at any rate, he was a good friend and a good legislator and he certainly will be missed.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stachowski on the resolution.

SENATOR STACHOWSKI: Mr. President, I would be remiss if I didn't get up and say a couple of words about Vince Graber, since he was my Assemblyman and it was also my

pleasure to serve with him; and as I came here many years after he was already here, I will always be indebted to him for showing me around and teaching me many things about Albany.

But I think I will always hold it against him that he never taught me that unique system of score keeping that he used so successfully while he played golf here in Albany.

ACTING PRESIDENT KUHL: The question is on the resolution, Resolution Number 395. All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Bruno, that brings us to the calendar, I believe.

SENATOR BRUNO: Mr. President. Can we now take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 60, by Senator Levy, Senate 773, an act to amend the Penal Law, in relation to including the theft of dogs and cats within the crime of grand larceny.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 67, by Senator Kuhl, Senate 2081A.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 79, by Senator Levy, Senate 384.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 81, by Senator Skelos, Senate 409, an act to amend the Real Property Tax Law, in relation to the definition of income for senior citizen real property.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 84, by Senator Padavan, Senate 1473, an act to amend Chapter 420 of the Laws of 1991.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 85, by Senator Farley, Senate 1631, an act to amend the Education Law, in relation to authorizing the State University Trustees to make courses available for certain persons.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 87, by Senator Holland, Senate 1247, an act to amend the Education Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 91, by Senator Holland.

SENATOR HOLLAND: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

Senator Bruno, that completes the noncontroversial calendar.

SENATOR BRUNO: Mr. President. Can we now take up the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 60, by Senator Levy, Senate 773, an act to amend the Penal Law, in relation to including the theft of dogs and cats within the crime of grand larceny.

SENATOR PATERSON: Explanation.

SENATOR BRUNO: Lay the bill aside.

ACTING PRESIDENT KUHL: Lay the bill aside, temporarily.

THE SECRETARY: Calendar Number 67, by Senator Kuhl, Senate 2081A, an act in relation to the certain project of the Hornell Industrial Development Agency.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOBLOCK: Explanation asked for.

Senator Kuhl.

SENATOR KUHL: Senator Dollinger, did you ask for an explanation, sir?

SENATOR DOLLINGER: Yes, I did.

SENATOR KUHL: Senator Dollinger, this is a home rule request for a piece of

legislation that is coming from the city of Hornell. Two years ago, this chamber and the Assembly came together and adopted a bill dealing with industrial development agency reform. There was a provision in that bill that said -- which I believe became effective somewhere around October of 1993. There was a provision in that bill that said that any projects which dealt with retail establishments that were commenced prior to that effective date that they would not have any effect with regard to the preclusions of that particular bill.

What has happened since that time -- there was prior to the adoption of that piece of legislation a project that was started in the city of Hornell which has now come to a halt as the result of a misinterpretation, in my opinion, of that particular grandfather clause by a court decision.

What this bill does is allow for the completion of that project which will bring a countless number of jobs, countless number of monies in the form of new sale tax, to a

community that is desperately trying to recover from the blight of a railroad industry occupation rehabilitation that has disappeared over the last several decades.

ACTING PRESIDENT HOBLOCK: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President. Just one question.

Could you tell me the scope of the retailers involved in the project?

SENATOR KUHL: The scope of the retailers?

SENATOR DOLLINGER: The number of retailers and who they are?

SENATOR KUHL: I don't know the entire plaza that's being constructed, but there are two major retailers. One you may be familiar with, Wegman's grocery store, which is founded, I think, and based in Rochester, New York, probably your district, and another one is a Wal-Mart store. I believe that there are several other potential retailers that are going to go into this plaza, but at this point the

project has come to a halt.

SENATOR DOLLINGER: That answers my question, Mr. President. Before we vote, I think I should just disclose that I don't think I should vote on this, that's all. I should ask to be excused, that's all.

SENATOR SKELOS: Last section.

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

Secretary will read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: Mr. President. If I could just be recognized to ask to be excused because I believe there is certainly an appearance of a conflict if not a conflict. I don't know what the rules are under the Public Officers Law, but I would ask to abstain.

SENATOR BRUNO: Without objection.

ACTING PRESIDENT HOBLOCK: Without objection, Senator Dollinger abstains.

THE SECRETARY: Ayes 53. Nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 79, by Senator Levy, Senate 384, an act to amend the Vehicle and Traffic Law, in relation to requiring school bus drivers involved in personal injury accidents.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOBLOCK: Explanation asked for.

SENATOR BRUNO: Lay it aside at the request of the sponsor.

ACTING PRESIDENT HOBLOCK: Lay it aside.

Senator Bruno, that completes the calendar.

SENATOR BRUNO: Mr. President.

Can we now have the report of standing committees and the Rules report that I believe is at the desk.

ACTING PRESIDENT HOBLOCK: Secretary will read.

THE SECRETARY: Senator Bruno from the Committee on Rules reports the following bills directly to third reading:

Senate Bill 1831, Budget Bill, an act to amend to Tax Law, in relation to the reduction of rates and enhancement of credits under the state personal income tax.

Senate Bill 2320, by Senator Bruno and others, Concurrent Resolution of the Senate and Assembly proposing an amendment to Article 7 of the Constitution, in relation to limiting the growth on New York State disbursements.

Senate Bill 2545, by Senator Bruno and others, an act to provide a retirement incentive for certain public employees.

All bills directly for third reading.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Leichter.

SENATOR LEICHTER: If we can just hold a second.

Mr. President. I would like to object to moving Senate Bill 2320 direct to third; and whatever the procedure we used yesterday, Mr. President, as far as raising that procedural objection, I would like to do it in relation to that bill.

ACTING PRESIDENT HOBLOCK: Senator Bruno, do you want to move the adoption of the Rules Committee before we have the objection?

SENATOR BRUNO: Yes. I would like to move the adoption of the report of the Rules Committee at this time, Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Leichter.

SENATOR LEICHTER: Yes, if I may be heard on it and that may be the best way of doing it. Really, on reflection, there

certainly is a difference between the objection that we raised yesterday on the death penalty bill which had never gone through committee. S.2320 did go through the Judiciary Committee today, so there really is a distinction, and maybe my objection should best be voiced when the bill comes up because I think it's premature for us to consider it, but I don't think there is the same nature of objection that we made yesterday, so I will withdraw any objection.

ACTING PRESIDENT HOBLOCK: All those in favor of adopting the Rules report, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The report is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President. At this time, can we take up Calendar Number 135.

ACTING PRESIDENT HOBLOCK: Secretary will read.

THE SECRETARY: Calendar Number 135, by Senator Bruno, Senate Bill 2320, an act proposing an amendment to Article 7 of the Constitution, in relation to limiting the growth on New York State disbursements.

ACTING PRESIDENT HOBLOCK: Explanation asked for. Senator Bruno.

SENATOR BRUNO: Mr. President. I believe this is the spending cap resolution and bill, which upon its passage in both houses would go to the people after two passages of the Legislature which would put a cap on spending for the people of this state, and the cap would be 9 percent of the personal income of the state, people of this state as evidenced by the U.S. Department of Commerce; and with this spending cap in place, which would be if you follow the calendar and the procedures, in '98, in order to spend more than the cap, the Governor would have to declare that it was an emergency situation. It would need two-thirds of the Legislature to concur.

For any funds that are in excess

of the cap, when they exceed a quarter of one percent, they will go into a special fund and that special fund would be a stabilization of taxes in this state and a reduction of debt, and it can only be used for those two purposes, to reduce taxes or to reduce the debt.

Now, Mr. President, it's no secret in this state that we have lagged in the recovery over these last four years and we have led the country in job loss in the last four years. Forty percent of all the jobs lost in this country came from New York. Part of the reason relates to excessive taxes and excessive regulation.

We are contemplating tax cuts here in this state that are overdue. In order to make tax cuts meaningful, you have to control spending, and we have demonstrated over and over again in this house and in the other house that we can not control spending of our own volition. So if we change the Constitution of this state, it will be very, very difficult to then revert back to our spending and taxing ways

of the past which have led us to a $5 billion deficit this year that we are all having to contend with, and it would be a lot more fun serving in office this year had we not had to contend with that deficit.

So, Mr. President, I urge my colleagues to support the passage of this legislation that is before us today.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Leichter.

SENATOR LEICHTER: Mr. President. Senator Bruno, although you don't trust yourself, I trust you.

SENATOR BRUNO: Thank you.

SENATOR LEICHTER: I realize that in the last four years, Senator, you voted for budgets that, as you say, were out of control; and what you are saying to the people of this state is "Please don't trust Senator Joe Bruno. He is out of control. He is not going to do what you want to do or what is good for the State of New York."

Now, some of us voted against those budgets, Senator, but I think you are every bit as responsible as legislators that serve on this side of the aisle, on that side of the aisle, or legislators that are going to serve here ten, fifteen, twenty years ago when you and I may no longer be here.

Senator, I think this is a bad idea. I think your explanation shows why it is a bad idea because very frankly, Senator, your economics, Senator, just do not support this bill, and your economic theory is not one that one would find in any credible economic course or in any economic treatise.

The idea that the reason that the State of New York for the last four or five years has had a job loss is because we have spent too much is just nonsense. I'm sorry to put it that strongly, but it is. Indeed, there may be times when it is important for a state or a government to spend money to spur economic recovery, and that's of course how we got out of the Depression.

Let me say, Senator, this Calvin Coolidge-like view you have of business and the economy -- that's when you are progressive; on other days, it sounds more like President McKinley -- is really not consonant with what all economists will tell you. To hamstring government in this fashion by putting on an automatic cap on expenditures and saying legislators cannot be trusted is just the wrong way to proceed.

Senator, you and I are very fortunate, all of us in this country are very fortunate, because probably the greatest collection of leaders that this world has ever seen got together and formulated the United States Constitution and it's worked wonderfully for over 200 years. It has given us the greatest government. It has enabled to us build the greatest nation, the most democratic nation, the most prosperous nation, that this world has ever seen.

Similarly, New York State over the centuries has had great leadership. Neither

the federal government nor the state, none of the founding fathers, have ever proposed that there be a spending cap because they appreciated and understood the fluidity of government, the changing economics, and they trusted the people and they trusted the people to elect good representatives, and they trusted the representatives to do the right things. They didn't impose these artificial restraints and constraints on how government would act.

But let me raise something which really disturbs me and which is a pattern, Senator Bruno, that we are seeing here which is government by bulldozer, government by rushing ahead blindly. We saw it yesterday. We had a death penalty bill that had to be voted on Monday even though it bent the process of this body and negated the committee system that we have.

Today, we have a bill or resolution, constitutional resolution, changing the basic framework by which our government acts that makes such drastic changes, and yet it's

put forward without sufficient deliberation, consideration and time, above all, for the public to comment.

What's the rush? If you want to move the constitutional process for amending the State Constitution, you can do it anytime before the end of the session. There will have to be another Legislature that will have to pass it, and then it will go to the voters.

Before we do this, we ought to have people comment on it. We ought to have hearings.

I will certainly yield.

SENATOR BRUNO: Will Senator Leichter yield?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT HOBLOCK: Senator yield?

Senator Bruno.

SENATOR BRUNO: Senator, do you recall that we have passed this bill three out of the last five years at least that you have had time to study and review this? Do you

remember that, Senator?

SENATOR LEICHTER: Senator, have you -- let me -

SENATOR BRUNO: The same bill, Senator?

SENATOR LEICHTER: -- answer.

SENATOR BRUNO: And my question is, did you have time to study it over the last five years, Senator?

SENATOR LEICHTER: Senator, I have had time to study it. Let me tell you, it's no better with age than it was three years ago, Senator.

SENATOR BRUNO: Thank you. Would you stand for another question?

SENATOR LEICHTER: If I can answer your first question.

ACTING PRESIDENT HOBLOCK: Senator Leichter, will you yield?

SENATOR LEICHTER: I will yield, but I just want to finish the question that you asked me before, Senator Bruno. The point is that you've never had public hearings on this.

You have never had an opportunity to get business leaders, labor leaders, economists, political scientists, theorists, to comment on the wording of this bill. You got provisions in there that sound like something that came out of a comedy show.

SENATOR BRUNO: And, Senator, Leichter -- Mr. President -- speaking of comedy shows, I really appreciated you comparing me to President McKinley, who I believe was shot, and I guess there is some inference there.

But having said that - question: Do you know if this cap had been in place for the last four years how much money we would have in surplus today in that account? Take a guess, Senator.

SENATOR LEICHTER: I will let you tell me, Senator.

SENATOR BRUNO: $5.1 billion, surplus. Not deficit, Senator. Wouldn't it be nice to be sitting in this chamber giving the taxpayers a refund, reducing our debt? Wouldn't that be a nice, moderate, conservative thing to

do, Senator, rather than continuing our liberal spending and taxing ways, Senator?

SENATOR LEICHTER: Senator, it would be highly unwise and unreasonable to do because, if you had done that over four years, you might have $5.1 billion but you would have such a loss of jobs, you would have so much misery on the streets of this city, Senator, least of all, you wouldn't have been able to fund all your member items.

So I assure you that that cap would not have worked. Indeed, if that cap were in effect, my understanding is Governor Pataki's budget would not be within the cap; and as we know, this is a hard -- in fact, some people consider it a harsh budget, so the cap just doesn't work. To say that we would have had $5.1 billion if the cap were in effect, Senator, we would have property taxes that would be sky high. We would have class sizes in New York City of 70 to 80 kids. We would have had to open up the prisons of the state and let the prisoners out because there wouldn't have been

enough money to run the Department of Correctional Services.

