ALBANY, NEW YORK

March 29, 1995

10:02 a.m.

REGULAR SESSION

SENATOR JOHN A. DeFRANCISCO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT DeFRANCISCO: The Senate will come to order.

Ask everyone to please rise with me and pledge with me the Pledge of Allegiance to the Flag.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

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

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 28th. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The Journal of Monday, March 27th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT DeFRANCISCO: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions. Senator Bruno.

SENATOR BRUNO: Mr. President, I believe there's a resolution at the desk and would like to ask that it be read, relating to Senator Trunzo.

ACTING PRESIDENT DeFRANCISCO: Secretary will read the resolution and read the title.

SENATOR TRUNZO: Just the title and have the resolution passed please.

ACTING PRESIDENT DeFRANCISCO: Secretary will read.

THE SECRETARY: Legislative Resolution, by Senator Trunzo, commending Josefina Cammerano upon the occasion of her 100th birthday, Friday, April 7, 1995.

ACTING PRESIDENT DeFRANCISCO: On the resolution, all in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Bruno, are you ready for the calendar?

SENATOR BRUNO: Mr. President, can we now take up the non-controversial calendar.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: On page 20, Calendar Number 214, by Senator LaValle, Senate Print 1368, an act to amend the Town Law, in relation to expending from fire district revenues amounts appropriated for equipment.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: The bill will be laid aside.

THE SECRETARY: Calendar Number 215, by Senator Larkin, Senate Print 2090-A, an act -

SENATOR LARKIN: Star the bill.

ACTING PRESIDENT DeFRANCISCO: The bill is starred at the request of the sponsor.

THE SECRETARY: Calendar Number 217, by Senator Present, Senate Print 1930, an act to amend the State Administrative Procedure Act and the Executive Law, in relation to compliance requirements.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 1st day of October.

ACTING PRESIDENT DeFRANCISCO: Please call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 218, by Senator Present, Senate Print 1931, an act to amend the State Administrative Procedure Act, in relation to regulatory relief for health care providers.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT DeFRANCISCO: Please lay the bill aside.

THE SECRETARY: Calendar Number 220, by Senator Velella, Senate Print 933, an act to amend the Insurance Law, in relation to the availability of multi-tier programs for homeowners' insurance.

ACTING PRESIDENT DeFRANCISCO: Please read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT DeFRANCISCO:

The bill is passed.

THE SECRETARY: Calendar Number 227, by Senator Farley, Senate Print 3106, an act to amend the Highway Law, in relation to designating -- designating a portion of the state highway system the Mayor Harvey W. Mans field Highway.

ACTING PRESIDENT DeFRANCISCO: Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 289, by Senator Bruno, Senate Print 3682, an act to amend the State Administrative Procedure Act, in relation to agency review of existing rules.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar number 290, by Senator Bruno, Senate Print Number 3683, an act to amend the Environmental Conservation Law, the State Administrative Procedure Act and others.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

Senator Bruno, that completes the -- the reading of the non-controversial calendar.

SENATOR BRUNO: And now, Mr. President, can we take up the controversial calendar.

ACTING PRESIDENT DeFRANCISCO: Secretary will read.

THE SECRETARY: Calendar Number 214, by Senator LaValle, Senate Bill 1368, an act to amend the Town Law, in relation to expending from fire district revenues.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT DeFRANCISCO: An explanation has been asked for.

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 218, by Senator Present, Senate Bill 1931, an act to amend the State Administrative Procedure Act.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT DeFRANCISCO: Explanation. Senator Present.

SENATOR PRESENT: Mr. President, this is an amendment to the State Administrative Procedure Act which will encourage state agencies to propose and adopt cost-effective rules to help reduce the cost of providing health care to small business, and other regulated parties.

ACTING PRESIDENT DeFRANCISCO: Thank you, Senator Present.

Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 1st day of October.

ACTING PRESIDENT DeFRANCISCO: Excuse me. Senator Paterson.

SENATOR PATERSON: I'm sorry, Mr. President.

Would Senator Present be willing to yield for a question?

SENATOR PRESENT: Yes.

SENATOR PATERSON: Senator Present, this is just a question relating to the possibility that the enactment of this legislation will impede upon the quality and the work done by the agency. How do we determine what is actually covered under this legislation? In other words, not every procedure or decision made by an agency is -- calls for a long review process, and so what I'm trying to determine is when you feel the agency should act and when you feel that there should be this kind of OSHA review.

