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ALBANY, NEW YORK
February 28, 1995
3:00 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President
STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

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

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

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

11 Father Young.

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

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

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

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

7 Amen.

8 ACTING PRESIDENT KUHL: Reading
9 of the Journal.

10 THE SECRETARY: In Senate,
11 Monday, February 27. The Senate met pursuant to
12 adjournment. The Journal of Sunday, February
13 26, was read and approved. On motion, Senate
14 adjourned.

15 ACTING PRESIDENT KUHL: Hearing
16 no objection -

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

23 ACTING PRESIDENT KUHL: Chair

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

3 Senator Paterson.

4 SENATOR PATERSON: Mr.

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

23 I myself wanted to talk about the

1 death penalty. I am opposed to the death
2 penalty. I feel one of the reasons I'm opposed
3 is that the death penalty bill as we saw it
4 yesterday does not provide effective counsel.
5 There are a lot of issues and a lot of cases in
6 which the Sixth Amendment standard of effective
7 counsel has not been met. There have been a
8 number of cases that were overturned later
9 because the defendant didn't receive effective
10 counsel in other states, and their standards
11 were similar to that which was presented in Bill
12 2649, which is the death penalty bill.

13 In addition to that, we read in
14 the newspapers and saw very recently what I
15 think was a very horrible situation in Mineola
16 where an individual whose name is Colin
17 Ferguson, who killed six people on the Long
18 Island railroad, who injured 26 others, who
19 certainly would qualify I think under many
20 standards as being an individual potentially to
21 receive the death penalty, and he was allowed to
22 defend himself when he met the standard of the
23 730 psychiatric proceeding and was able to go

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

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

23 But the death penalty itself, I

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

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

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

23 ACTING PRESIDENT KUHL: Senator

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

4 SENATOR SKELOS: Mr. President.

5 ACTING PRESIDENT KUHL: Senator
6 Skelos.

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

11 ACTING PRESIDENT KUHL: There
12 will be an immediate meeting of the Rules
13 Committee in the Majority Conference Room, Room
14 332.

15 Senator Paterson, are you
16 through, sir?

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

19 ACTING PRESIDENT KUHL: Other
20 Senators wishing to speak?

21 Senator Waldon. Chair recognizes
22 Senator Waldon.

23 SENATOR WALDON: Mr. President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 zero percent.

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

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

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

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

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

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

12 ACTING PRESIDENT KUHL: The chair
13 recognizes Senator Abate.

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

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

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

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

16 Thank you.

17 Senator Abate.

18 SENATOR ABATE: Thank you,
19 Senator.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 but everyone in the chamber.

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

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

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

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

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

1 inconsistent with the traditions of this
2 chamber.

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

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

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

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

23 The second amendment I wanted to

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

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

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

1 Journal. I regret that it wasn't there.

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

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

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

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

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

5 ACTING PRESIDENT KUHL: Chair
6 recognizes Senator Nanula.

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

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

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

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

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

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

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

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

4 Thank you very much.

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

8 All those in favor, signify by
9 saying aye.

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

12 SENATOR SKELOS: Party vote in
13 the affirmative.

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

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

18 ACTING PRESIDENT KUHL: The
19 motion is adopted.

20 Presentation of petitions.

21 Messages from the Assembly.

22 Messages from the Governor.

23 Reports of standing committees.

1 Secretary will read.

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

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

8 1538, by Senator Cook, Education
9 Law, in relation to the establishment of and
10 maintenance.

11 1637, by Senator Johnson, an act
12 to authorize payment of transportation aid.

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

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

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

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

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

4 574, by Senator Johnson, an act
5 to amend the Penal Law, in relation to the term
6 of licenses.

7 692, by Senator Saland, an act to
8 amend the Penal Law, in relation to the minimum
9 period of imprisonment.

10 985, by Senator Lack, Penal Law,
11 in relation to the possession and sale of
12 fireworks.

13 1088, by Senator Spano, Penal
14 Law, in relation to the crime of criminal
15 employment.

16 1113, by Senator Volker, an act
17 to amend the Penal Law, in relation to the crime
18 of false impersonation.

19 1417, by Senator Saland, an act
20 to amend the Criminal Procedure Law and the
21 Family Court Act, in relation to the access of
22 records.

23 Senator Larkin from Committee on

1 Local Government reports:

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

5 Senator Levy from the Committee
6 on Transportation reports:

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

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

14 429, by Senator Levy, an act in
15 relation to authorizing the Commissioner of
16 Transportation.

17 610, by Senator Stafford, an act
18 to amend the Vehicle and Traffic Law, in
19 relation to the operation of school buses.

20 972, by Senator Levy, an act in
21 relation to the requiring of Department of Motor
22 Vehicles to include certain information.

23 1409, by Senator Goodman, Vehicle

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

3 2270, by Senator Levy, Vehicle
4 and Traffic Law, in relation to the proof
5 required.

6 2356, by Senator Johnson, an act
7 to provide for the issuance of special vehicle
8 identification.

9 2191, by Senator Levy, an act to
10 amend the Public Authorities Law and the
11 Administrative Code of the City of New York, in
12 relation to creating the committee.

13 Senator Hannon from the Committee
14 on Health reports:

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

18 724, by Senator Cook, Public
19 Health Law, in relation to potable waters.

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

23 Senate Print 418, by Senator

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

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

7 Senate Print 2322, by Senator
8 LaValle, an act to amend the Environmental
9 Conservation Law and Chapter 262 of the Laws of
10 1993.

11 Senator Saland from the Committee
12 on Children and Families reports:

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

16 466, by Senator Holland, Social
17 Services Law, in relation to access to the
18 statewide register.

19 1741, by Senator Skelos, an act
20 to amend the Social Services Law, in relation to
21 the access of certain conviction records.

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

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

3 2108, by Senator Saland, an act
4 to amend the Family Court Act, in relation to
5 judicial notification.

6 2115, by Senator Saland, Family
7 Court Act, in relation to the placement of
8 children upon disposition.