Senator, if you just want to return all of the money to taxpayers and all of us would like to avoid paying taxes, why don't you just eliminate all taxes? I hate to give you that idea because we'll see that bill on the floor tomorrow. You will probably rush it through the Rules Committee and put it out.

But the fact of the matter is, Senator, that if you take a look historically at what people pay in New York State for taxes as a percentage of income, it hasn't really gone up very much. New York State may be a high tax state because of the costs here for some historical reasons, but that's not the reason why we have lost business. We were a higher taxed state when we were the leader in job creation and job growth and job retention in the United States.

There are economic forces at work in this country, at work in the world, which really determine how the economy of this state

does, and whether we spend a billion more or less, very frankly, has almost nothing to do with the economic welfare of this state. But if we impose this sort of a cap and are unable to take care of the needs of the people of this state because we're not going to be able to fund the schools, and we're not going to be able to provide assistance to people who are ill, and we can't provide help to the elderly, and we can't have day care and all the other services that are necessary including, by the way, substantial assistant to business. I just issued a report which showed that that last year we had total appropriations to business of $1.2 billion. Senator, you wouldn't be able to do this if you had a cap in effect.

But let me just point out to you some language, and I think that bears on the point that I made on the necessity of having hearings, having discussion. I think there is members on my side of the aisle that might very well support a cap if it was intelligently worded. Contrast -- contrast what we're doing

with the Senate of the United States, that for weeks has been considering a balanced budget amendment which is a somewhat similar approach to trying to restrict spending by this cap, and they have had hearings, they've had discussions, they've had deliberations, they've had economists. They've looked at what the consequences would be. Senator, legislation by rushing ahead blindly does not serve the people of the State of New York, and I submit to you that's what you are doing here.

I just want to read the definition of emergency. I would love to have you comment on this, because when I said this was something that came out of a comedy talk show, I think it is. "Emergency shall mean an extraordinary unforeseen or unexpected occurrence or combination of circumstances in a given fiscal year which requires immediate and sudden fiscal action of a drastic but temporary nature."

Senator, tell me, if you can, an example of something that is of drastic nature,

unforeseen, unexpected but at the same time it is temporary. Would you yield, Senator Bruno?

ACTING PRESIDENT HOBLOCK: Senator Bruno, will you yield?

SENATOR BRUNO: Yes, Mr. President. Sorry, I was dozing.

(Laughter.)

SENATOR LEICHTER: Senator, I think you were dozing when you wrote this bill, frankly.

SENATOR BRUNO: No. You have such a melodious tone to your rhetoric.

SENATOR LEICHTER: I am going to be less melodious, Senator. Tell me -

SENATOR BRUNO: Yes, I heard the last part, and recognize this, Senator. The Governor in his good, sound, sensible, sane, judgment would look at the world of New York State and say, "I believe we have an emergency and I, based on these circumstances, propose to the Legislature that there is an emergency in this state that requires extraordinary action," and then this great deliberative body must

concur by two-thirds vote before that emergency can be reality.

So, Senator, you talk about hearings, you talk about discussion. I would suggest to you that there isn't any better format to review and then you could say all of the nice things and wise things that you usually say about the emergency that's purported, and then we either by two-thirds vote concur or not, and that's how we would deal with reality not supposition, Senator.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Leichter.

SENATOR LEICHTER: If Senator Bruno would be good enough to continue to yield.

ACTING PRESIDENT HOBLOCK: Senator Bruno, do you yield?

SENATOR BRUNO: Yes, Mr. President.

SENATOR LEICHTER: When the Governor certifies there is an emergency,

assuming this resolution is adopted eventually by the people, he would have to certify within the terms of the Constitution, namely, this particular resolution; isn't that right?

SENATOR BRUNO: That is so.

SENATOR LEICHTER: He couldn't just say it's an emergency because I think it's an emergency. He would have to say it's an emergency because, among other things, there is a sudden fiscal action of a drastic but temporary nature. He would have to certify that; is that right?

SENATOR BRUNO: Yes, and it could have to do with some disruption in the City and it might be in your district where something took place which was of massive nature, a great dislocation of your constituency, the people of the City, and it wouldn't be conducive to good health and welfare, and he would then make that judgment.

SENATOR LEICHTER: Senator, let me ask you this question. Suppose there was an earthquake.

ACTING PRESIDENT HOBLOCK: Senator Leichter, are you asking Senator Bruno to yield again?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT HOBLOCK: Senator Bruno, do you yield?

SENATOR BRUNO: Yes, Mr. President, I do.

SENATOR LEICHTER: Okay. Senator, suppose there was an earthquake in New York City -- if there was an earthquake in New York City that had effects that are not just temporary because, as you know, once the earth shifts things are somewhat different. It's permanent. Would that qualify as an emergency since what has occurred is not temporary?

SENATOR BRUNO: Yes, that would qualify, Senator Leichter.

SENATOR LEICHTER: Even though the effect is longlasting.

SENATOR BRUNO: Yes, Senator Leichter, that would qualify.

SENATOR LEICHTER: Okay. So what

you're telling me is that temporary really doesn't mean temporary.

SENATOR BRUNO: Senator Leichter, temporary means temporary; and temporary could be one year, five years, depends on whatever you would relate it to.

SENATOR LEICHTER: Could temporary be 50 years?

SENATOR BRUNO: I guess if you were thinking in terms of millions of years, yes, very much so.

SENATOR LEICHTER: I think I'm making my point that we have language here that is highly loose and subject, really, to all sorts of varying interpretation.

One of the issues before the U.S. Congress and the Senate now in the debate on the constitutional amendment, the balanced budget amendment, is the concern that Senator Nunn and others have raised that you are really turning over the legislative power to the Court because there, too, there will be interpretations that probably will be made by the Court which may

require the Court to actually allocate spending.

I would submit to you that language of this sort where the Governor maybe would certify that emergency has occurred because something that has an effect over a hundred years and he says, "Well, I think that's temporary because I'm looking at the millennium and that's really a short period of time." Somebody else may say, "Wait a second, 100 years isn't temporary." I think it's considerations of that sort that ought to be reviewed, ought to be analyzed, the public ought to be given a chance to comment on before we rush ahead with changing the basic framework of how this state acts.

So I would strongly urge that this bill be withdrawn. If you want to bring it back later in the session, this resolution, you can certainly do it. There is no reason in the world that this needs to be done now. If you want to do it in this session, you can do it; but why not do it in an orderly deliberative

way? Why not give the people of New York State an opportunity and a chance to be heard?

You know, all the wisdom in the world is not contained in this chamber, and bills that come out even with the imprimatur of the Majority Leader maybe can be improved or can be shown not to be wise. I don't know what the concern is or the fear, really, to let the public be part of the legislative process as they should be. Congress has hearings. Congress debates important matters in a deliberative fashion. What is the rush?

If we're making a political statement, Senator, have a press conference. Say you are in favor of a cap on spending and you are going to come up with a workable, sensible cap. That's fine. You have made your political statement. Now let's do the hard work. But, instead, to have the press release, in effect, be the resolution and to rush it through this way, Senator, that's no help. You are never going to achieve what I think you honestly want to achieve. I strongly disagree

with you, but I know that you are sincere in your belief that if you reduce government spending that somehow or other this state is going to bloom economically. To my mind, it doesn't make sense, but that's your belief. But at least do it in a way that is going to accomplish what you want it to do and not in a way that is merely, I think, a political press release.

So if you read this, I think you will see that it's probably not workable. I think you will also see that it imposes a very severe limitation. If you just consider the fact that, as I have been told -- I believe it's correct. Nobody, at least, has gotten up and said, "You are wrong, Leichter" -- that Governor Pataki's budget would not be within this cap if that were now part of the Constitution of State of New York, and we know that it is a very, very, very tight budget that has made many of us, including on the other side of the aisle, very uncomfortable then you will appreciate what a severe restriction it is. But by passing

something of this sort, we are handcuffing future legislators. We are handcuffing the ability of this state to meet future crisis that we have no way of understanding or future needs that may not fit into the definition here of emergency.

I think it is unwise, but it is certainly unfortunate and certainly improvident to proceed in this fashion and to really preclude and exclude the people of the State of New York on something as important as this to be heard not just at the end when you slap a resolution on the ballot but right in fashioning that resolution to see that what you have really makes sense.

I submit what is before us does not make sense.

ACTING PRESIDENT HOBLOCK: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Before I go to the text of this bill, and I have some questions for Senator Bruno, maybe I should deal with those. I would

like to deal with the specific subject matter the text of the bill. I actually have a proposal for a series of amendments, which I understand I need unanimous consent in order to bring up because it's a resolution and not a bill. Before I posture those amendments to the chair, however, I would just like to discuss a series of the concepts that the amendments deal with, with Senator Bruno, and perhaps by question and answer format, and so if Senator Bruno would yield to a question?

ACTING PRESIDENT HOBLOCK: Senator Bruno, will you yield to a couple of questions?

SENATOR BRUNO: Yes, Mr. President. Senator Dollinger.

SENATOR DOLLINGER: I asked this question in the Judiciary Committee this morning, and I just want to make sure I fully understand it. The state spending limitation that's talked about in this bill is derived by multiplying the personal income, the state personal income, which is determined by the

Department of Commerce in the federal government, but let's just talk about the state personal income.

Why isn't corporate income included in the basis for calculation? After all, corporations are using our services. They are part of our spending. We spend money for corporations. Senator Leichter pointed out that we spend a billion-point-two on direct assistance for our private enterprises, for corporations, but they are also using the spending. They are using our roads, using our transportation network.

Why don't we include corporate spending in there?

SENATOR BRUNO: Senator, we could have. Practically speaking, you can use any formula that you want to. The fact of the matter is that that had been contemplated, but the information that we have is that it takes about two years to compile that kind of information as relates to business in any accurate fashion. So it didn't seem practical

or workable. We could have said 2 percent of personal income and such a percent of corporate income. Could have done it. It wasn't practical. That's the reason.

SENATOR DOLLINGER: Again through you, Mr. President. I also understand that to calculate the personal income, the Department of Commerce publishes about three months behind the initial receipt of the data, and then at a six month picture makes a further revision of the earlier personal income numbers to reflect the actual or better calculation based on withholding and other information that - frankly, I should add by way of interjection, the chairman of the Judiciary Committee allowed me to talk to staff. I had a conversation with staff in which much of this was discussed. I appreciate that courtesy on his part, but we still will have a calculation of personal income tax base which will be used as the basis for this formula which will take six months beyond the end of the year before we will have the real number that we have to deal with. Isn't that

correct?

SENATOR BRUNO: The calendar as was related in the bill I think takes into account the mechanics of doing something realistic in the forthcoming budget. There is about a three-month lag realistically in getting numbers that pertain to that.

SENATOR DOLLINGER: But my further understanding -- again through you, Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Dollinger.

SENATOR DOLLINGER: -- is that the three-month lag is accompanied by a three month period in which a revision occurs which relates six months back because they get new and better numbers in the second three-month period.

SENATOR BRUNO: There are adjustments, but once you have a targeted number, then there can be adjustments as you go forward.

SENATOR DOLLINGER: Again through you, Mr. President. If we're making a six-month

adjustment, how do we end up with the kind of accuracy, the kind of number that would be pegged to state spending which occurs -- I assume the cap would take effect on April 1, the day the budget is passed. That's when the cap would go into effect for the past year. Isn't that correct?

SENATOR BRUNO: For the future, and the numbers would relate to the past effective to the particular date.

SENATOR DOLLINGER: Okay. Again through you, Mr. President.

SENATOR BRUNO: And I might just add in that answer that this year's budget when we talk about how we would limit spending, Senator Leichter is right. This year's budget would not meet this criteria. But guess what? It would allow us this year to spend $62 billion, not exactly a pittance on behalf of the people of this state. 62 billion, Senator, within the confines of this 9 percent determined by this formula.

SENATOR DOLLINGER: Again through

you, Mr. President, to Senator Bruno. What I understand is that we will use last year's personal income to determine the cap for the next year's spending. Isn't that correct?

SENATOR BRUNO: To the previous June, that is correct.

SENATOR DOLLINGER: Okay. So it's all retroactive. The calculation is retroactive, yet the year we're going to spend into is the year that -- we're going to be confined by last year's numbers. So if the economy picked up and we had lots of income pouring in, in the next fiscal year, we would be capped to what had occurred the year before.

SENATOR BRUNO: Previous June, that is correct.

SENATOR DOLLINGER: So even as the economy picks up, the state couldn't spend any more money to continue to make sure the economy keeps moving. Isn't that correct?

SENATOR BRUNO: That is, Senator. Bottom line to this discussion really relates to whether you want to spend and tax or

whether you want to change the direction of this state and stop the spending and stop the taxing, and those are decisions each of us have to make individually.

SENATOR DOLLINGER: But again through you, Mr. President. If the economy picked up in the budget year and we decided that we wanted to give more money to business to further prime the pump to keep the economy going, the drag on our ability to do that would be the fact that the tax receipts the year before had been less.

SENATOR BRUNO: Senator, again, the formula would dictate that once you get over certain numbers, quarter of one percent as within this cap, it goes into the stabilization fund and that money would then be used when it goes over a certain percent to reduce taxes and reduce debt, and I would think, Senator, that those are two things that your constituents would like to have happen.