SENATOR PRESENT: I think that this action should take place on every rule as promulgated by any agency if it provides the cost of their proposed rule or regulation they

should tell us in advance and let industry know how it's going to affect them. The industry then can respond.

SENATOR PATERSON: Thank you. Thank you very much, Senator Present.

I'd just like to point out to the members that EPL is opposed to this bill. They blew their stack twice and they just seem to question the relationship between the regulatory agencies and the reviewing process. So thank you, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Please read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 1st day of October.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT DeFRANCISCO: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 218 are Senators

Connor, Paterson and Smith. Ayes 35, nays 3.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 289, by Senator Bruno, Senate Print 3682, an act to amend the State Administrative Procedure Act, in relation to agency review of existing rules.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT DeFRANCISCO: An explanation has been asked for. Senator Bruno.

SENATOR BRUNO: Mr. President, we in this chamber and people in this state all are aware of the very sad state of affairs as relates to business in New York State. Leading the country in job loss for the last four years, 40 percent of all the jobs lost in this country come from New York State, and that's sad, and in the recovery that is taking place nationally, New York State is lagging drastically and that is unfortunate. Forty-fourth out of 50 states in economic recovery, as reported by industries who follow the trend.

The main reason that is given for the sad state of affairs depriving people of an opportunity to earn a living, to have a job, is over-regulation, the punitive negative attitude of government towards business in New York State. Taxes are second in people's minds.

This -- the business we're doing this morning will change the direction of this state as relates to job creation. Mr. President, job creation is what this budget's all about; it's what this bill is all about, what the bill that follows is all about, deregulating, making New York State and the agencies more business-friendly.

Now, I know that my colleagues in this chamber will support that because I keep hearing that job creation is uppermost in every one's mind. There are specifics that relate to this legislation. I believe Senator Rath is going to continue the discussion, and I would now defer to Senator Rath.

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR RATH: Thank you, Mr. Chairman. Thank you, Senator Bruno.

A year and three months ago when I assumed my responsibilities as chairman of the Administrative Regulation Review Commission, I had a little learning to do, a little catching up to do as a freshman learning a lot, a lot of learning, but even more about what regulations and what their review meant.

But let me tell you that it didn't take me very long to discover that review cried out for reform from the offset and regulatory reform has been on the list of almost everyone who has been on the stump politically this past year all over the country. You can't pick up a newspaper anywhere when you go out of town but what someone locally is not talking about regulatory reform.

Regulations are, as Senator Bruno said, the hidden taxes that are impeding business from moving forward. The projection as to the cost of the hidden taxes is between 500 and $800 billion a year. I'll say it again,

it's not my number, I've been picking it up everywhere, the latest was in federal legislation, between 5- and $800 billion in hidden costs every year.

We, as a country, cannot afford to do that. We as a state have shouldered a great deal of those costs. I don't know what our numbers are. One of the bills in this omnibus is looking to address that: What are the hidden costs in New York State for the over-regulation, and I say over-regulation and I rise to explain what I mean because you may have some questions when we get into the discussion of the legislation itself.

Are we talking about throwing away some of the very, very good things that have happened as this society has deregulated itself and has to regulate itself? Teddy Roosevelt, in 1900, said to those of us who live on the shores of Lake Erie, we were foolish, we were wasting our wonderful resource of Lake Erie, we were throwing our garbage and our sewage and everything into Lake Erie untreated.

Well, regulations came along and you know what happened now. Lake Erie has come back a hundredfold. It's wonderful. The fish that haven't been there for 20 years are reappearing again. They must have been hiding in some little corner of the lake and maintaining themselves. But the regulations have been good.

But in many cases regulations have been overzealous. It's because we wanted to do more, because we believed the cause was good and justified, and I -- I don't think there are any of us in this room that say environmental regulations or health regulations, consumer regulations, can be thrown out or abandoned. No, but we must regulate smarter. We must teach the people who regulate what they need to do as they regulate. They must talk to the people who they are regulating before they promulgate the regulations.