9 2119, by Senator Saland, Social
10 Services Law, in relation to bona fide research
11 projects.

12 Senator Goodman from the
13 Committee on Investigation reports:

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

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

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

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

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

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

10 All bills ordered directly to
11 third reading.

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

14 Chair would recognize Senator
15 Bruno.

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

23 You may not recognize Jamie, but

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

8 Thank you.

9 (Applause.)

10 ACTING PRESIDENT KUHL: Reports
11 of select committees.

12 Communications and reports from
13 state officers.

14 Motion and resolutions.

15 Senator Bruno.

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

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

22 All those in favor, signify by
23 saying aye.

1 (Response of "Aye.")

2 Opposed, nay.

3 (There was no response.)

4 The resolutions are adopted.

5 Senator Bruno, that brings us to
6 the calendar.

7 SENATOR BRUNO: Mr. President.

8 Can we at this time read Resolution 395 in its
9 entirety.

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

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

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

23 Whereas, attendant to such

1 concern and fully in accord with its long
2 standing traditions, it is inherent of this
3 Legislative Body to commend Vincent J. Graber,
4 Sr., former New York State Assemblyman from the
5 148th Assembly District for his years of
6 dedicated service; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 were on several other issues.

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

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

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

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

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

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

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

13 (Response of "Aye.")

14 Opposed, nay.

15 (There was no response.)

16 The resolution is adopted.

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

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

22 ACTING PRESIDENT KUHL: Secretary
23 will read the noncontroversial calendar.

1 THE SECRETARY: Calendar Number
2 60, by Senator Levy, Senate 773, an act to amend
3 the Penal Law, in relation to including the
4 theft of dogs and cats within the crime of grand
5 larceny.

6 ACTING PRESIDENT KUHL: Secretary
7 will read the last section.

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

11 SENATOR MONTGOMERY: Explanation.

12 ACTING PRESIDENT KUHL: Lay the
13 bill aside.

14 THE SECRETARY: Calendar Number
15 67, by Senator Kuhl, Senate 2081A.

16 SENATOR PATERSON: Lay it aside.

17 ACTING PRESIDENT KUHL: Lay the
18 bill aside.

19 THE SECRETARY: Calendar Number
20 79, by Senator Levy, Senate 384.

21 SENATOR PATERSON: Lay it aside.

22 ACTING PRESIDENT KUHL: Lay the
23 bill aside.

1 THE SECRETARY: Calendar Number
2 81, by Senator Skelos, Senate 409, an act to
3 amend the Real Property Tax Law, in relation to
4 the definition of income for senior citizen real
5 property.

6 ACTING PRESIDENT KUHL: Secretary
7 will read the last section.

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

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 55.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 84, by Senator Padavan, Senate 1473, an act to
18 amend Chapter 420 of the Laws of 1991.

19 ACTING PRESIDENT KUHL: Secretary
20 will read the last section.

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 55.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 85, by Senator Farley, Senate 1631, an act to
8 amend the Education Law, in relation to
9 authorizing the State University Trustees to
10 make courses available for certain persons.

11 ACTING PRESIDENT KUHL: Secretary
12 will read the last section.

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 55.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 87, by Senator Holland, Senate 1247, an act to
23 amend the Education Law.

1 ACTING PRESIDENT KUHL: Secretary
2 will read the last section.

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

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 55.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 91, by Senator Holland.

14 SENATOR HOLLAND: Lay it aside
15 for the day.

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

18 Senator Bruno, that completes the
19 noncontroversial calendar.

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

22 ACTING PRESIDENT KUHL: Secretary
23 will read the controversial calendar.

1 THE SECRETARY: Calendar Number
2 60, by Senator Levy, Senate 773, an act to amend
3 the Penal Law, in relation to including the
4 theft of dogs and cats within the crime of grand
5 larceny.

6 SENATOR PATERSON: Explanation.

7 SENATOR BRUNO: Lay the bill
8 aside.

9 ACTING PRESIDENT KUHL: Lay the
10 bill aside, temporarily.

11 THE SECRETARY: Calendar Number
12 67, by Senator Kuhl, Senate 2081A, an act in
13 relation to the certain project of the Hornell
14 Industrial Development Agency.

15 SENATOR PATERSON: Explanation.

16 ACTING PRESIDENT HOBLOCK:
17 Explanation asked for.

18 Senator Kuhl.

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

21 SENATOR DOLLINGER: Yes, I did.

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

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

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

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

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

5 ACTING PRESIDENT HOBLOCK:
6 Senator Dollinger.

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

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

11 SENATOR KUHL: The scope of the
12 retailers?

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

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

1 project has come to a halt.

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

7 SENATOR SKELOS: Last section.

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

10 Secretary will read the last
11 section.

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

14 ACTING PRESIDENT HOBLOCK: Call
15 the roll.

16 (The Secretary called the roll.)

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

1 SENATOR BRUNO: Without
2 objection.

3 ACTING PRESIDENT HOBLOCK:
4 Without objection, Senator Dollinger abstains.

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

7 ACTING PRESIDENT HOBLOCK: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 79, by Senator Levy, Senate 384, an act to amend
11 the Vehicle and Traffic Law, in relation to
12 requiring school bus drivers involved in
13 personal injury accidents.

14 SENATOR PATERSON: Explanation.

15 ACTING PRESIDENT HOBLOCK:
16 Explanation asked for.

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

19 ACTING PRESIDENT HOBLOCK: Lay it
20 aside.

21 Senator Bruno, that completes the
22 calendar.

23 SENATOR BRUNO: Mr. President.

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

4 ACTING PRESIDENT HOBLOCK:
5 Secretary will read.

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

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

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

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

22 All bills directly for third
23 reading.

1 SENATOR LEICHTER: Mr. President.

2 ACTING PRESIDENT HOBLOCK:

3 Senator Leichter.

4 SENATOR LEICHTER: If we can just
5 hold a second.

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

12 ACTING PRESIDENT HOBLOCK:

13 Senator Bruno, do you want to move the adoption
14 of the Rules Committee before we have the
15 objection?

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

19 ACTING PRESIDENT HOBLOCK:

20 Senator Leichter.

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

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

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

14 (Response of "Aye.")