SENATOR DOLLINGER: Again through you, Mr. President. What, Senator Bruno, would

be the mechanism for the actual reduction of that debt? When would you decide that you've got enough money in the account to make the calculation that you're going to reduce the debt? Would you have to wait a whole year to do it? Would you wait till March 31st when you close the books and then said, "Okay. Now we got more than 2.5 -- .25 percent more than we anticipated; therefore, we will give a reduction in income taxes or in debt reduction in the following year"? Is that the way it would work?

SENATOR BRUNO: It would in the next current year. You would deal with it in the normal budget process. You would make appropriations just as we are doing now in the normal budget process.

SENATOR DOLLINGER: Again, through you, Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Bruno, do you continue to yield?

SENATOR BRUNO: Yes, Mr. President.

SENATOR DOLLINGER: Two other parts of the bill. Senator Leichter dealt with the emergency clause. I want to just ask one question. In your judgment, Senator, as the author of this bill, is there anything that's happened in the State of New York in the last ten years that would have been an emergency and triggered the emergency clause in this bill? Anything?

SENATOR BRUNO: I can't relate to that now. If I just reviewed the last ten years, I might think of some situations. But off the top of my head, no, I don't think of any.

SENATOR DOLLINGER: Through you, Mr. President. Senator, you have been one of the leading spokesmen of the fact that we lost a half a million jobs in this state. In your judgment, is the fact that we lost a half a million jobs in this state an emergency under this bill to allow the Governor to bring forth additional spending under the requirements of this bill?

SENATOR BRUNO: Senator, that's the difference between you and me. You think spending -- state spending, increasing spending in some ways creates economic development jobs. Haven't you learned from the last 12 years of the failures of the past administration that when government overspends you lose jobs to other states who control spending and control taxes? You have it philosophically reversed. You are a Liberal. You are a liberal spender, and you are a liberal taxer, and that's what this bill is all about.

SENATOR DOLLINGER: Could I simply ask that Senator Bruno answer the question?

ACTING PRESIDENT HOBLOCK: Senator Dollinger.

SENATOR DOLLINGER: Could I ask that Senator Bruno answer the question? I'll deal with the issue of whether I'm a liberal spender, because while you were voting for those two budgets the last year, I voted against them with the other guy who sat across the hall who

now sits down in that armed fortress on the second floor and is the governor of this state. I was voting no while you were voting yes. Who is the liberal spender, Senator?

Senator, it's you. It's not me. I'm not the guy who is at the fat farm who says, "Take all the food away. I can't stop eating." I am willing to stand up and say we shouldn't have eaten as much in the last two years. I'm the guy who voted against the budgets. I wasn't voting for all those liberal tax and spend budgets that you were voting for and that your members of the house were voting for. I hate to say it, Senator, but you're incorrect on the facts.

Will Senator Bruno yield to two other questions on the bill?

ACTING PRESIDENT HOBLOCK: Senator Bruno, will you yield?

SENATOR BRUNO: Senator, if you would like to continue this for the next two hours, I think there are other people that might want to be heard, so I will yield to one more

question and then I am going to vacate the premises until you get through, and then I will resume, whoever wants to talk, in listening. Okay?

SENATOR DOLLINGER: That's fine.

SENATOR BRUNO: Is that fair enough?

SENATOR DOLLINGER: That's fine, Senator. I didn't get a chance to talk yesterday. I was cut off. I'm going to take my time today.

There's just one other question I would ask the Senator to yield to.

SENATOR BRUNO: We all enjoy listening, so be my guest.

SENATOR DOLLINGER: In the bill by Constitution -- by Constitution, the bill says that we're going to rely on the United States Department of Commerce to make the calculation of personal income which is the trigger under this bill, isn't that correct, Senator?

SENATOR BRUNO: That is correct,

Senator.

SENATOR DOLLINGER: Why or was there any consideration given to the fact that that should be done by the elected Comptroller of the State of New York, the person who is charged by the Constitution of this state with determining our financial condition? Why shouldn't we keep the power to make this determination here at home rather than rely on Washington which has such a bad habit of sending us bad census numbers and all kinds of other bad data? Why would we allow that to go to Washington?

SENATOR BRUNO: Because the judgment was made to use this particular method rather than another. It was just a judgment that was made, and I believe it's a correct one. There are other ways to calculate or justify, and the Comptroller might have been a suitable alternative. That's not the way the bill is drafted.

SENATOR DOLLINGER: Just one final question.

ACTING PRESIDENT HOBLOCK: Senator Dollinger.

SENATOR DOLLINGER: Would the Majority Leader entertain an amendment to change that provision, delete the Department of Commerce, United States Department of Commerce, and insert the Comptroller as the person who would make the judgment of the personal income? He could use the Department of Commerce's number, but he wouldn't be bound by it. He would have to make his own certification.

ACTING PRESIDENT HOBLOCK: Senator Bruno, do you yield to another question?

SENATOR BRUNO: If after this resolution is passed if you want to submit a chapter amendment, we will take a look at that as to the merits.

SENATOR DOLLINGER: Would you do it today? Could I submit these amendments with unanimous consent of the house?

SENATOR BRUNO: We would not do it today, Senator. We don't have enough

notice. I can't study it. I can't review it. I'd appreciate you following some procedure. I might want to have a hearing on it. I might want to do all those things that Senator Leichter proposes; so how can you ask me to do it now immediately? It's totally unfair. I can't manage that.

SENATOR DOLLINGER: Senator, you took the words right -

SENATOR BRUNO: I wish that you could use a more lengthy process in these deliberations.

SENATOR DOLLINGER: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT HOBLOCK: On the bill.

SENATOR DOLLINGER: I guess I sit here in almost astonishment that I am being accused of bringing it in at the last minute. I saw this bill in the Judiciary Committee. I told the chair of the Judiciary Committee I was going to go back, write up a series of questions since it was the first time I had had a chance

to look at the bill. I wrote up a series of questions. I wrote up a series of little amendments. I sent them to the Judiciary Committee. I sent them to all the members, trying to scramble like mad.

Why? Because I didn't put this bill on the floor. Someone else decided to put it on, on the Judiciary Committee, on the Rules Committee, on the Senate, and all in one day; and I'm being accused of rushing it by trying to put some amendments that will hopefully make it a better bill and allow me to vote for it? Now, I don't understand it at all.

Mr. President, on the bill. I guess I'm astounded. I hear people saying that the Liberals are spending; that we just - Senator Bruno said we just can not control spending. The answer to that question is he is absolutely, totally 100 percent wrong. All you have to do is just say no; that little thing that Nancy Reagan made famous, "Just say no."

I wasn't saying yes, yes, yes, for the last decade, but there are a whole bunch

of people in this chamber who were; and, frankly, you strike me like that 18-year-old kid who goes on his first drinking binge and then says, "God, please don't ever let me drink again. I never want to drink again. I never want to touch alcohol again." He wakes up the next morning over the course of his life and he says, "Drinking in moderation isn't that bad. It's when you go on binges that you go absolutely out of your mind."

I submit Senator Bruno is correct. We may have been going on a binge in the last ten years, but the solution is right here, right in this chamber. It's not with a constitutional amendment that I am now being told I can't even amend to change some of the powers in it, to maybe add corporate income as well as personal income so we recognize that there's a corporate use of the services and the spending of this state.

And, lastly, the other addition that I was going to make if Senator Bruno would have allowed me to put the amendment on the

floor was a little tiny amendment that would change the tax account and would say that in addition to allowing a reduction of state property taxes, you could also use the funds that accrue in this tax limitation account - use it to reduce local property taxes so that county executives and our counties would be able to find their local property taxes go down, the most regressive tax that we have. It only says can be used for debt reduction or state tax reduction. Why wouldn't you want to use it for local property tax reduction?

You don't want to entertain the amendments. You jam these bills through. Senator Leichter is absolutely correct. We're doing this all in one fell swoop.

ACTING PRESIDENT HOBLOCK: Senator Goodman.

SENATOR GOODMAN: Would Senator yield to one brief question?

SENATOR DOLLINGER: I'd be glad to.

ACTING PRESIDENT HOBLOCK:

Senator Dollinger, will you yield?

SENATOR DOLLINGER: Yes.

ACTING PRESIDENT HOBLOCK: Senator Goodman, he yields.

SENATOR GOODMAN: Senator, I sit here in some degree of amazement listening to your rewriting of the history of past debates and the adoption of our budgets. It had been my impression based upon what I had heard through my ears that the principal reason on which people on your side of the aisle voted against our budgets was not because they expended too much but because they expended too little; and, in fact, there have been specific references in these debates to various areas in which the people of the state were being shortchanged by virtue of expenditures which were too slim, not sufficiently nutritious for the needs of all these people, whether in the field of education or health care or care for various people in their housing needs and the like.

Now, do I understand you to say that you depart from the general trend of

thinking of your colleagues on that side and that the reason that you voted against the budget was that it expended too much? Merely for clarification.

SENATOR DOLLINGER: If you look at my discussion with Senator Pataki last year when I joined him in voting against the budget, it was for the exact same reason. I'm only standing up here suggesting why I voted against it, not anybody else in the house.

What I am suggesting, however, is when you say that you can't control spending, the problem lies with the people in this chamber. We can say no. We can just say no.

ACTING PRESIDENT HOBLOCK: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would Senator Dollinger yield to a question?

SENATOR DOLLINGER: Sure.

ACTING PRESIDENT HOBLOCK: Senator Dollinger will yield.

SENATOR DeFRANCISCO: You ran for re-election this past October, did you not?

SENATOR DOLLINGER: I ran in November, yes. Actually ran for most of the spring, summer and fall.

SENATOR DeFRANCISCO: Did you? During that period of time, in any of your campaign literature, did you highlight the fact that you brought more educational funds back to your district?

SENATOR DOLLINGER: Actually, I didn't, no.

SENATOR DeFRANCISCO: Did you ever mention that during the course of your campaign that you brought more money back to the district for any programs?

SENATOR DOLLINGER: No, I did not. I did not.

SENATOR DeFRANCISCO: Okay. Very good. Thank you.

SENATOR DOLLINGER: I did not. I thought it would be duplicitous to do that in light of my vote against the budget.

ACTING PRESIDENT HOBLOCK: Senator Abate.

SENATOR ABATE: Yes, Mr. President. I'm not sure who should yield to this question on the bill. Is it Senator Velella?

SENATOR VELELLA: Yes.

ACTING PRESIDENT HOBLOCK: Senator Velella, do you yield?

SENATOR ABATE: I think as was said by a number of people, it's not enough just to pass legislation because we believe in a concept. We have to understand the details of a bill and what drives the bill, understanding the wording of the bill. This is a formula-driven cap, and the cap is driven by nine percent of the state personal income collected in the previous year. My question is, why is it nine percent and not ten percent, twelve percent, six percent? How is that formula arrived at, because this is the base -- the prime basis for this formula.

SENATOR STAFFORD: Well, that's obviously a very -

ACTING PRESIDENT HOBLOCK:

Senator Stafford.

SENATOR STAFFORD: Thank you.

That's a very fair question, but what we're looking at, when you take your family to the movies, it used to be reasonable. Now you're lucky if you get out of it for $100. My point is, you only go as much as you can afford. That would be nice, possibly. Some would say that we could spend more. Others would argue that we shouldn't spend more even if we had it; we should leave it with the people. So I think it's a compromise. It's something that we hammered out on the anvil of discussion, what positions people had, and I think that's something we felt we could afford. It was fair and still provided the needs of our people, considering inflation and all other matters. You know that it's probably what, twice -- twice the -- over twice the rate of inflation, and I would suggest maybe we shouldn't be spending more than that.

SENATOR ABATE: Yes, on the bill. I agree that we should be exercising -

ACTING PRESIDENT HOBLOCK:

Senator Abate on the bill.

SENATOR ABATE: Yes. - exercising fiscal discipline and we should be eradicating waste and doing more with less, but my problem is, none of us -- and I have just had the opportunity to see the bill for the first time -- none of us have been privy to that discussion around what we can afford, what is fair, and what is reasonable, and I would suggest that we should open this up to further debate and hearing so we can understand how you arrived at that formula and what the investigation -- the experts you're relying upon. None of us are privy. All we're hearing today is the conclusions, not the thought process, not the information that was before you when you arrived at this conclusion, and I look forward to more debate on this issue.

ACTING PRESIDENT HOBLOCK:

Senator Paterson.

SENATOR PATERSON: Mr. President, what we did -- and I want to thank Senator

Galiber and the Finance Minority for compiling this -- is we took the gross personal income from calendar year July 1st, 1993 to June 30th, 1994, and we computed that with some help from the Majority at $463.8 billion. We then took that number and multiplied it by 100 over 9, which would give us 9 percent of that number, and we got $41.7 billion. Now, we find that Governor Pataki's budget for this year, 1995-96 is $42.5 billion. So, therefore, Governor Pataki's budget, by my calculation, would be 9.17 percent of the available gross personal income if the statistics are somewhat similar, meaning that the Governor's current budget is actually over the 9 percent. What that would also mean is that we would have a deficit of $5.8 billion and then would have to come up with another $800 million in savings.

Now, I cite this as an example not for total accuracy, but just to point out that where we limit ourselves in such derision, strictly enforcing something, putting government in a sense on automatic pilot, we can't make the

adjustments that we might have to make short of a natural disaster, which is why I'm not in support of the bill.