A bill that we passed in this Legislature last year caused a regulatory agenda for five agencies in this state to appear

January 1st. The Governor signed the bill. It was the first bill that I had passed. I'm very proud of that bill. That bill brought forward 350 new regulations that were about to show themselves in New York State January 1, 1994.

Because of the bill that we passed, those regulations are in a holding pattern right now as our new Governor said we better review these before they go on. Now, some of them have been waived, yes. Some of them were so important they had to be done immediately and they were done immediately with the waivers that were passed through the Governor's office through his counsel. But 350 new regs in five agencies alone.

Let me tell you there are 80 agencies in New York State that can and do regulate, 80 agencies. There are -- there have been -- there was an example on the political trail last year of the regulations being waged from Albany, Schenectady and back piece by piece, and they were growing as we spoke.

Well, political rhetoric being

what it is, that's -- that has come and gone, but the will to reform our regulatory process and give business a chance in New York State, that will is here and there is now a Director of Regulatory Reform in the Governor's office.

Before we get into the bill, I just would like to read something very briefly to you because you might say, well, that's just business. You take a look at the piece that I'm holding up, A Revolution in Regulation, done by the Policy Institute of the state of New York.

There has been report after report dealt with taxing that showed us the need. But listen to this one. This is from the town of Tonawanda, one of my towns, about a hundred thousand people, first rate town outside of the city of Buffalo, a nice little suburban community, a lot of blue collar people, heavy industry along the shore of the Niagara River.

Listen to what the town supervisor did. He asked the department heads to find examples of mandates that are outdated and duplicative and to identify those that go

beyond setting goals and enter into the realm of micromanagement of local government's operation. What followed is a detailed summary of the findings of the town of Tonawanda complete with cost alternatives and suport material, and they refer now to page 22 of the report, the bottom line that supervisor Carl Calabrese presented to me and several others a few weeks ago:

$830,849 all lined out as to how the town of Tonawanda can save dollars if we will just free up their hands. One of the pieces in the omnibus regulation, omnibus resolution, in front of you today will free up the hands of the town of Tonawanda so they can manage their own business. This is the town. The schools are coming to us, health has come to us; Senator Present's bill that just passed extraordinarily important, so it's not just business -- business, of course -- so that they can free up and create new jobs so that as the children come out of the schools and the young people are looking for work, the jobs will be

here.

So, my colleagues, I ask you to please take a real serious look at this piece of legislation. I'm very proud of it. Senator Wright has a number of bills that are in it. I think Senator Present has some that are inside the bill, Senator Bruno, and I was happy to co-sponsor with them as they have with me.

So, if you have some questions, I'd be more than happy to entertain them.

ACTING PRESIDENT DeFRANCISCO: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I rise in support of this bill. I'd like to first extend my congratulations to Senator Bruno, Senators Rath and Senator Present for the leadership that they've demonstrated in pulling together this package of regulatory reform over the last several years.

I think the issue we're talking about is just that. It's regulatory reform. We're not talking about deregulating New York

State to give everybody carte blanche to do with as they choose because we've accomplished some very good things in terms of regulating various activities in this state.

But what we're talking about is creating a level playing field, restoring com petitiveness to this state so that our business es can compete with businesses in adjoining states, so that our local governments aren't working under undue mandates and additional pressures in terms of their ability to compete, to maintain low property taxes, to attract businesses and industry to this state. When you take the opportunity to speak with your business community, right behind taxes comes regulation in terms of the cost of doing business in this state. That's why it's inherent that we start to address the issue of regulatory reform.

Now, I think the Governor started us off very properly this year by placing a moratorium on any new mandates so that we don't add to an already overburdensome compendium of mandates imposing the will on the people of this

state.

I would also point out that many of the separate elements of this omnibus package have come forward as separate bills and they, in fact, have had bipartisan support in this house, bipartisan support in the Assembly. They represent the bipartisan support of the people of this state, whether you live in New York City or whether you live in the North Country, in my area of the state. The concerns remain the same. There is far too much government, that government transcends itself into far too many regulations being imposed on every daily aspect of our lives. It's time to start to change that direction, and that's what this bill does.