15 Opposed, nay.

16 (There was no response.)

17 The report is adopted.

18 Senator Bruno.

19 SENATOR BRUNO: Mr. President.

20 At this time, can we take up Calendar Number
21 135.

22 ACTING PRESIDENT HOBLOCK:

23 Secretary will read.

1 THE SECRETARY: Calendar Number
2 135, by Senator Bruno, Senate Bill 2320, an act
3 proposing an amendment to Article 7 of the
4 Constitution, in relation to limiting the growth
5 on New York State disbursements.

6 ACTING PRESIDENT HOBLOCK:
7 Explanation asked for. Senator Bruno.

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

23 For any funds that are in excess

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

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

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

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

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

9 SENATOR LEICHTER: Mr. President.

10 ACTING PRESIDENT HOBLOCK:
11 Senator Leichter.

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

15 SENATOR BRUNO: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

13 I will certainly yield.

14 SENATOR BRUNO: Will Senator
15 Leichter yield?

16 SENATOR LEICHTER: Yes.

17 ACTING PRESIDENT HOBLOCK:
18 Senator yield?

19 Senator Bruno.

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

1 remember that, Senator?

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

4 SENATOR BRUNO: The same bill,
5 Senator?

6 SENATOR LEICHTER: -- answer.

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

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

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

16 SENATOR LEICHTER: If I can
17 answer your first question.

18 ACTING PRESIDENT HOBLOCK:
19 Senator Leichter, will you yield?

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

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

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

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

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

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

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

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

11 So I assure you that that cap
12 would not have worked. Indeed, if that cap were
13 in effect, my understanding is Governor Pataki's
14 budget would not be within the cap; and as we
15 know, this is a hard -- in fact, some people
16 consider it a harsh budget, so the cap just
17 doesn't work. To say that we would have had
18 \$5.1 billion if the cap were in effect, Senator,
19 we would have property taxes that would be sky
20 high. We would have class sizes in New York
21 City of 70 to 80 kids. We would have had to
22 open up the prisons of the state and let the
23 prisoners out because there wouldn't have been

1 enough money to run the Department of
2 Correctional Services.

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

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

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

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

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

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

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

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

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

3 ACTING PRESIDENT HOBLOCK:
4 Senator Bruno, will you yield?

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

7 (Laughter.)

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

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

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

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

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

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

12 SENATOR LEICHTER: Mr.
13 President.

14 ACTING PRESIDENT HOBLOCK:
15 Senator Leichter.

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

18 ACTING PRESIDENT HOBLOCK:
19 Senator Bruno, do you yield?

20 SENATOR BRUNO: Yes, Mr.
21 President.

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

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

5 SENATOR BRUNO: That is so.

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

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

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

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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

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

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

7 SENATOR LEICHTER: Could
8 temporary be 50 years?

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

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

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

1 require the Court to actually allocate
2 spending.

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

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

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

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

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

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

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

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

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

16 I submit what is before us does
17 not make sense.

18 ACTING PRESIDENT HOBLOCK:
19 Senator Dollinger.

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

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

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

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

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

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

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

14 Why don't we include corporate
15 spending in there?

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

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

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

1 correct?