Furthermore, I would have to say to the Majority, if they do not get rid of this cap by April, I personally may lead a strike of the Senate Minority and, who knows, maybe they'll have to bring in replacement Senators.

So, with that, I find that we have to really focus on -- on the actual cuts we might make in a particular year, rather than trying to set a standard for events that will occur five years down the road that we cannot anticipate.

Thank you, Mr. President.

ACTING PRESIDENT HOBLOCK: On the resolution, call the roll.

SENATOR PATERSON: Slow roll call.

ACTING PRESIDENT HOBLOCK: The clerk will call the roll slow.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Babbush, excused.

Senator Bruno.

(Affirmative indication.)

THE SECRETARY: Aye.

Senator Connor.

(Negative indication.)

THE SECRETARY: No.

Senator Cook. Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

(There was no response.)

Senator Dollinger.

SENATOR DOLLINGER: To explain my vote briefly, Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Thank you, Mr. President.

I think this is a concept that we

have the ability to remedy ourselves. We don't need the constitutional authority to tell ourselves we're not going to spend any more money. I think that the amendments I discussed could have improved this and perhaps made it a more palatable matter, but the Majority is not willing to entertain those. I disagree with the procedure; I disagree with the process and I disagree with the substance. I vote no.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

(There was no response.)

Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.
SENATOR HOBLOCK: Yes.
THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: Yes.
THE SECRETARY: Senator Holland.
(There was no response.)
Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Jones.
(There was no response.)
Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lack.
(There was no response.)
Senator Larkin.
(There was no response.)
Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Yes.
THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: Mr. President, briefly to explain my vote.

ACTING PRESIDENT HOBLOCK: Senator Leichter to explain his vote.

SENATOR LEICHTER: Yeah. Putting aside for a moment what I think is a poorly worded resolution, and even for the moment, the whole idea that we would want to hamstring government this way and a notion that I, frankly, find offensive that you cannot trust your elected representatives to do the sensible and the right thing, what disturbs me is that there is an underlying economic approach here which fails to understand what this state needs and what the problems of the state are.

The problems of the state have not been that we have overspent. We've lost jobs for any number of reasons. Jobs have gone to Bangladesh not because we spend a couple hundred million dollars more. We've lost jobs because of worldwide economic competition. We can meet some of that competition. We have a wonderful work force here in New York State. We

have resources and other things. We need to build that up. We need to educate our people. We need to spend money prudently, but we also have to spend money at times to create economic prosperity, and to limit ourselves in this fashion and to proceed with a viewpoint that Senator Bruno expressed when I sort of kidded him -- and certainly no offense was intended when I said these are the ideas of Calvin Coolidge and President McKinley. I mean, it's as if he's never heard of Maynard Keynes and other people, economic theories that have to guide a sensible government, and this blind approach that the Majority has taken -- which may be very popular with the public. "I'm going to cut taxes. I'm going to cut spending", and so on, but in the long run, you're going to bankrupt the state. You're going to make this the "waste state" instead of the Empire State. I vote no.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

(There was no response.)

Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

(There was no response.)

Senator Mendez.

(There was no response.)

Senator Montgomery.

ACTING PRESIDENT HOBLOCK: Senator Montgomery.

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

I look at this legislation as one more -- one more statement to the electorate of the state of New York that we are not really willing to see the needs of people before the interest of politics, and I think it's a very cruel hoax on the public and there is a lot of -- I hear a lot of this explanation that the voters have given us a mandate and we're

following that mandate, but I don't believe that the voters have given us a mandate to change the quality of life in this state to the extent that none of us will be able to call ourselves proudly New Yorkers or that we will be able to refer to our state as the Empire State in ten years, and we know that cutting taxes, in fact, does not create jobs. We are not talking about creating jobs. We have lost our edge on the automobile industry in this nation. We've lost the manufacturing industry in this nation. We have lost the job base where any man or woman could go out and get a job and support themselves with decency and pride and expect to be able to send their children to college and expect to be able to buy a home, and expect to be able to buy a car based on the fact that there was a job for them that they could do, that they had the skills to do and that they are willing to do.

We are not talking about that. We're just talking about pretending that we're cutting taxes to put money in the pockets of

people, and it really is not money, and it really is never going to reach their pockets because they're going to pay it out in every other way possible in addition to making huge contributions just to keep our little programs going in the districts that we represent because they're going to be out of business very shortly.

I'm being asked to double the number of contributions I'm making personally to letter programs because they're going to be out of business and each one of us is going to have to face at that, so we're not going to get any money back in our taxes, so that is a hoax on the public I will not participate in. I vote no.

THE SECRETARY: Senator Nanula.

(There was no response.)

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I rise to explain my vote.

ACTING PRESIDENT HOBLOCK: Senator Nozzolio to explain his vote.

SENATOR NOZZOLIO: My colleagues, we are debating this measure today as most families would have to sit around their kitchen table and decide whether or not they had to cap their own spending habits. Each family in the state does. Each business of the state has had to retrench over these years to do more with less and to make their operations more effective and efficient.

What this spending cap does is stop the rate of growth of government. That's all it does. It doesn't reduce government. It doesn't eliminate government. It only reduces the rate of growth. I hear all this tongue lashing about how this measure will be the end of the Empire State. Frankly, this measure will ensure that we have an Empire State once again. It will produce jobs. It will show businesses and families across this state that New York government, for a change, will be living within its means.

Mr. President, that's why I support this measure.

THE SECRETARY: Senator Onorato.

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

ACTING PRESIDENT HOBLOCK: Explain your vote, Senator Onorato.

SENATOR ONORATO: I voted for this amendment -- resolution in the past, but I have some serious doubts today that it doesn't include families in the limitations on the spending, especially when it comes to tax incentives for the corporations, and I always like to say that I want to be fair and give everybody a fair share of the pie, and I don't believe that this particular resolution goes far enough. If you're going to cut the -- put a cap on spending, let's include it on everybody. If an amendment addressing my concerns meet those requirements, I will be very, very happy to vote in the affirmative, but as of today, I vote no on this current one.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Nay.

THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: Yes.
THE SECRETARY: Senator Paterson.
ACTING PRESIDENT HOBLOCK: Senator Paterson, to explain your vote.
SENATOR PATERSON: Thank you, Mr. President.
The investment tax credit which is actually a subsidy does not appear as a subsidy in the budget because, since it's regarded as a corporate franchise tax, it escapes the cap. So tax expenditures really are not listed because they are part of the tax system, and I think this is a way that we are - and it's been said by members of both sides of the aisle, really engaging in a lot of back door financing and back door expenditures aren't even going to be listed under this system. Because of this and because of the unemployment, I think that will accrue, I vote no.
THE SECRETARY: Senator Present.
SENATOR PRESENT: Aye.
THE SECRETARY: Senator Rath.

Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

(There was no response.)

THE SECRETARY: Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Solomon.

(There was no response.)

Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky is excused.

Senator Trunzo.

SENATOR TRUNZO: Aye.

THE SECRETARY: Senator Tully.

(There was no response.)

Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(There was no response.)

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT HOBLOCK: Call the absentees.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Yes.

THE SECRETARY: Senator Gold.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Lack.

Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: With all due respect to Senator Bruno, I vote no.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Santiago.

(There was no response.)

Senator Solomon.

(There was no response.)

Senator Tully.

SENATOR TULLY: Aye.

ACTING PRESIDENT HOBLOCK: Results?

THE SECRETARY: Ayes 38, nays

16.

ACTING PRESIDENT HOBLOCK: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Yes. Mr. President, can we now take up Calendar 134?

ACTING PRESIDENT HOBLOCK: The Secretary will read.

THE SECRETARY: Calendar Number 134, Budget Bill, an act to amend the Tax Law, in relation to reduction of rates and enhancement of credits under the state personal income tax.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 21.

SENATOR BRUNO: Mr. President -

SENATOR PATERSON: Explanation.

SENATOR BRUNO: -- before we proceed, can we recognize Senator Oppenheimer?

ACTING PRESIDENT HOBLOCK: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you

very much, Senator Bruno.

I guess I have to just shout louder in the future.

ACTING PRESIDENT HOBLOCK: I'm sorry.

SENATOR OPPENHEIMER: Or clap my hands or something. I would like unanimous consent to be recorded in the negative on Calendar Number 67.

SENATOR BRUNO: Without objection, Mr. President.

ACTING PRESIDENT HOBLOCK: So recorded.

SENATOR BRUNO: Regular order, Mr. President.

ACTING PRESIDENT HOBLOCK: Explanation has been asked for.

SENATOR GALIBER: Yes, there was an explanation asked for.

SENATOR BRUNO: Mr. President, we just passed in this house with some very sound judgment by the great majority of people in this chamber, a spending cap. When you deal with a

spending cap, you can also afford then the rewards of a spending cap which is a tax cut.

This bill is a Governor's program bill. It will cut taxes over the next four years $6.8 billion -- 6.8 billion. It reduces the top income tax rate from the present level, close to eight percent to 5.9 percent and at the bottom of the scale, at 4 percent. It's important that we all recognize and understand that 4.4 billion of this tax cut, two-thirds of it, goes for people with incomes of under $100,000 -- under 100,000 a year, and I would ask you to focus also on the fact that this tax cut will take about 400,000 people off the tax rolls as it is implemented, 400,000 people in this state at the lower income levels will come off. It increases the dependency allowances. It does the things that are important to the people of this state to help stimulate the economy and move this economy forward.

All of us can make excuses on why we should not have a tax cut. Can't afford it. We have to spend the money, but the numbers are

all familiar to you in this chamber, too familiar. There has been pain and suffering in this state, especially over the last four or five years as we led the country in job loss across the whole United States by 40 percent of all of the jobs lost coming from New York, not 10 percent, 20 percent. Just think about that. That's pain and suffering.

Nine out of ten times in the last 30 years taxes were cut, jobs increased. The estimates are that this tax cut package will produce about 375,000 jobs. You know what the bottom line for that is for the people of this state? About $2.1 billion in additional revenue in this state, 2.1 billion in additional revenue, and with that additional revenue when people are prospering, businesses are doing well, we can afford to do the kinds of things that we want to do for the people of this state, as relates to all of the goods and services that the people of this state would like to have to improve the quality of their lives but, ladies and gentlemen, the spending and taxing policies

of the past have to be in the past.

There was a message on November 8th across the country, certainly here in New York State, demanding change -- demanding change, not minimal change, not pretending to cut taxes while in reality we raised taxes. Those kinds of games should be things of the past.

This is a true tax cut. It is a job stimulation package. It will move the economy of this state forward when the CEO of IBM made a decision to help all of the people of this state investing 245 million in new facilities, retaining jobs, growing jobs here. Did you hear and read what his comments were? He couldn't have been more complimentary to the new administration of Governor George Pataki and indicated that already they see a change of attitude by the people in charge in New York State from taxing and spending to reducing spending, cutting taxes, making government more friendly to people in business.

What prompted their decision?

How many other hundreds of companies are there like the IBMs of this world looking at New York to see how serious we are? Are we going to continue the failing ways in the past? The answer is no. This Governor has delivered a very strong message. He has said, "We will do a 25 percent tax cut for the people of this state over the next four years." This is the Governor's tax cut package. The people of this state elected him because they believed in his message of spending less and cutting taxes.

Less than two years from now, all of us in elected office in this chamber, most of us, will face a constituency, and that constituency is going to judge us on what we have done for them and for the people of this state. So I would just remind everyone in this chamber, we have a responsibility to our constituents and to the people of this state, and our responsibility is to deliver good government and with a people vote, we ought to be responsive to the people, and this Governor is not forgetting the promises that he made

after he's elected. He has put together a package. He was elected with this in the forefront of his campaign, and it is now before this house.

So I ask my colleagues to review it, to study it. It has been deliberated over in both chambers in various ways, reviewed by the press. It's no stranger to any of us. So now it comes time to stand up and choose. Do we live in the past and continue to spend and tax or do we recognize that the present for our constituents, for a better life in this state and in the future relates to cutting spending and cutting taxes?

Thank you, Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Paterson.

SENATOR PATERSON: Mr. President -

SENATOR GOODMAN: Mr. President, is there a list?

ACTING PRESIDENT HOBLOCK: I apologize. Senator Stafford is next on the

list. I apologize.

SENATOR STAFFORD: I will pass. I think the question was, do we have a list of speakers, and we probably do. I'll speak later.

ACTING PRESIDENT HOBLOCK: Okay. Senator Goodman is next.

SENATOR GOODMAN: Mr. President, let's sit back for a moment and take a non statistical look at what we're being asked to do today. Let's take a little helicopter trip over recent history and look down on the broad trends that relate to this action.

In very plain and simple terms what has happened is that New York State has been on a downward escalator propelled ineluctably by the fact that it has been grossly uncompetitive with its neighboring states, grossly unable to compete in the effort to keep jobs in the state of New York and to attract new businesses into the state of New York.

Specifically, let's take a look at our neighbors. Connecticut, personal income top rate on wage income, 4.5 percent;

Massachusetts, 5.9 percent; New Jersey, 6 percent; Pennsylvania, 2.8 percent.

Mr. President, in every surrounding state, there has been a magnet drawing out of our state the most precious and important thing we can do to help our people which is to give them long-term jobs. Let's be clear. We're seeing a complete differentiation of philosophy here. Many of us have great compassion and concern for people who are out of work and being out of work suffer many of the pangs and arrows of life which is sub... subsistence level.

And we ask ourselves the question, how are we going to assist these people? Are we going to assist them by having government spend for programs which ameliorate their plight or are we going to try to interlace in our whole governance and taxation structure, such an arrangement that we will impel people into permanent jobs by which they will find a true place in society and not one dependent on the largess of a state which can vary from day

to day and year to year?

I respectfully submit to all of my colleagues on the other side who, I think, have a definite concern and compassion for the welfare of people, that the best formula we can find for the permanence of a welfare arrangement is to make sure that we give people jobs that are permanent. Now, what has that got to do with taxation?

There's an overwhelming body of evidence which points to the fact that when we are surrounded by states that have lower income taxes, it is the income tax which is the principal subject for analysis when we determine where a corporate executive is going to put his concerns, his subsidiaries, his factories, his headquarters and the like. When a chief executive -- and we've heard it time and again from their lips -- is thinking about where to go into another state to try to find a more congenial climate, he inevitably -- one of the first things he will look at is the tax rate in that state, and because New York has had an

uncompetitively high tax rate over and over again, decisions have been made to stay away from New York.

Now, we certainly can learn from the lessons of history that we are doing something wrong. Frankly, this places us in a very tough spot. This is not an easy series of options which we're being asked to consider this year. This is tough stuff. This is the thing that tests the sinew of every legislator's judgment, to see whether we can make an unpopular decision that is in the best long-range interest of the people who most need our help. Now, I respectfully submit to you, Mr. President, that what we're doing here has the best chance of producing the result that we see.

Now, the tax proposal of the Governor was first outlined in a speech that he made before the Citizens Budget Commission in New York, and from the moment he made that statement to the Citizens Budget Commission, which was at a key point in his election, his

prospects for election suddenly skyrocketed because people got the message. The only question was, could he possibly be serious about the type of tax relief that he proposed? Now the election is over and the dust is settling on that, and we have an opportunity to see just how serious the new Governor is.

I don't know about you, but I have watched him on half a dozen public television programs on Sundays and the like, and I've watched very closely his analysis and his response to questions. This Governor understands the economy of the state. I didn't have any sense of his understanding while he was in the Senate because, frankly, he was a rather quiet man around here. He rarely stood up on the floor to debate, but I want to tell you having observed him very, very closely since his election, I'm rather impressed, in fact, profoundly impressed with his grasp of what's going on here. He understands the economy. He understands the tax structure, and he is absolutely unwilling to step back from a series

of promises he made just because he attained public office.

This is not a man who is seeking to try to stroke the people and to try to be all things to all people. He is grabbing the nettle and he's squeezing it tight in an effort to bring us into a new era. The Majority Leader has amply described the core of that thinking, and I think it's evident that it's something which may or may not work and we're going to find out, but what we're asking the chamber to do today is to take a step to set up a baseline which says that we are going to lower taxes significantly. We started in 1987, but there's a generally very deep misunderstanding of what that legislation was designed to correct.

You may remember that in the year '86 there was a change in the federal tax law, and the change in the federal tax law brought about a windfall for the state of New York which if not corrected by us would have resulted in an unnecessary imposition of taxes on our people. The significant portion of the '87 tax cut,

which we all adopted and for which Sheldon Silver and many Democrats in the Assembly also voted, was to do two things: First, to ride the windfall and not automatically give away money that we needed to run the state, but secondly, to start us on a path of rational tax reduction.

Now, I don't know how many of you picked up this morning's Times and noted a relatively inconspicuous article which said, "Standard and Poor's Holds Out Prospect of State Bond Rating Increase." This has never been done in my recollection, and I have watched the raters for a long, long while and, in fact, when I was Finance Commissioner of New York, went to the Federal Reserve Board and testified before the Congress to do something to get those people to be more responsive to the real world, and they listened to that.

They are now saying that, if we will do two things, cut our taxes and trim our expenditures to keep pace with those cuts, that we will be putting ourselves on a long-range, sounder fiscal basis than ever before in our

history, and it would be entitled to a significant upgrade. That, in turn, will trigger certain benefits for us. It will reduce the debt service costs which are eating up in - an ever increasing percentage of the monies that we expend in our annual budget.

So there are big things in the offing here but not without great pain. Let me be very candid. There's been a statement in certain quarters that there's just been an earthquake which benefits the Republicans into the new millennium and that we, because of this earthquake, suddenly find ourselves in a pinnacle of power from which we cannot be dislodged.

I submit to this chamber, in all due respect, that this is not an earthquake which goes in one direction; this is a pendulum which has swung, and whether this pendulum continues to swing in the direction of the Republican thought or whether it comes back and hits us in the head will largely be up to those of us on this side of the aisle who are now

charged with a responsibility of seeing whether we can manage competently, and by "competently" I mean both humanely and effectively, and in the current budget which confronts us, we're being asked at this very moment to look at the categories of expenditure within it to be sure that we're spending money wisely, that the funds that we're cutting are not counter-productive, that there is a return on investment on every dollar in that budget which will benefit the people and that, I think, you and we share a common aim in wanting to do.

But there's something else I'd like to comment on briefly. That's the question of the theory of Reaganomics. Many people have said, Reagonomics was an utter fiasco because the net result of it was to add trillions of dollars to our national debt. That's a true statement, and there's a reason why it's a true statement. The reason is that while the tax cutting undertaking of the Reaganomics strategy was, in my judgment, eminently sound, something else happened on the way to the budget, and that

is that expenditures were allowed to get wildly out of control and while we were cutting taxes, expenditures were going through the roof. Even the Republican cabinet secretaries were being consumed by their constituencies and they were allowing expenditures within their vast areas of responsibility to skyrocket.

The test is going to be whether we will fall into the same fallacy, whether we will make tax cuts and allow the budget to be busted and go through the roof and, therefore, create worse deficits than before or whether we will do these things in tandem and, therefore, create the discipline necessary for balanced budgets which, in the long run, will have the greatest benefit to our people. There will be cries of anguish from many quarters and we will have to distinguish between the legitimate ones and the ones which demand an answer on our part.

But I submit to you today that by putting in place this tax reduction program, we are committing ourselves to a responsible course

provided it's accompanied by suitable tax -- by suitable expenditure reduction in tandem. I think we're capable of doing that, my colleagues, but the first step must be to outline our long-term strategy and looking into the future, I would say, "Beware, New Jersey and Connecticut and Pennsylvania and all neighboring states, Massachusetts, because we are going to get back in this ball game and we're going to win it."

We've got the best people. We've got the best natural resources. We've got the best technical universities to turn out the people who can handle the new technology in the new millennium. We've got it all provided we have the strategy which permits it to work. Let's permit it to work. Let's pass this bill.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

There are four amendments that are at the desk offered by the Minority in

addition to the one that I would convey. There's one from Senator Waldon, from Senator Dollinger and Senator Galiber.

The one that I am offering to the body right now would establish a new subsection to Section 616 of the -

ACTING PRESIDENT KUHL: Senator Paterson, would you like to offer that amendment up at this time, waive its reading and ask for an opportunity to explain it?

SENATOR PATERSON: Yes. I'll waive its reading, Mr. President, and -

ACTING PRESIDENT KUHL: All right. Senator Paterson to explain his amendment.

SENATOR PATERSON: Thank you.

As I said before, it would add a new subsection to Section 616 of the Tax Law, and I think it would comply under what Senator Goodman described as distinguishing between the illegitimate anguish and that which demands action on our part.

In the Governor's budget, the

frail elderly will be vastly hurt through the denial of home care and the lack of care at all and also additional losses in nursing home care. As a matter of fact, we are cutting nursing home -- we are cutting home care to 100 hours per week -- 100 home care hours per week. The state average was 128 hours a week at this point. The average in New York City was 36 hours a week, which adds up to 144 hours per month, but when we look at the distinguishing of long-term home care and the fact that we have a moratorium on nursing home construction and the fact that nursing homes are 80 -- 98 percent filled to capacity, we realize that the elderly in this state, and particularly those who have illnesses, are probably the most afflicted under our current budget.

What my amendment would do would be to establish an additional tax credit and really what would be a deduction entity for those who have parents or grandparents living with them within the home. We think that this would add to the extended family. It would show

our children the value of caring for family members who, unfortunately -- whose tax dollars provide the broad revenue basis from which we have all survived, and now our elderly now need additional care. We would allow for an income tax credit for those who would entertain the option of keeping family members in the home.

It's something that our elderly need. It's something that people who are on home care right now are looking for some other way to survive because if they cannot get into nursing home care, they won't get care at all; and so this additional -- this additional opportunity, which would allow for people who would take their family members into their home, would be something that we think would qualify them for this tax credit, and I offer that amendment at this time.

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

SENATOR PATERSON: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Party vote in the affirmative. The Secretary will announce the results.

THE SECRETARY: Ayes 22, nays 34. Party vote in the negative.

ACTING PRESIDENT KUHL: The amendment is failed.

Senator Waldon.

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

I believe you have an amendment at the desk. I would respectfully ask to waive its reading and explain the amendment.

ACTING PRESIDENT KUHL: There is an amendment at the desk, Senator Waldon. We'll waive the reading of it. Feel free to explain.

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

My amendment would amend subdivision(a) of Article 1115 of the Tax Law by adding a new paragraph 30 that would add to those items exempted from the imposition of sales and use taxes, articles of clothing and

shoes for human use that are sold for $100 or less.

Now, this amendment would accomplish a great deal, my colleagues. In a very meaningful sense, it would diminish pollution because the people who purchase from other states would not have to drive so far using their cars, but that's a salutary effect.

The most immediate effect would be on those single parent heads of household and people who are at the lower end of the socio-economic ladder and who have a need to be able to purchase clothing -- good quality clothing and shoes for their children at a cheaper price, and this would surely do that because the clothes which are less than $100 in cost would be exempt from sales tax.

Now, some people might say -- and use tax. Some people might say, "Well, you know, this is going to diminish our tax base." I think not, because what would happen here is that the people would remain in the state of New York and would do other kinds of ancillary

spending to the -- going to the mall, the local mall, going to the local shop owner and many of our local shop owners, by the way, have said, "I have to close my shop and go out of business because taxes are killing me." This would eliminate that. This would spur our economy in terms of making sure that our local and small businesses have additional purchases and purchases made, and I think it would also do what Senator Goodman said moments ago, it would get us back on the track to having our place in the sun with our sister states in terms of our economy.

I recommend this highly to my colleagues and move the action thereupon.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The question is on the amendment.

SENATOR MARCHI: Excuse me.

ACTING PRESIDENT KUHL: Excuse me, Senator Marchi.

Senator Marchi on the amendment.

SENATOR MARCHI: Mr. President, I

wanted to compliment my distinguished colleague for -- he's getting in the spirit, I think, Senator Bruno and Senator Goodman. This is contagious. It's a contagious spirit and one which I think should be given very careful consideration. We're swallowing a great deal in order to be able to make the bold strides that have been described in the actions that we have taken so far.

I know, Senator, that there is support for this notion on both sides of the aisle, and if this spirit continues, I think that we may have an embarrassment of a -- a contest here in doing -- taking enlightened approaches to various aspects of taxation.

At this point, of course -- I don't advocate its passage at this point, but you have started something here, and I have a bill to that effect, and I thank you for it. Given the spirit that's prevailing, perhaps we're on the -- we're on the threshold of a new era here, but for the nonce -

ACTING PRESIDENT KUHL: Senator

Waldon.

SENATOR MARCHI: -- I would advocate -- I would advocate not the passage at this moment.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Mr. President, I didn't know if the learned Senator from Staten Island was going to pose a question to me, but I just wanted to respond very briefly, that the fountain of inspiration is not either in this camp or in your camp, and I can tell you that some things that you have done, and some very recently, Senator, have inspired me to do some of the things that I do on this floor. I hope you do not mind that I'm inspired by you and by your genius, and I would hope that I could follow you for a long, long time, because many of the things that you do here, sir, are really in the best interest of all the people of the state of New York, and I appreciate your inspiration.

Thank you very much, Mr.

President.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Yes, Mr. President. I'm supporting this amendment because it is a good idea, and I congratulate Senator Waldon for bringing it to the floor. I know Senator Marchi had a similar bill for many years, Senator Goodman has, Senator Present has, Senator Holland has, so I'm very optimistic about the chances of this amendment passing because it is the right thing to do. It would be good for the economy in various parts of the state. It would be good for the taxpayers, and it's time we do something like this.

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

(Response of "Aye".)

SENATOR PATERSON: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the party line vote and announce the results.

THE SECRETARY: Ayes 22, nays 34.

ACTING PRESIDENT KUHL: The amendment is failed.

Senator Dollinger for the purpose of offering up an amendment.

SENATOR DOLLINGER: Yes, Mr. President, I do. I have an amendment at the desk. I'd waive its reading and ask for the opportunity to explain.

ACTING PRESIDENT KUHL: Waive the reading of the amendment. Senator Dollinger, the floor is yours to explain.

SENATOR DOLLINGER: Thank you, Mr. President.