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

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

11 ACTING PRESIDENT HOBLOCK:
12 Senator Dollinger.

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

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

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

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

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

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

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

23 SENATOR DOLLINGER: Again through

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

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

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

15 SENATOR BRUNO: Previous June,
16 that is correct.

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

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

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

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

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

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

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

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

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

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

22 SENATOR BRUNO: Yes, Mr.
23 President.

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

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

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

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

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

16 ACTING PRESIDENT HOBLOCK:
17 Senator Dollinger.

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

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

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

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

18 ACTING PRESIDENT HOBLOCK:
19 Senator Bruno, will you yield?

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

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

5 SENATOR DOLLINGER: That's fine.

6 SENATOR BRUNO: Is that fair
7 enough?

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

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

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

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

23 SENATOR BRUNO: That is correct,

1 Senator.

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

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

22 SENATOR DOLLINGER: Just one
23 final question.

1 ACTING PRESIDENT HOBLOCK:

2 Senator Dollinger.

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

12 ACTING PRESIDENT HOBLOCK:

13 Senator Bruno, do you yield to another
14 question?

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

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

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

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

8 SENATOR DOLLINGER: Senator, you
9 took the words right -

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

13 SENATOR DOLLINGER: Thank you.
14 Mr. President, on the bill.

15 ACTING PRESIDENT HOBLOCK: On the
16 bill.

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

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

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

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

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

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

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

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

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

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

17 ACTING PRESIDENT HOBLOCK:
18 Senator Goodman.

19 SENATOR GOODMAN: Would Senator
20 yield to one brief question?

21 SENATOR DOLLINGER: I'd be glad
22 to.

23 ACTING PRESIDENT HOBLOCK:

1 Senator Dollinger, will you yield?

2 SENATOR DOLLINGER: Yes.

3 ACTING PRESIDENT HOBLOCK:

4 Senator Goodman, he yields.

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

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

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

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

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

15 ACTING PRESIDENT HOBLOCK:
16 Senator DeFrancisco.

17 SENATOR DeFRANCISCO: Would
18 Senator Dollinger yield to a question?

19 SENATOR DOLLINGER: Sure.

20 ACTING PRESIDENT HOBLOCK:
21 Senator Dollinger will yield.

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

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

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

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

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

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

17 SENATOR DeFRANCISCO: Okay. Very
18 good. Thank you.

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

22 ACTING PRESIDENT HOBLOCK:
23 Senator Abate.

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

5 SENATOR VELELLA: Yes.

6 ACTING PRESIDENT HOBLOCK:
7 Senator Velella, do you yield?

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

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

23 ACTING PRESIDENT HOBLOCK:

1 Senator Stafford.

2 SENATOR STAFFORD: Thank you.

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

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

1 ACTING PRESIDENT HOBLOCK:

2 Senator Abate on the bill.

3 SENATOR ABATE: Yes. -

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

20 ACTING PRESIDENT HOBLOCK:

21 Senator Paterson.

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

1 Galiber and the Finance Minority for compiling
2 this -- is we took the gross personal income
3 from calendar year July 1st, 1993 to June 30th,
4 1994, and we computed that with some help from
5 the Majority at \$463.8 billion. We then took
6 that number and multiplied it by 100 over 9,
7 which would give us 9 percent of that number,
8 and we got \$41.7 billion. Now, we find that
9 Governor Pataki's budget for this year, 1995-96
10 is \$42.5 billion. So, therefore, Governor
11 Pataki's budget, by my calculation, would be
12 9.17 percent of the available gross personal
13 income if the statistics are somewhat similar,
14 meaning that the Governor's current budget is
15 actually over the 9 percent. What that would
16 also mean is that we would have a deficit of
17 \$5.8 billion and then would have to come up with
18 another \$800 million in savings.

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

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

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

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

15 Thank you, Mr. President.

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

18 SENATOR PATERSON: Slow roll
19 call.

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

22 THE SECRETARY: Senator Abate.

23 SENATOR ABATE: No.

1 THE SECRETARY: Senator Babbush,
2 excused.
3 Senator Bruno.
4 (Affirmative indication.)
5 THE SECRETARY: Aye.
6 Senator Connor.
7 (Negative indication.)
8 THE SECRETARY: No.
9 Senator Cook. Senator Cook.
10 SENATOR COOK: Yes.
11 THE SECRETARY: Senator
12 DeFrancisco.
13 SENATOR DeFRANCISCO: Yes.
14 THE SECRETARY: Senator DiCarlo.
15 (There was no response.)
16 Senator Dollinger.
17 SENATOR DOLLINGER: To explain my
18 vote briefly, Mr. President.
19 ACTING PRESIDENT HOBLOCK:
20 Senator Dollinger to explain his vote.
21 SENATOR DOLLINGER: Thank you,
22 Mr. President.
23 I think this is a concept that we

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

10 THE SECRETARY: Senator Espada.

11 SENATOR ESPADA: No.

12 THE SECRETARY: Senator Farley.

13 SENATOR FARLEY: Aye.

14 THE SECRETARY: Senator Galiber.

15 SENATOR GALIBER: No.

16 THE SECRETARY: Senator Gold.

17 (There was no response.)

18 Senator Gonzalez.

19 SENATOR GONZALEZ: No.

20 THE SECRETARY: Senator Goodman.

21 SENATOR GOODMAN: Yes.

22 THE SECRETARY: Senator Hannon.

23 SENATOR HANNON: Yes.

1 THE SECRETARY: Senator Hoblock.
2 SENATOR HOBLOCK: Yes.
3 THE SECRETARY: Senator Hoffmann.
4 SENATOR HOFFMANN: Yes.
5 THE SECRETARY: Senator Holland.
6 (There was no response.)
7 Senator Johnson.
8 SENATOR JOHNSON: Aye.
9 THE SECRETARY: Senator Jones.
10 (There was no response.)
11 Senator Kruger.
12 SENATOR KRUGER: No.
13 THE SECRETARY: Senator Kuhl.
14 SENATOR KUHL: Aye.
15 THE SECRETARY: Senator Lack.
16 (There was no response.)
17 Senator Larkin.
18 (There was no response.)
19 Senator LaValle.
20 SENATOR LAVALLE: Aye.
21 THE SECRETARY: Senator Leibell.
22 SENATOR LEIBELL: Yes.
23 THE SECRETARY: Senator Leichter.

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

3 ACTING PRESIDENT HOBLOCK:
4 Senator Leichter to explain his vote.

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

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

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

21 THE SECRETARY: Senator Levy.

22 SENATOR LEVY: Aye.

23 THE SECRETARY: Senator Libous.

1 SENATOR LIBOUS: Aye.

2 THE SECRETARY: Senator Maltese.

3 (There was no response.)

4 Senator Marchi.

5 SENATOR MARCHI: Aye.

6 THE SECRETARY: Senator

7 Markowitz.

8 (There was no response.)

9 Senator Mendez.

10 (There was no response.)

11 Senator Montgomery.

12 ACTING PRESIDENT HOBLOCK:

13 Senator Montgomery.

14 SENATOR MONTGOMERY: Yes, Mr.

15 President, to explain my vote briefly.

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

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

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

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

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

17 THE SECRETARY: Senator Nanula.

18 (There was no response.)

19 Senator Nozzolio.

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

22 ACTING PRESIDENT HOBLOCK:

23 Senator Nozzolio to explain his vote.

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

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

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

1 THE SECRETARY: Senator Onorato.

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

4 ACTING PRESIDENT HOBLOCK:
5 Explain your vote, Senator Onorato.

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

21 THE SECRETARY: Senator
22 Oppenheimer.

23 SENATOR OPPENHEIMER: Nay.

1 THE SECRETARY: Senator Padavan.

2 SENATOR PADAVAN: Yes.

3 THE SECRETARY: Senator Paterson.

4 ACTING PRESIDENT HOBLOCK:

5 Senator Paterson, to explain your vote.

6 SENATOR PATERSON: Thank you, Mr.
7 President.

8 The investment tax credit which
9 is actually a subsidy does not appear as a
10 subsidy in the budget because, since it's
11 regarded as a corporate franchise tax, it
12 escapes the cap. So tax expenditures really are
13 not listed because they are part of the tax
14 system, and I think this is a way that we are -
15 and it's been said by members of both sides of
16 the aisle, really engaging in a lot of back door
17 financing and back door expenditures aren't even
18 going to be listed under this system. Because
19 of this and because of the unemployment, I think
20 that will accrue, I vote no.