I'm going to try a magic wand here today. I agree with Senator Marchi that we may be embarking on something perhaps momentous, perhaps the appropriate seasoned sensitive term is "snowballing effect" what this is all about, because I remember last year at the budget, I

came up with an amendment to the budget. What my amendment proposed to do is increase the deduction or the exemption for a family filing jointly up to $13,500. I proposed the amendment. It went down on a party line vote, and lo and behold, the guy who voted against it who sat right in that chair over there last year who voted against it, didn't want it in the last budget, has put it in this budget. So maybe the amendment that I'm talking about now will show up, maybe not in this budget, maybe not in this final tax package, but who knows, inspiration may strike the 2nd floor, and he'll see the wisdom of doing what I'm about to propose to do because, quite frankly, it's an idea that I stole from him again.

What I'd like to do is my amendment deals with circuit breaker property tax relief for people who make less than $100,000. Let me tell you how it works. It amends Subdivision (e) of Section 606 of the New York State Tax Law. What it does is it creates a circuit breaker for property taxes. The

amendment raises the eligibility -- we now have it for senior citizens. It raises the eligibility up to $100,000 of income. Currently it's $18,000. You don't get the circuit breaker now. You don't get the benefit of reduction in your tax -- excuse me -- a credit for the property taxes that you pay if you have in excess of $18,000. We would raise the ceiling from 18,000 up to $100,000. We would also raise the property values that would be eligible for this circuit breaker legislation from $85,000, which is the current amount, up to $250,000. We would raise the rent threshold from -- up to $1,000 a month from the $450 a month that currently exists.

I'll talk in a second about what the effect of the increase is, but recognize that this is not new. In fact, this is borrowed heavily from, oh, how about Senator LaValle's bill, 5431, submitted last year. Senator Levy signed on to the concept with Senate Bill 910 which was again submitted last year. Senator Skelos signed on board with the same exact idea,

Senate Bill 2093, which was again submitted in '94. Senator Johnson, my colleague from the Island, he signed on board with almost the same exact bill, Senate Bill 2327 in 1994. It was a good idea from Senator Johnson. It's a good idea from Senator Skelos; a good idea from Senator Levy; a good idea from Senator LaValle. It was a good idea when Senator Volker put it in with Senate 2843 in 1994 and, of course, it was a very good idea when a Senator from Peekskill put it in as Senate Bill 6703 in 1994 just as he was about to embark on a re-election campaign - or, excuse me, an election campaign to become the Governor of this state.

This amendment, what it would do is it would simply take the benefit of a tax deduction, tax reduction and it would take it to the people who need it most, the people who have small incomes and high property tax. I think those are the people in this state who we recognize are the most depressed by the antiquated system of taxation in this state that relies so heavily on property taxes. This tax

cut would go to people who have significantly small incomes and significantly large property tax exemptions and, in addition, it would work so that the neediest get the most benefit out of it, and those who progressively need less benefit would get progressively less from the effect of the tax cut.

Let me tell you that the effect for senior citizen who is -- I'll start right at the bottom -- has less than $1,000 worth of income, the tax benefit could be as much as $1100. For those who have $17,000 -- between 17- and $100,000, the effect of this tax cut which we have a chance to give today is $516. That's not bad. That's for senior citizens. Not bad. $516 for each of your constituents.

For those of you who are not senior citizens who would also qualify under it, the tax benefit would be as much as $246. In a property tax credit available to someone who makes more than $17,000, less than $100,000, has a property valued at less than $250,000, all of those things would be benefits that would be

given, frankly, to the middle class in this state. I think we've all acknowledged that they have paid perhaps more than their share of taxes at all levels. This bill specifically addresses the relationship between onerous property taxes which are really the taxes that are driving people out of this state. Those are the taxes that you hear business complain about. Those are the taxes that you hear individuals complain about. Why? Because every January they have to go to their town clerk and pay them a big check, and it gets bigger and bigger and bigger and, frankly, when the Governor is done with this budget, it's going to get bigger still as we pass those costs down to the local communities.

So we've got a chance if we adopt circuit breaker legislation to reduce property taxes, to give all the benefits of the property tax to the middle class. We're not going to give them benefits -- we decided on a reasonable limit, $100,000, I think a reasonable limit for the top of the middle class. Beyond that, I'm not so sure they need it as desperately as those

people who are paying high property taxes and have low incomes.

So my hope is that the collective wisdom of this chamber, the collective wisdom of Senators LaValle, Levy, Skelos, Johnson, Volker and Pataki, will be combined with our current wisdom which is to give a tax cut to the people who need it most in this state that will take the concept of circuit breaker legislation, implement it in our law and give people who are paying property taxes a real break, a real property tax credit when they file their income tax returns. This is where tax benefit is most needed. This is a group that will get the biggest benefit. I urge your support of this amendment.

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

SENATOR PATERSON: Party vote in the affirmative, Mr. President.

SENATOR BRUNO: Party vote.

ACTING PRESIDENT KUHL: The

Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the party line vote and announce the results.

THE SECRETARY: Ayes 22, nays 34.

ACTING PRESIDENT KUHL: The amendment is failed.

Senator Galiber for the purposes of offering an amendment.

SENATOR GALIBER: Thank you, Mr. President.

It's my understanding that you have a copy of the amendment at the desk.

ACTING PRESIDENT KUHL: There is an amendment at the desk, Senator Galiber.

SENATOR GALIBER: I would ask that you waive the reading and let me -- allow me the opportunity to explain the amendment in brief, I hope.

ACTING PRESIDENT KUHL: The amendment is offered up. The reading is waived. Senator Galiber to explain the amendment.

SENATOR GALIBER: Thank you, Mr. President.

I've spent a great deal of time here this evening as most have, listening to history, and some things that have come forth aren't exactly correct, but our reflection and recollection of history is an individual thing.

Perhaps I can go back to 1987 when we talk about tax cuts. In 1987, the then Governor of this state, past administration, had almost on hands and knees begged us not to take that tax cut. As usual, the majority of us did not heed his warning, and as a result over a period of years since 1987 the state of New York has lost some 400,000 jobs, that we went through a depression almost, a recession certainly. We didn't learn from that, and the Governor for a number of years, not without fault in certain areas, has held back some $800,000 precluding us from taking that last step that we make mention of.

This step this year is proposed by two persons, one by the Majority here, the

Governor that is, and the Majority who have the votes, and a bill which has already been passed in the Assembly. My amendment covers that bill which is already passed in this A.3471. The Speaker's bill is implemented in two steps as opposed to four steps. Two steps means less pain to an awful lot of the people. His bill, rather than the four so that the future needs of his concerns are completely closed out. The Speaker's plan distributes the benefits of the tax cuts more to the middle, moderate and low income taxpayer, thus allowing more people to benefit. Perhaps the intention of the bill that is before us was certainly not the end results.

The Governor's plan gives 1,472 tax cuts to a family of four earning $500,000, 106 reduction to middle income families earning 440,000. The Speaker's plan gives a family of 40,000, a tax cut of 225 versus the Governor's 106, more than double, Mr. President.

I listened to Senator Goodman talk about the, as I dub it the "Love Fest", if you will, with New Jersey. Little do we know,

some of us anyway, that New Jersey more recently has lost some 40,000 jobs under their tax cut plan. Their middle class and upper class folk are at arms ready to revolt almost because of the increase in the real property tax, this regressive tax that we make so very much about.

I merely ask you, Senator Goodman, to take a look, if you will, at the unemployment rate in New Jersey that has gone up, and if you look at it very carefully, I'm not sure that we want to model our state after New Jersey, the difference, of course, being that in four years, the governor of that state made may very well be running for President or Vice-president. Not so in our government, our Governor's case. The Speaker's overall tax reduction plan includes sales tax relief which would benefit all consumers, as well as New York state realtors, by targeting low income taxpayers, more of whom claim the standard deduction. The Assembly plan already passed allows New Yorkers to keep $45 million more of their tax cut than the Governor's plan.

The Speaker's plan as already passed, I had mentioned, on a number of occasions, if passed by this Senate would settle this issue immediately and pave the way, if you will, toward a timely budget. The major difference between the Pataki and Assembly bill occur after 1995 -- after 1995. We can then revisit those issues next session.

Keep in mind that my amendment, which is the Assembly bill, tax cut bill, if you will, indicates that $4.3 million tax -- 4.3 million taxpayers would pay over -- taxes under the Assembly plan than under the Pataki plan. 71 percent of those who would pay less taxes under the Assembly plan have incomes under $50,000. 98 percent have income under 100,000. The taxpayer with income under 50,000 would be better off under the Pataki plan than under the Assembly plan.

This is the amendment that I offered on a bill that has already passed. It seems to me that it covers, one, the tax cut which we sorely need. There's a question of

whether or not it's going to produce more jobs or no, is questionable. If you go back in history, you can recall that it did not happen with a tax cut in 1987. It's failing in New Jersey. I fear that it will fail in Connecticut also, and that under the circumstances, I would ask that this amendment be passed.

ACTING PRESIDENT KUHL: The question is on the amendment.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I just want to say that there's one thing that's apparent today, and that is that we're all for tax cuts, and to that extent, what Senator Bruno has done, what the Majority has done by bringing up tax cut bills, absent spending, absent all the complications of what we're going to do with the money, has allowed us to have a debate over where we would each cut taxes.

If you look at history, once upon a time, New York was a deplorably heavily taxed

state, I think a 12 percent income tax rate under the Rockefeller Republican administration. When Governor Carey got in there, we had a series of tax cut bills and in the early Cuomo years to give back billions of dollars to taxpayers that the previous Republican administration had raised.

The days of wine and roses were over and we hit a period of difficulty in the last few years, and we saw a reluctance to deal with broad based taxes, to raise them to meet revenue needs. What we saw is revenue hunting and capturing without any policy attached to it. An industry would go by doing pretty well, have some money and we grab it; we call it a gross receipts tax; we call it a bank tax or a fuel tax, whatever, just to get revenue in and say "We didn't raise the broad based taxes." Why? Because the Majority in this house which talked tax cuts under its then leadership enacted spending increases, restored spending to the budget.

Now, we're faced with a -- the

Republican bill to cut taxes. It's a policy statement. It's not a statement about we want to cut taxes vis-a-vis the Democrats because we want to cut taxes too. Maybe there were some traditional Democrats that, you know, were stubborn about the idea of cutting taxes, but even those Democrats aren't deaf. Obviously, the public wants tax cuts. Obviously, the economy of New York demands those tax cuts.

So what it's really about, this debate, is whose taxes do you want to cut? Where do you want to cut those taxes, and we seem to have a fundamental disagreement. We Democrats think, and the Assembly Democrats seem to agree with us, that we ought to focus these tax cut benefits on the middle class taxpayer, people who make less than $100,000, and that's what this amendment would do. So we're for tax cuts, you're for tax cuts, we're for tax cuts for the people who make less than $100,000, and your proposal would give much more of the tax cut benefit to those who make more than $100,000, and much less of it to the middle

class taxpayer. That's where our difference is. It's not about whether or not to cut taxes.

It's about -- and as I say, we're doing this in a vacuum because we don't have any idea today about spending. This is just about what you would do, what you would do if you could cut taxes, and what we would do if you could cut taxes to the tune of billions of dollars is help the middle class taxpayers. What you would do if you could help cut taxes is help the rich more than the middle class, and that's really what this difference of opinion is about and we haven't even touched on other tax policies.

The justification is a quarter of a percent or a half of a percent in income tax is going to rebuild businesses. With all due respect to Senator Bruno, I'm not sure that businesses wouldn't be happy paying another quarter of a percent in income tax if they made a lot of money, and I know things like gross receipts taxes are a cost on business before they made a nickel, and I'm not an economist. Common sense tells me, if you want to know what

scares business out of New York State, if you want to know what discourages businesses from locating here, it's the thought that they have a big tax bill before they made a nickel in the cash register, before they made a profit. They're being actually taxed at the cash register before they made a profit.

So this debate is not about tax policy. When and if we ever have that, I would suggest to you that your properties, the Majority's priorities, the Governor's priorities on tax cuts are misplaced if the policy is to create jobs, help business locate in New York, stay in New York and create jobs.

I understand the politics. Lots of people pay income tax, and you get a lot of votes -- if you're Governor Cuomo, you got a lot of votes by saying, "We won't raise it; we'll do business fees", and if you're Governor Pataki, you'll get a lot of votes if you say, "We'll lower it." If you want to talk about tax policy, we'll do that some day. You brought out income tax and we're saying, "We Democrats want

to help the middle class taxpayer," that's where it's really, really needed, and that's why I urge the adoption of our amendment.

ACTING PRESIDENT KUHL: Senator Dollinger, do you want to speak on the amendment?

SENATOR DOLLINGER: Yes.

ACTING PRESIDENT KUHL: Senator Dollinger on the amendment.

SENATOR DOLLINGER: Mr. President, I just want to reiterate the sentiments of Senator Connor and talk about the -- the tax package that we have in this amendment and the significant difference to the middle class of this tax package versus the one that underlies it.

Under an analysis of the tax package that's contained in this amendment, the break point -- first of all, go back a second. Under the tax package that's been put forward by the Majority today, there will be no tax benefit to an average -- for a married couple with two children who have an average amount of itemized

deductions; there will be no tax benefit to them until they make $47,500, no benefit, nothing, zero, absolute zero. So if you make less than $47,500 with a family of two with average itemized deductions, the word that's being sent to you today in this chamber is, we have nothing for you, zero; it's a zero sum game. You get nothing. You don't begin to make it anything until you're over the $47,500 amount. Then you get $13 in a tax benefit under the plan that's been put forward by the Majority.