21 THE SECRETARY: Senator Present.

22 SENATOR PRESENT: Aye.

23 THE SECRETARY: Senator Rath.

1 Senator Rath.

2 SENATOR RATH: Aye.

3 THE SECRETARY: Senator Saland.

4 SENATOR SALAND: Aye.

5 THE SECRETARY: Senator Santiago.

6 (There was no response.)

7 THE SECRETARY: Senator Sears.

8 SENATOR SEARS: Aye.

9 THE SECRETARY: Senator Seward.

10 SENATOR SEWARD: Aye.

11 THE SECRETARY: Senator Skelos.

12 SENATOR SKELOS: Yes.

13 THE SECRETARY: Senator Smith.

14 SENATOR SMITH: No.

15 THE SECRETARY: Senator Solomon.

16 (There was no response.)

17 Senator Spano.

18 SENATOR SPANO: Aye.

19 THE SECRETARY: Senator

20 Stachowski.

21 SENATOR STACHOWSKI: Yes.

22 THE SECRETARY: Senator Stafford.

23 SENATOR STAFFORD: Aye.

1 THE SECRETARY: Senator Stavisky
2 is excused.
3 Senator Trunzo.
4 SENATOR TRUNZO: Aye.
5 THE SECRETARY: Senator Tully.
6 (There was no response.)
7 Senator Velella.
8 SENATOR VELELLA: Yes.
9 THE SECRETARY: Senator Volker.
10 SENATOR VOLKER: Yes.
11 THE SECRETARY: Senator Waldon.
12 (There was no response.)
13 THE SECRETARY: Senator Wright.
14 SENATOR WRIGHT: Aye.
15 ACTING PRESIDENT HOBLOCK: Call
16 the absentees.
17 THE SECRETARY: Senator DiCarlo.
18 SENATOR DiCARLO: Yes.
19 THE SECRETARY: Senator Gold.
20 (There was no response.)
21 Senator Holland.
22 SENATOR HOLLAND: Yes.
23 THE SECRETARY: Senator Lack.

1 Senator Lack.

2 SENATOR LACK: Aye.

3 THE SECRETARY: Senator Larkin.

4 SENATOR LARKIN: Aye.

5 THE SECRETARY: Senator Maltese.

6 SENATOR MALTESE: Aye.

7 THE SECRETARY: Senator

8 Markowitz.

9 SENATOR MARKOWITZ: With all due

10 respect to Senator Bruno, I vote no.

11 THE SECRETARY: Senator Mendez.

12 SENATOR MENDEZ: No.

13 THE SECRETARY: Senator Nanula.

14 SENATOR NANULA: No.

15 THE SECRETARY: Senator Santiago.

16 (There was no response.)

17 Senator Solomon.

18 (There was no response.)

19 Senator Tully.

20 SENATOR TULLY: Aye.

21 ACTING PRESIDENT HOBLOCK:

22 Results?

23 THE SECRETARY: Ayes 38, nays

1 16.

2 ACTING PRESIDENT HOBLOCK: The
3 resolution is adopted.

4 Senator Bruno.

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

7 ACTING PRESIDENT HOBLOCK: The
8 Secretary will read.

9 THE SECRETARY: Calendar Number
10 134, Budget Bill, an act to amend the Tax Law,
11 in relation to reduction of rates and
12 enhancement of credits under the state personal
13 income tax.

14 ACTING PRESIDENT HOBLOCK: Read
15 the last section.

16 THE SECRETARY: Section 21.

17 SENATOR BRUNO: Mr. President -

18 SENATOR PATERSON: Explanation.

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

21 ACTING PRESIDENT HOBLOCK:
22 Senator Oppenheimer.

23 SENATOR OPPENHEIMER: Thank you

1 very much, Senator Bruno.

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

4 ACTING PRESIDENT HOBLOCK: I'm
5 sorry.

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

10 SENATOR BRUNO: Without
11 objection, Mr. President.

12 ACTING PRESIDENT HOBLOCK: So
13 recorded.

14 SENATOR BRUNO: Regular order,
15 Mr. President.

16 ACTING PRESIDENT HOBLOCK:
17 Explanation has been asked for.

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

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

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

3 This bill is a Governor's program
4 bill. It will cut taxes over the next four
5 years \$6.8 billion -- 6.8 billion. It reduces
6 the top income tax rate from the present level,
7 close to eight percent to 5.9 percent and at the
8 bottom of the scale, at 4 percent. It's
9 important that we all recognize and understand
10 that 4.4 billion of this tax cut, two-thirds of
11 it, goes for people with incomes of under
12 \$100,000 -- under 100,000 a year, and I would
13 ask you to focus also on the fact that this tax
14 cut will take about 400,000 people off the tax
15 rolls as it is implemented, 400,000 people in
16 this state at the lower income levels will come
17 off. It increases the dependency allowances.
18 It does the things that are important to the
19 people of this state to help stimulate the
20 economy and move this economy forward.

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

1 all familiar to you in this chamber, too
2 familiar. There has been pain and suffering in
3 this state, especially over the last four or
4 five years as we led the country in job loss
5 across the whole United States by 40 percent of
6 all of the jobs lost coming from New York, not
7 10 percent, 20 percent. Just think about that.
8 That's pain and suffering.

9 Nine out of ten times in the last
10 30 years taxes were cut, jobs increased. The
11 estimates are that this tax cut package will
12 produce about 375,000 jobs. You know what the
13 bottom line for that is for the people of this
14 state? About \$2.1 billion in additional revenue
15 in this state, 2.1 billion in additional
16 revenue, and with that additional revenue when
17 people are prospering, businesses are doing
18 well, we can afford to do the kinds of things
19 that we want to do for the people of this state,
20 as relates to all of the goods and services that
21 the people of this state would like to have to
22 improve the quality of their lives but, ladies
23 and gentlemen, the spending and taxing policies

1 of the past have to be in the past.

2 There was a message on November
3 8th across the country, certainly here in New
4 York State, demanding change -- demanding
5 change, not minimal change, not pretending to
6 cut taxes while in reality we raised taxes.
7 Those kinds of games should be things of the
8 past.