Under the plan that's contained in this amendment, this amendment would take the average family with $47,500, two children with an average amount of itemized deductions and give them $160, ten times the benefit of the plan that's being discussed on the state proposition. What does that mean to the people in this chamber? Let's look at the demographic data around the state. It seems to me it's pretty clear what's going to happen. Take an average district like mine where the average income is about 54- -- $35,545, less than the

statewide average in districts.

What does that mean? That means that most everybody in my district is going to get almost nothing out of this plan. In fact, approximately 24 percent of the people in my district have incomes in excess of $50,000. Therefore -- therefore, the effect of this tax plan is that 76 percent of the people in my district will, in all likelihood, get nothing, zero from this tax plan. In the Silver plan, they would get $160 if they were in the average, even at the $35 number, the number is about $60 in benefit from the Assembly plan.

So if I were looking at this from the straight point of view of how can I do the most -- for the most people in my district, I would vote in favor of this amendment and vote against the general proposition, but look at some of the other districts around. I would go to my colleagues from Western New York, Senator Libous, Senator Kuhl, Senator Nozzolio, again, districts that don't have a lot of wealth. In those districts -- respectively in Senator

Libous' district, only 22 percent of the people make more than $50,000. Senator Kuhl's district, only 18 percent of the people make more than $50,000, Senator Nozzolio's, 24 percent, rural poverty, pockets of rural poverty.

What does the tax plan that comes from the Assembly have? It has something for them. It has something for them. The tax plan that's been proposed by the Majority has nothing for most of them. The same thing is true, we could go through the demographic data, look at the concentration of wealth, who does very, very well and who should vote against this amendment and clearly vote in favor of the Majority plan? There's no question about it, the nine districts that live on Long Island that have all the income, the substantial incomes in this state. There's no question a it's a great thing for a whole bunch of people on Long Island. I'm not so sure it's a good thing for people upstate.

I think if you look at the two plans, you'll see that the plan that's proposed

in this amendment drives benefits to the middle class, to those people who, when they have to pay their property taxes, it's an ordeal; they have to save money all year to be able to pay them, who have to look at every nickel, every dollar, look at every receipt, look at every bill. Let's give them a break. Let's not give this to the wealthy people. Let's give it to the middle class where it belongs. This plan will clearly do that. It deserves your support.

ACTING PRESIDENT KUHL: The question is on the amendment.

SENATOR PATERSON: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The clerk will call the roll.

(The Secretary called the roll.)

SENATOR BRUNO: Party vote in the negative.

ACTING PRESIDENT KUHL: Record the party votes. Announce the results.

THE SECRETARY: Ayes 22, nays 34.

ACTING PRESIDENT KUHL: The amendment is failed.

On the bill, Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

With all the talk about corporate America and CEOs, one would think you can manage real people from a spread sheet, with a 1, 2, 3 Lotus program where the only thing that counts is the bottom line. This is not corporate America. This is not some corporate rater that's coming into a business and throwing people out because they have to rescue profits. We're talking about real people here. Senators get up and talk about long-term plans. They like this part, this phase of it, but where have they been for the last week when these children, kids, 18-, 19-, 20-year-olds are coming up here saying "You're doing away with our higher education opportunities, scholarship grants, you're doing away with TAP assistance." Those are not real people? These kids are coming up here saying that you're mortgaging our future

for something that makes sense -- that does not make any sense to them, and so that is a long term plan. They realize it, Senator Goodman. They get the message. They understand what the corporate mentality will yield here, but we're not talking about CEOs out there and corporate executives.

We're talking about people that have grandmothers that need personal assistance. We're talking about not just Wall Street or Standard and Poor's. We're talking about Bed-Stuy, East New York, the South Bronx, Jamaica, and all the districts that Senator Dollinger just mentioned, if they could vote here today, if they could be heard instead of corporate America, we'd have them supporting the Dollinger amendment, the Waldon amendment, the Galiber amendment, the Paterson amendment. These are real peoples' bills, but they don't get the chance to be heard here today. What is being hear -- heard today is more of the 12 years of Reaganomics. If one, you know, would really look at what's happened here, this is not

a pendulum that has swung over to right or to left. This is a squeaker that we had in November, 150,000 votes. I know how to count. I'm from the South Bronx, but as good an accountant as any CEO that you could put forth, and I could count so good that I could tell you that 150,000 votes edge would not hold up with the kind of social upheaval and urban destruction that these kinds of tax cuts and these kinds of budgets that are being promulgated here will have on our communities.

You are devastating us, but we are rebounding -- we are rebounding through organization. These kids are coming up, all of these people are coming up here to tell us that we're not really doing what the state mandated us to do. It is not tax cuts that put grandmas out of their homes into the streets. It is not to pull out the welfare queen out of the closet, to talk about AFDC parents and single mothers as though they were street people. These are real people; real people that have enrolled to the tune of thousands in community colleges in my

districts. These are AFDC single parents that want to enjoy the American dream.

These tax cuts, these fiscal policies that we're adopting here today, these fiscal gimmicks of spending caps, this is what's doing us in. It is not some liberal spending policies that we have all indulged in. Have there been mistakes? Yes. Are we repeating mistakes here today? Absolutely. 12 years worth of Reaganomics, being repeated replicated on a state level. This is bad fiscal policy. If real people could take a look at this, they would probably put us out of business.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nozzolio on the bill.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, today is a day that I am very proud to be a member of this chamber, because today is the day that we begin a historic victory for the long over-burdened taxpayers of this state. This is

the tax cut plan that the people of New York demanded last November. The plan is going to put money back into their pockets. In -- the plan, in our opinion, will lead to the economic recovery and resurgence of New York State.

After 12 years of "Cuomonomics", it's time for this type of action, action that will put New York in a competitive situation, that places us in an environment that will help New York rebound from this recession just like the rest of the nation is doing.

We join Governor Pataki in trying to restore fiscal responsibility, and have laid the groundwork for an era which, I believe, will be characterized by government working for the people, not people working for the government. People demand tax cuts. This tax cut plan is a plan that the Business Council estimates will bring 360,000 new jobs to New York. Lord knows, we need those jobs. We need them in every corner of the state. It's time we started voting the way the citizens of this state want us to vote. I believe in tax cuts. The

citizens do, and economic recovery will be the result.

Mr. President, I urge the adoption of this measure.

ACTING PRESIDENT KUHL: Senator Stafford to close debate on the bill.

Senator Dollinger, did you wish to speak before Senator Stafford?

SENATOR DOLLINGER: Yes, I didn't know that the bill was -- yes, Mr. President. I just wanted to address the bill, if I could briefly.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I will be extremely brief. Mr. President, my views on amendments are well-known. I guess my views on this whole issue of spending caps and the rest are known, but frankly, I feel like I'm in an extremely -- I'm the Alice in Wonderland in the state Senate, because I get a chance to do something today that I seldom get a chance to do, and that's vote for a tax cut without

cutting spending. I couldn't ask for a better position to be put in. I'm going to get a chance to tell all the voters back at home that I support tax cuts; I support middle tax cuts, but I don't have to make any tough spending calls, because this isn't a budget bill, this is just a tax cut. This is the classic -- and with all due respect to my colleagues, this is what I think George Bush had in mind. Remember when he made that comment, he called it -- he didn't call it Reaganomics because, of course, Reagan wasn't the President at the time. He called it "voodoo economics", because what you were doing was sort of casting a little spell on the economy and casting a little spell on everybody to think, here's what we do. We just cut taxes, cut taxes, we don't worry about spending, and we get the benefit of all of the other good things that government would like to give. Government at less cost.

Well, this is a great chance, I guess, for all of to us stand here and say to our constituents, "We all support tax cuts."

The bigger question is, what do we do with the budget when we have to face the impact of those tax cuts on our constituents? That will be the real test, but I want to thank the Majority for giving me -- I'm going to vote in favor of these tax cuts. I'm going to vote in favor of middle class tax cuts. I welcome the opportunity. I think it's all, frankly, among a little bit like one of those Eugene Ionesco plays. It's a little theatre of the absurd. It has some political advantage, but I'm going to vote in favor of it.

I thank you for the opportunity to do that. When we get serious perhaps in April or May or June and vote on the budget, then we'll look at the impact of the tax cut on spending and how we balance our budget and really do the job that people sent us here to do.

ACTING PRESIDENT KUHL: Senator Stafford to close debate on the bill.

SENATOR STAFFORD: Thank you, Mr. President.

I'll be brief. I think it's been a good debate. The bill has been explained well. I'll try to make sort of a broad stroke with a conceptual brush here.

Actually, as Senator Marchi said, some of the amendments are good amendments, but everything in life is timing, and it appears that this would not be the time due to the fact the bill is finely honed, and when you set - craft a bill like this, it obviously has to balance.

I would say, Mr. President -- and I'm going to be overly simplistic, but I said this last year. You know, this is interesting. I've seen a lot of budgets, some good, some better than others, and really what it boils down to, we all really want the same thing. We want the same services. We want education. We want to address crime, the criminal justice system. We have capital requirements. I could go on and on. I don't think anybody wants to spend any money that they feel is not sensible.

Now, if we keep spending and keep

spending, the problem is that the economic engine is going to run out and then we'll have nothing. We'll have absolutely nothing, for the simple reason there won't be any funds. There will not be any funds, and again, no one is trying to hurt anybody. No one is trying to be unrealistic. No one is trying to see anyone suffer, but we have to make decisions. We have to make decisions.

Now, one thing that I want to point out, I don't think this specifically has been pointed out today, that we still per capita are double the national average and per capita in the PI, the personal income tax -- that's hard, isn't it -- the personal income tax, and I think we have to think about that, and actually, we're the highest, except for Alaska, and that does put us in a difficult position.

All of us in our districts have talked to people, and sometimes we hear it when we don't want to hear it when we have the jobs that we have, and people are saying that, "We don't want to stay in New York because it is

over -- we are over-taxed in New York." I think sometimes it almost becomes a cause. I don't think it's always completely accurate, but we have to make sure that we get our state in line with other states. That's been pointed out, and if we don't -- if we don't, we're just going to continue to go down. The jobs we have been losing, we're going to lose more. I think this is good. I think we're moving in the right direction but, yes, it's very, very important - of course, this is the previous bill, if we're going to reduce taxes, we have to reduce spending -- we have to reduce spending, and we're going to have to continue. We're going to have to continue -- continually emphasize that point to ourselves, and I am including - including myself, right here.

Now, overall, I think we're going to end up revising our priorities, but as far as increased spending, we're simply not going to be able to do it. I would suggest that what we're doing today -- and I think we're going to have to continue to do it -- if we have a

requirement, we're finding where we can readjust the budget so we can meet that requirement, not just saying "What we'll do is increase spending." That has been done, and it can't be done any longer.

I think this tax cut is good, as has been pointed out very, very well. The Governor is keeping his commitment. He said he was going to have the tax cut. Here it is. Now, I say to all of us, that our job now is just beginning. Our job is just beginning. I think it was Churchill after the battle of El Alamein, he said, "This isn't the beginning. In fact, it's not the end of the beginning, but it's the beginning of the end." So maybe it's the beginning of the end of doing business as we have done it and getting on with having a balanced budget, reduce our revenues so we can be in line with other states, support our businesses, and I would just -- one more time I'll say this because it was pointed out today a number of times, it was argued -- it was argued that we cut taxes before, but we still lost

jobs. We lost jobs because we were still -- we were still double -- double the national average in personal income tax, and second from Alaska. That's one example and, of course, I could go into some of the business taxes.

Mr. President, I think it's a good bill. I think it's been a good debate. I think the Governor, the staffs of the Governor, the Legislature here in the Senate are to be complimented, and I would ask that we have the last section.

ACTING PRESIDENT KUHL: The Secretary will read the last section. Is there a request for a slow roll call?

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT KUHL: Five members standing to request that? There are. The Secretary will read the roll slowly.

THE SECRETARY: Section 21. This act shall take effect immediately.

Senator Abate.

SENATOR ABATE: I would like to explain my vote.

ACTING PRESIDENT KUHL: Senator Abate to explain her vote.

SENATOR ABATE: Yes. The record is clear that I have supported the amendments and I'm in support of an alternative tax reduction package. I, however, cannot support this package. In the context of a budget -- and you look at the impact on these tax reductions over four years -- this tax reduction package will produce a $5.5 billion deficit, and I believe that the way the reductions are distributed are not sound. Five percent of New Yorkers will receive 60 percent of the tax benefits, and I would prefer that more the benefits be given to middle income, moderate and low income taxpayers. For these reasons, I cannot support this package.

ACTING PRESIDENT KUHL: Senator Abate in the negative. The Secretary will continue to call the roll.

THE SECRETARY: Senator Babbush, excused.

Senator Bruno.

(Affirmative indication.)

THE SECRETARY: Aye.

Senator Connor.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT KUHL: Senator Connor to explain his vote.

SENATOR CONNOR: To explain my vote. While I -- as I said before, I'm in favor of tax cuts, I really can't in conscience support this particular bill because the amendment to provide the benefits to the middle class didn't pass. I don't think at this time as the public policy in New York State we ought to be passing a tax cut that favors the rich taxpayer. There are just too many middle class taxpayers who desperately need the relief more than people who make 2- or $300,000 a year. So I vote no.

ACTING PRESIDENT KUHL: Senator Connor in the negative. The Secretary will continue to call the roll.

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

(There was no response.)

Senator Gonzalez.

(There was no response.)

Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: To explain my vote.

ACTING PRESIDENT KUHL: Senator Hoffmann to explain her vote.

SENATOR HOFFMANN: This bill actually marks a departure from the way we've done our budgeting in the past. This, I think, is the first time we've actually passed in this house, or I assume we're about to pass, a piece of budget legislation as early as February 28th, well before the April 1st deadline.

While there is much discussion warranted about the merits of the bill and it may, in fact, not do as much for middle class taxpayers as many of us would like, I think that it's important to note the historic significance of passing at least one piece of budgetary legislation well before our deadline, and passing a tax cut plan or part of a tax cut plan as we go into the final stages of budget negotiations certainly indicates to the public

that we are not going to have an enormous surplus of funds to spend on all other programs out there, that this is, in fact, a time of belt tightening and we are serious about dealing with the financial woes of the state. So I will vote aye.

ACTING PRESIDENT KUHL: Senator Hoffmann in the affirmative. The Secretary will continue to call the roll.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Yes.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: Yes.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

Senator Larkin.

SENATOR LARKIN: Yes.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Yep.

THE SECRETARY: Senator Leichter.

ACTING PRESIDENT KUHL: Senator Leichter to explain his vote.

SENATOR LEICHTER: Mr. President, I heard our distinguished Majority Leader say - as he introduced this bill, he said, "Now that we passed the cap, we can give everybody a tax decrease." I'm not aware that the voters of the state of New York have approved a cap. We've taken the very first most tentative step towards cap and I suspect we'll never see that the Assembly is going to approve the resolution that we passed earlier today, but even if it did, it wouldn't be before 1998 -- it would not be until 1998 that we'd be in a position to say that, as a consequence of the cap there might be money to spend or money to return to the taxpayers of the tax decrease.

The point is, this is an irresponsible act. We don't have the money to give this sort of a tax decrease. It kicks in next year with a very, very large amount of money. There's no way, as we look at it now, that we can see how we're going to be able to provide this. We're doing the same thing we did in 1986 or '87 with that tax cut which has caused us so much grief. It's also irresponsible to do a tax cut that kicks in for any amount this year when we don't know what the budget is, we don't know what the expenditures are. This is just another example of legislation by rush, legislation by press release. It's not a substantive meaningful act, and I think you're just fooling the taxpayer saying, "Look what we're doing for you." You're doing nothing for them and you're hurting the state of New York. I vote in the negative, Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter in the negative. The Secretary will continue to call the roll.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

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

ACTING PRESIDENT KUHL: Senator Libous to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President.

This tax cut legislation is probably one of the most meaningful things we're going to do this year. I just want to note that I surely respect the fact that Senator Dollinger did some research in my district, and I'm glad that he cares about the people of the Southern Tier because so do I, but I think what's more important, Senator Dollinger, is that this tax cut over the course of the next four years is going to create jobs for people in the middle class. I think it was stated by a number of my colleagues on the floor that, when tax cuts go into effect, it does create jobs, and let me tell you something else.

I think what's even more significant is that we need to send a positive signal to the businesses of this state who are leaving on a daily basis. As I said in other debates on this floor, I live on the border of Pennsylvania. Pennsylvania is in my district every day offering incentives to businesses and pulling them out. And time and time again, they say to me that "Taxes in this state are too high. The utility rates in this state are too high. Workers' Compensation rates in this state are too high, we're going to leave."

This tax cut is meaningful. It sends a positive message and it will put middle class Americans and, as a matter of fact, more Americans and wealthy Americans to work. I vote aye.

ACTING PRESIDENT KUHL: Senator Libous in the affirmative. The Secretary will continue to call the roll.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Mendez.

(Affirmative indication.)

Senator Montgomery.

(There was no response.)

Senator Nanula.

ACTING PRESIDENT KUHL: Senator Nanula to explain his vote.

SENATOR NANULA: Mr. President, I'm going to be voting a very reluctant yes in regard to this bill.

Again, I think we've all discussed this many times. I think we can all agree philosophically that New York State is a state that needs to restructure the way in which it provides service to the private sector as well as municipalities and not-for-profit agencies. We all agree that we need to refine and reduce government involvment in the private sector.

Coming from the private sector, running businesses, being involved in building businesses in New York State, I have firsthand experience with that. And certainly cutting taxes is a key aspect of making that happen, but this bill, in my opinion, is irresponsible in that it doesn't provide focus in terms of cuts to those who really need it.

I agree with Senator Libous that it is going, hopefully, to send a message, this legislation, if it does pass both houses, to the business community, a message that we are going to be working towards getting our house in order, but -- and along with my colleagues, I agree that we should have given more consideration to the amendments that were presented today, especially the Silver plan, which has a greater impact on the middle class. It's important we send messages. It's important that we redesign and restructure the way in which businesses can conduct business in this state. Tax cuts are an important part of that but, in my opinion, although I am reluctantly

supporting this legislation, this bill does not accomplish that.

Thank you.

ACTING PRESIDENT KUHL: Senator Nanula, how do you vote?

SENATOR NANULA: Yes.

ACTING PRESIDENT KUHL: Senator Nanula in the affirmative. The Secretary will continue to call the roll.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

ACTING PRESIDENT KUHL: Senator Onorato to explain his vote.

SENATOR ONORATO: Mr. President, I'm going to vote in the affirmative on this tax cut only as a sign of good faith to my constituents in my district that I promised I would do everything possible to cut taxes.

I'm certainly not satisfied with the way the distribution of the tax cut is being applied in this particular bill, but I know that it is a one-house bill and hopefully that we're

all getting messages from our constituents, I hope that both houses get the messages that were brought forth today in debate and to make a more equitable distribution of this tax cut, and I hope that they listened to all of our concerns, because we all are looking to accomplish the same thing, a fairness across the board where all of us fare equally. Those who need it the very most should get it the most. Those who need it the least should get the least, but again, it's a step in the right direction. I vote yes.

ACTING PRESIDENT KUHL: Senator Onorato in the affirmative. The Secretary will continue the roll.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Aye.

ACTING PRESIDENT KUHL: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Once again, Senator Onorato, as yesterday, has expressed my sentiments completely, and that was precisely

what I was going to say. I am going to support this because we know this is something the people have spoken about, that we feel deeply that we have to go ahead and make tax reductions. This particular tax reduction I'm not particularly thrilled with. I would like to see that it hits the middle class a lot more than it hits the upper class, and I think it would be a much wiser move because the money would be spent more broadly across our economy.

However, I'm going to support this. I know it's a one-house bill. I know there's going to be negotiations between the two houses, and I hope that we come to some middle ground.

ACTING PRESIDENT KUHL: Senator Oppenheimer in the affirmative. The Secretary will continue the roll.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Explain my vote, Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos to explain his vote.

SENATOR SKELOS: Mr. President, I'm delighted to vote for this bill that the Governor has presented to us because it does afford opportunity and hope for the taxpayers and those people who are looking for us to create jobs in New York State.

Senator Espada, you mentioned

earlier that Governor Pataki snuck in by 150,000 votes. Well, to me that's an incredible accomplishment when you have a state with over a million more Democrats than Republicans, and there was a message sent this year in this country. The House of Representatives, Republican for the first time since Eisenhower was President; the U.S. Senate, Republican, first time since Eisenhower that both houses of the Legislature in Washington are Republican. Our house grew in numbers. The Assembly grew in numbers. An overwhelming amount of counties in this state, a Democrat state, are controlled by Republican county executives or Legislatures now.

So I congratulate the Governor for presenting this to us, our Majority Leader for bringing it to the floor because it's necessary for us to cut taxes. We cut taxes, yes, Senator Dollinger, for those who live on Long Island because we are not wealthy people. We do not all have polo ponies, as Governor Cuomo used to say, when he would look to slash

education aid to us, and let's look at the earned income tax credit which would put 400,000 low income working people off the tax rolls when fully implemented, and that's going to help people in your district, that's going to help people in Senator Kuhl's district, in Senator Libous' district, in all of our districts. All people under this bill in New York State will be assisted.

So I thank Governor Pataki for giving us this. Most of all, I thank him for keeping his promise to the people of the state of New York who voted for him and voted for this promise.

ACTING PRESIDENT KUHL: Senator Skelos, how do you vote?

SENATOR SKELOS: I vote aye.

ACTING PRESIDENT KUHL: Senator Skelos in the affirmative.

ACTING PRESIDENT KUHL: Senator Skelos in the affirmative.

Continue the roll call.

THE SECRETARY: Senator Smith.

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

ACTING PRESIDENT KUHL: Senator Smith to explain her vote.

SENATOR SMITH: I do not believe that this bill is the end all and be all. I do not believe that all of the issues that are addressed here will come to fruition, but I do believe firmly that it is time for us to start awarding a tax cut and, in good faith, I'm voting yes on this bill.

ACTING PRESIDENT KUHL: Senator Smith in the affirmative.

Continue the roll.

THE SECRETARY: Senator Solomon excused.

Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

(There was no response.)

Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky excused.

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

(There was no response.)

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

ACTING PRESIDENT KUHL: Senator Waldon to explain his vote.

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

We've had a long day, and have espoused opposition with vigor, with conviction, with substantive arguments, some compelling, others not. I find, though, that at the end of the day I am not sure that this is what we should be about, meaning passing this proposal.

I think that we're a day late and a dollar short.

I think that something which takes care of five percent of the people of this state who will benefit to the tune of 60 percent of whatever this tax cut is all about, is a mistake.

I think that our first obligation is to the majority of the people of the state, those who are burdened and have been burdened for a long, long time with paying the way, the middle class. I think that this is an example, again, of a runaway train. Somebody made a promise that we'd have a bill by a date certain and so we're going to have that bill despite the fact that all of us here know this is but one house. This is a one-house bill. And I, too, am loyal.

Someone mentioned our constitu ents. We should listen to our constituents. But I don't believe in looking through the glass darkly. I would just share with you a thought that kind of ran through my mind. Sometimes I,

having been a singer, become quite musical and there's a song, Let It Be Me -- and I'm not going to sing, so don't panic, although I can sing. There's a line in the song which says, Don't ever leave me lonely, and I'm going to paraphrase the next line: Lie to me and tell me you love me only.

That is not the way the song is written, but I think what we're doing with our constituents is we're lying to them, for their love and adoration and their vote. We're lying to them and telling them that we have accomplished something here today.

I'm not going to do that. I'm not going to lie to the constituents, and if they don't love me because of this vote, that's O.K. too. I will still love them. So this is a tough love vote, my brothers and sisters. This is a tough love vote, but it is, in my opinion, the right vote for the majority of the people of the state of New York.

We're not here to improve the condition of the rich, but to ensure that all of

us will benefit in the largess of the state of New York.

I'm compelled, on behalf of my conscience, to vote in the no.

ACTING PRESIDENT KUHL: Senator Waldon in the negative.

Secretary will continue to call the roll.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: Secretary will call the absentees.

THE SECRETARY: Senator Gold.

(There was no response.)

Senator Gonzalez.

(There was no response.)

THE SECRETARY: Is that it?

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, can I explain my vote. I don't think I was in the room when my name was called.

ACTING PRESIDENT KUHL: Senator

Bruno to explain his vote.

SENATOR BRUNO: Thank you. Thank you.

SENATOR ONORATO: No objection.

SENATOR BRUNO: No objection by Senator Onorato. Thank you.

SENATOR BRUNO: Listen, I just wanted to say that we in this chamber deliberate over very, very serious issues, and I appreciate the spirit and the enthusiasm in which we debate these issues, and I really just want to say, Mr. President, that I think that the fact that, after a great deliberation, that we have the support of a number of our colleagues on that side of the aisle for this piece of legislation that will really truly change the direction of the economy of this state, I think speaks well for that body, and I'm hopeful that, as we progress forward, between now and April 1st, that those people that are seeing the light and the way to go, will be a good example for many others in this chamber who will join in returning this state to a fiscally responsible

path.

So I want to thank all of my colleagues for their support for Governor Pataki's tax cut package.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno in the affirmative.

Announce the results.

THE SECRETARY: Ayes 44, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, or Senator Skelos.

SENATOR BRUNO: Would you, Mr. President -- would you call up Calendar Number 136.

SENATOR SKELOS: Could you - excuse me. You are the Majority Leader, but could you recognize Senator Santiago, please.

ACTING PRESIDENT KUHL: Senator Santiago.

SENATOR SANTIAGO: Thank you. I

would like the record to show that, if I had been in the chamber when Calendar Number 135 passed, I would have voted in the negative.

ACTING PRESIDENT KUHL: Without objection, Senator Santiago will be recorded in the negative. Sorry, Senator, that was a slow roll call, so the record will reflect that had you been in the chamber you would have been recorded in the negative.

Now, Senator Bruno.

SENATOR BRUNO: Mr. President, can we now take up Calendar 136.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 136, by Senator Bruno, Senate Print 2545, an act to provide a retirement incentive for certain public employees.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

Have some quiet in the chamber, please. Some housekeeping.

Senator Stafford.

SENATOR STAFFORD: Mr. President, would you please remove the sponsor's star from Calendar Number 40, 4-0?

ACTING PRESIDENT KUHL: Sponsor's star will be removed.

SENATOR SKELOS: Any more housekeeping?

Then, Mr. President, I move that we stand adjourned until Wednesday, March 1st, at 11:00 a.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Wednesday, March 1st, at 11:00 a.m.,

sharp.

(Whereupon at 6:32 p.m., the Senate adjourned.)