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

23 What prompted their decision?

1 How many other hundreds of companies are there
2 like the IBMs of this world looking at New York
3 to see how serious we are? Are we going to
4 continue the failing ways in the past? The
5 answer is no. This Governor has delivered a
6 very strong message. He has said, "We will do a
7 25 percent tax cut for the people of this state
8 over the next four years." This is the
9 Governor's tax cut package. The people of this
10 state elected him because they believed in his
11 message of spending less and cutting taxes.

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

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

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

15 Thank you, Mr. President.

16 ACTING PRESIDENT HOBLOCK:

17 Senator Paterson.

18 SENATOR PATERSON: Mr.

19 President -

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

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

1 list. I apologize.

2 SENATOR STAFFORD: I will pass.

3 I think the question was, do we have a list of
4 speakers, and we probably do. I'll speak later.

5 ACTING PRESIDENT HOBLOCK: Okay.

6 Senator Goodman is next.

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

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

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

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

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

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

1 to day and year to year?

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

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

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

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

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

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

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

1 of promises he made just because he attained
2 public office.

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

17 You may remember that in the year
18 '86 there was a change in the federal tax law,
19 and the change in the federal tax law brought
20 about a windfall for the state of New York which
21 if not corrected by us would have resulted in an
22 unnecessary imposition of taxes on our people.
23 The significant portion of the '87 tax cut,

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ACTING PRESIDENT KUHL: The Chair
19 recognizes Senator Paterson.

20 SENATOR PATERSON: Thank you, Mr.
21 President.

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

1 addition to the one that I would convey.

2 There's one from Senator Waldon, from Senator
3 Dollinger and Senator Galiber.

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

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

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

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

16 SENATOR PATERSON: Thank you.

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

23 In the Governor's budget, the

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

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

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

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

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

22 SENATOR PATERSON: Party vote in
23 the affirmative.

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

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

6 ACTING PRESIDENT KUHL: The
7 amendment is failed.

8 Senator Waldon.

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

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

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

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

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

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

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

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

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

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

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

16 Thank you, Mr. President.

17 ACTING PRESIDENT KUHL: The
18 question is on the amendment.

19 SENATOR MARCHI: Excuse me.

20 ACTING PRESIDENT KUHL: Excuse
21 me, Senator Marchi.

22 Senator Marchi on the amendment.

23 SENATOR MARCHI: Mr. President, I

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

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

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

23 ACTING PRESIDENT KUHL: Senator

1 Waldon.

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

5 ACTING PRESIDENT KUHL: Senator
6 Waldon.

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

23 Thank you very much, Mr.

1 President.

2 ACTING PRESIDENT KUHL: Senator
3 Connor.

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

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

19 (Response of "Aye".)

20 SENATOR PATERSON: Party vote in
21 the affirmative.

22 ACTING PRESIDENT KUHL: The
23 Secretary will call the roll.

1 (The Secretary called the roll.)

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

4 THE SECRETARY: Ayes 22, nays 34.

5 ACTING PRESIDENT KUHL: The
6 amendment is failed.

7 Senator Dollinger for the purpose
8 of offering up an amendment.

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

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

16 SENATOR DOLLINGER: Thank you,
17 Mr. President.

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

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

17 What I'd like to do is my
18 amendment deals with circuit breaker property
19 tax relief for people who make less than
20 \$100,000. Let me tell you how it works. It
21 amends Subdivision (e) of Section 606 of the New
22 York State Tax Law. What it does is it creates
23 a circuit breaker for property taxes. The

1 amendment raises the eligibility -- we now have
2 it for senior citizens. It raises the
3 eligibility up to \$100,000 of income. Currently
4 it's \$18,000. You don't get the circuit breaker
5 now. You don't get the benefit of reduction in
6 your tax -- excuse me -- a credit for the
7 property taxes that you pay if you have in
8 excess of \$18,000. We would raise the ceiling
9 from 18,000 up to \$100,000. We would also raise
10 the property values that would be eligible for
11 this circuit breaker legislation from \$85,000,
12 which is the current amount, up to \$250,000. We
13 would raise the rent threshold from -- up to
14 \$1,000 a month from the \$450 a month that
15 currently exists.

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

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

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

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

8 Let me tell you that the effect
9 for senior citizen who is -- I'll start right at
10 the bottom -- has less than \$1,000 worth of
11 income, the tax benefit could be as much as
12 \$1100. For those who have \$17,000 -- between
13 17- and \$100,000, the effect of this tax cut
14 which we have a chance to give today is \$516.
15 That's not bad. That's for senior citizens.
16 Not bad. \$516 for each of your constituents.

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

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

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

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

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

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

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

22 SENATOR BRUNO: Party vote.

23 ACTING PRESIDENT KUHL: The

1 Secretary will call the roll.

2 (The Secretary called the roll.)

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

5 THE SECRETARY: Ayes 22, nays 34.

6 ACTING PRESIDENT KUHL: The
7 amendment is failed.

8 Senator Galiber for the purposes
9 of offering an amendment.

10 SENATOR GALIBER: Thank you, Mr.
11 President.

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

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

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

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

1 SENATOR GALIBER: Thank you, Mr.
2 President.

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

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

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

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

15 The Governor's plan gives 1,472
16 tax cuts to a family of four earning \$500,000,
17 106 reduction to middle income families earning
18 440,000. The Speaker's plan gives a family of
19 40,000, a tax cut of 225 versus the Governor's
20 106, more than double, Mr. President.

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

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

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

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

9 Keep in mind that my amendment,
10 which is the Assembly bill, tax cut bill, if you
11 will, indicates that \$4.3 million tax -- 4.3
12 million taxpayers would pay over -- taxes under
13 the Assembly plan than under the Pataki plan.
14 71 percent of those who would pay less taxes
15 under the Assembly plan have incomes under
16 \$50,000. 98 percent have income under 100,000.
17 The taxpayer with income under 50,000 would be
18 better off under the Pataki plan than under the
19 Assembly plan.

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

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

8 ACTING PRESIDENT KUHL: The
9 question is on the amendment.

10 Senator Connor.

11 SENATOR CONNOR: Thank you, Mr.
12 President.

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

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

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

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

23 Now, we're faced with a -- the

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

10 So what it's really about, this
11 debate, is whose taxes do you want to cut?
12 Where do you want to cut those taxes, and we
13 seem to have a fundamental disagreement. We
14 Democrats think, and the Assembly Democrats seem
15 to agree with us, that we ought to focus these
16 tax cut benefits on the middle class taxpayer,
17 people who make less than \$100,000, and that's
18 what this amendment would do. So we're for tax
19 cuts, you're for tax cuts, we're for tax cuts
20 for the people who make less than \$100,000, and
21 your proposal would give much more of the tax
22 cut benefit to those who make more than
23 \$100,000, and much less of it to the middle

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

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

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

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

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

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

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

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

7 SENATOR DOLLINGER: Yes.

8 ACTING PRESIDENT KUHL: Senator
9 Dollinger on the amendment.

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

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

1 deductions; there will be no tax benefit to them
2 until they make \$47,500, no benefit, nothing,
3 zero, absolute zero. So if you make less than
4 \$47,500 with a family of two with average
5 itemized deductions, the word that's being sent
6 to you today in this chamber is, we have nothing
7 for you, zero; it's a zero sum game. You get
8 nothing. You don't begin to make it anything
9 until you're over the \$47,500 amount. Then you
10 get \$13 in a tax benefit under the plan that's
11 been put forward by the Majority.

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

1 statewide average in districts.

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

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

1 Libous' district, only 22 percent of the people
2 make more than \$50,000. Senator Kuhl's
3 district, only 18 percent of the people make
4 more than \$50,000, Senator Nozzolio's, 24
5 percent, rural poverty, pockets of rural
6 poverty.

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

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

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

12 ACTING PRESIDENT KUHL: The
13 question is on the amendment.

14 SENATOR PATERSON: Party vote in
15 the affirmative.

16 ACTING PRESIDENT KUHL: The clerk
17 will call the roll.

18 (The Secretary called the roll.)

19 SENATOR BRUNO: Party vote in the
20 negative.

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

23 THE SECRETARY: Ayes 22, nays 34.

1 ACTING PRESIDENT KUHL: The
2 amendment is failed.

3 On the bill, Senator Espada.

4 SENATOR ESPADA: Thank you, Mr.
5 President.

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

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

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

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

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

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

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

14 Thank you.

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

17 SENATOR NOZZOLIO: Thank you, Mr.
18 President.

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

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

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

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

1 citizens do, and economic recovery will be the
2 result.

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

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

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

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

13 ACTING PRESIDENT KUHL: Senator
14 Dollinger on the bill.

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

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

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

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

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

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

22 SENATOR STAFFORD: Thank you, Mr.
23 President.

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

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

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

23 Now, if we keep spending and keep

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

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

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

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

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

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

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

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

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

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

15 SENATOR MONTGOMERY: Yes.

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

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

21 Senator Abate.

22 SENATOR ABATE: I would like to
23 explain my vote.

1 ACTING PRESIDENT KUHL: Senator
2 Abate to explain her vote.

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

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

21 THE SECRETARY: Senator Babbush,
22 excused.

23 Senator Bruno.

1 (Affirmative indication.)

2 THE SECRETARY: Aye.

3 Senator Connor.

4 SENATOR CONNOR: Mr. President.

5 ACTING PRESIDENT KUHL: Senator
6 Connor to explain his vote.

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

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

22 THE SECRETARY: Senator Cook.

23 SENATOR COOK: Yes.

1 THE SECRETARY: Senator
2 DeFrancisco.
3 SENATOR DeFRANCISCO: Yes.
4 THE SECRETARY: Senator DiCarlo.
5 SENATOR DiCARLO: Yes.
6 THE SECRETARY: Senator
7 Dollinger.
8 SENATOR DOLLINGER: Yes.
9 THE SECRETARY: Senator Espada.
10 SENATOR ESPADA: No.
11 THE SECRETARY: Senator Farley.
12 SENATOR FARLEY: Aye.
13 THE SECRETARY: Senator Galiber.
14 SENATOR GALIBER: No.
15 THE SECRETARY: Senator Gold.
16 (There was no response.)
17 Senator Gonzalez.
18 (There was no response.)
19 Senator Goodman.
20 SENATOR GOODMAN: Yes.
21 THE SECRETARY: Senator Hannon.
22 SENATOR HANNON: Yes.
23 THE SECRETARY: Senator Hoblock.

1 SENATOR HOBLOCK: Yes.

2 THE SECRETARY: Senator Hoffmann.

3 SENATOR HOFFMANN: To explain my
4 vote.

5 ACTING PRESIDENT KUHL: Senator
6 Hoffmann to explain her vote.

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

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

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

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

10 THE SECRETARY: Senator Holland.

11 SENATOR HOLLAND: Yes.

12 THE SECRETARY: Senator Johnson.

13 SENATOR JOHNSON: Aye.

14 THE SECRETARY: Senator Jones.

15 SENATOR JONES: Yes.

16 THE SECRETARY: Senator Kruger.

17 SENATOR KRUGER: Yes.

18 THE SECRETARY: Senator Kuhl.

19 SENATOR KUHL: Aye.

20 THE SECRETARY: Senator Lack.

21 SENATOR LACK: Aye.

22 THE SECRETARY: Senator Larkin.

23 Senator Larkin.

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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.

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

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

1 THE SECRETARY: Senator Levy.

2 SENATOR LEVY: Aye.

3 THE SECRETARY: Senator Libous.

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

6 ACTING PRESIDENT KUHL: Senator
7 Libous to explain his vote.

8 SENATOR LIBOUS: Thank you, Mr.
9 President.

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

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

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

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

21 THE SECRETARY: Senator Maltese.

22 SENATOR MALTESE: Aye.

23 THE SECRETARY: Senator Marchi.

1 SENATOR MARCHI: Aye.

2 THE SECRETARY: Senator

3 Markowitz.

4 SENATOR MARKOWITZ: No.

5 THE SECRETARY: Senator Mendez.

6 (Affirmative indication.)

7 Senator Montgomery.

8 (There was no response.)

9 Senator Nanula.

10 ACTING PRESIDENT KUHL: Senator

11 Nanula to explain his vote.

12 SENATOR NANULA: Mr. President,

13 I'm going to be voting a very reluctant yes in
14 regard to this bill.

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

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

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

1 supporting this legislation, this bill does not
2 accomplish that.

3 Thank you.

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

6 SENATOR NANULA: Yes.

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

10 THE SECRETARY: Senator Nozzolio.

11 SENATOR NOZZOLIO: Aye.

12 THE SECRETARY: Senator Onorato.

13 ACTING PRESIDENT KUHL: Senator
14 Onorato to explain his vote.

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

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

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

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

16 THE SECRETARY: Senator
17 Oppenheimer.

18 SENATOR OPPENHEIMER: Aye.

19 ACTING PRESIDENT KUHL: Senator
20 Oppenheimer to explain her vote.

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

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

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

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

19 THE SECRETARY: Senator Padavan.

20 SENATOR PADAVAN: Yes.

21 THE SECRETARY: Senator Paterson.

22 SENATOR PATERSON: No.

23 THE SECRETARY: Senator Present.

1 SENATOR PRESENT: Aye.
2 THE SECRETARY: Senator Rath.
3 SENATOR RATH: Aye.
4 THE SECRETARY: Senator Saland.
5 SENATOR SALAND: Aye.
6 THE SECRETARY: Senator Santiago.
7 SENATOR SANTIAGO: No.
8 THE SECRETARY: Senator Sears.
9 SENATOR SEARS: Aye.
10 THE SECRETARY: Senator Seward.
11 SENATOR SEWARD: Yes.
12 THE SECRETARY: Senator Skelos.
13 SENATOR SKELOS: Explain my vote,
14 Mr. President.
15 ACTING PRESIDENT KUHL: Senator
16 Skelos to explain his vote.
17 SENATOR SKELOS: Mr. President,
18 I'm delighted to vote for this bill that the
19 Governor has presented to us because it does
20 afford opportunity and hope for the taxpayers
21 and those people who are looking for us to
22 create jobs in New York State.
23 Senator Espada, you mentioned

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

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

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

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

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

17 SENATOR SKELOS: I vote aye.

18 ACTING PRESIDENT KUHL: Senator
19 Skelos in the affirmative.

20 ACTING PRESIDENT KUHL: Senator
21 Skelos in the affirmative.

22 Continue the roll call.

23 THE SECRETARY: Senator Smith.

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

3 ACTING PRESIDENT KUHL: Senator
4 Smith to explain her vote.

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

12 ACTING PRESIDENT KUHL: Senator
13 Smith in the affirmative.

14 Continue the roll.

15 THE SECRETARY: Senator Solomon
16 excused.

17 Senator Spano.

18 SENATOR SPANO: Aye.

19 THE SECRETARY: Senator
20 Stachowski.

21 (There was no response.)

22 Senator Stafford.

23 SENATOR STAFFORD: Aye.

1 THE SECRETARY: Senator Stavisky
2 excused.

3 Senator Trunzo.

4 SENATOR TRUNZO: Yes.

5 THE SECRETARY: Senator Tully.

6 SENATOR TULLY: Aye.

7 THE SECRETARY: Senator Velella.

8 (There was no response.)

9 THE SECRETARY: Senator Velella.

10 SENATOR VELELLA: Yes.

11 THE SECRETARY: Senator Volker.

12 SENATOR VOLKER: Yes.

13 THE SECRETARY: Senator Waldon.

14 ACTING PRESIDENT KUHL: Senator
15 Waldon to explain his vote.

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

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

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

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

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

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

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

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

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

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

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

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

5 ACTING PRESIDENT KUHL: Senator
6 Waldon in the negative.

7 Secretary will continue to call
8 the roll.

9 THE SECRETARY: Senator Wright.

10 SENATOR WRIGHT: Aye.

11 ACTING PRESIDENT KUHL: Secretary
12 will call the absentees.

13 THE SECRETARY: Senator Gold.

14 (There was no response.)

15 Senator Gonzalez.

16 (There was no response.)

17 THE SECRETARY: Is that it?

18 ACTING PRESIDENT KUHL: Senator
19 Bruno.

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

23 ACTING PRESIDENT KUHL: Senator

1 Bruno to explain his vote.

2 SENATOR BRUNO: Thank you. Thank
3 you.

4 SENATOR ONORATO: No objection.

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

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

1 path.

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

5 Thank you, Mr. President.

6 ACTING PRESIDENT KUHL: Senator
7 Bruno in the affirmative.

8 Announce the results.

9 THE SECRETARY: Ayes 44, nays
10 10.

11 ACTING PRESIDENT KUHL: The bill
12 is passed.

13 Senator Bruno, or Senator
14 Skelos.

15 SENATOR BRUNO: Would you, Mr.
16 President -- would you call up Calendar Number
17 136.

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

21 ACTING PRESIDENT KUHL: Senator
22 Santiago.

23 SENATOR SANTIAGO: Thank you. I

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

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

10 Now, Senator Bruno.

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

13 ACTING PRESIDENT KUHL: Secretary
14 will read.

15 THE SECRETARY: Calendar Number
16 136, by Senator Bruno, Senate Print 2545, an act
17 to provide a retirement incentive for certain
18 public employees.

19 ACTING PRESIDENT KUHL: Secretary
20 will read the last section.

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT KUHL: Announce
4 the results.

5 THE SECRETARY: Ayes 56.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

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

10 Senator Stafford.

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

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

16 SENATOR SKELOS: Any more
17 housekeeping?

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

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

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sharp.

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