This bill addresses a number of very specific concerns we have. Businesses are leaving this state, jobs are leaving this state. We require in this legislation that, when you're imposing an additional rule or regulation, you identify the job impact. Now, some will tell you that we already have a regulatory impact requirement and that includes

an economic analysis. While that's true, we do not specifically require the identification of jobs and the impact on jobs and, if you look at regulatory impact after regulatory impact, there is no statement as to the impact on jobs. In fact, when we debated this bill a year ago in this house, we actually had a memo of opposition from a state agency indicating that they recognized their rules were going to cost jobs, but they couldn't be concerned about that because this revision would delay the process and take too long to implement regulations.

Thereby lies the problem that we're dealing with, a government, an administration, who was far more interested in making and promulgating rules than recognizing how those rules were going to impact jobs and business in this state. I contended then, I contend now, that it's the wrong priority. We need to to change the direction.

This bill seeks to ensuring competitiveness in New York State. It provides for New York complying with minimum federal

standards and only exceeding those standards if this Legislature decides it's in the best interests of the people and this state.

It doesn't deny us the opportunity to require a standard higher than the federal government if we so choose, but it, in fact, says the elected officials will make that decision, the elected representatives of the people of this state will determine whether or not New York State needs a higher standard. That's where I think the authority should properly be vested, not with agency bureaucrats promulgating additional regulation.

I think we can all go on and on identifying problems that we've encountered that our constituents have passed on to us and difficulties they've encountered with rules, the cost of rules that are being imposed upon their daily lives.

If, for no other reason than providing relief to our constituents, that's what this bill is all about. I would encourage your support of it.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, did Senator Gold have a question?

ACTING PRESIDENT DeFRANCISCO: Or excuse me, Senator Gold. Senator Gold, go ahead, if -

SENATOR GOLD: Yeah, I was going to ask a few questions, but who's answering them? The sponsor is not here.

SENATOR RATH: I will.

SENATOR GOLD: Senator Rath? Senator, before I ask you a question let me say that I said for years that if I was in the Majority and I was looking for a new political career, you could keep all your jobs, I would want to run the Administrative Regulation Review Commission because, you know, you have the capacity to look at every state agency, make all of the suggestions, cut it down, et cetera, et cetera.

Now, Senator, what I would like to know is, we have an Administrative

Regulations Review Commission, and in this bill I'm hearing about advisory committees and whatever. How do you -- how do you figure our commission to feed into this new program if this bill passes?

SENATOR RATH: Well, Senator Gold, as a member of the commission, I would have to agree that -- that there are some new ways of doing business that I think the commission should probably start to factor in, and I think some of this legislation, I know parts of it specifically bring in the regulated community to talk with the people who will be doing the regulating, and I think we have a responsibility to be sure that the regulators are trained and know what is expected of them, so that they do not become overzealous and they need -- they need to have interaction with the people who are going to be regulated.

Many of the examples that -- that we have seen as we looked at some of them as they come through, the examples of over regulation have to do with the lack of communi

cation as to what's realistic. Just last week, we held a meeting with the people who run bakeries in New York State, and mostly in New York State they're small bakeries. There are a few large bakeries. I happen to have a Lenders bagel bakery in my district, and so I sat in on it, and it was discovered that what they're trying do by way of regulating the bakeries was dealing with smoke stack emission and what comes out is a very, very simple kind of an air emission that EPA backed away from what they felt was important in that relation, and as we're trying to control the air quality around the bakeries, the bakery said, Let us change our vehicle fleet from gasoline engines to compressed natural gas, compressed -- compressed gas engines -- I'm saying natural gas because our gas company in the Niagara Frontier -- to compressed natural gas, that which we can be under compliance with air emissions, and that looks like that's going to be the way that goes. No one would have dreamed that it would have happened that way, but once we got the

regulators and the regulated community, the discussion with the EPA held by those who were in charge, they're going to move forward, they're going to get their air emission control into a level but not by taking care of the smoke stacks which would have cost millions and millions of dollars. They're going to convert their fleet.

Now, this is the common sense kind of thing that has not been happening in New York State.

SENATOR GOLD: Senator, will you yield to a question?

ACTING PRESIDENT DeFRANCISCO: Senator Gold.

SENATOR GOLD: And, by the way, you mentioned smoke and bakeries. I want the record to indicate that we have looked - Senator Stachowski and I have looked into the problem of Cafe Capriccio last night and that was not Senator Skelos' fault what happened last night.

SENATOR RATH: Thank you. We're

glad that we cleared that one up.

SENATOR GOLD: But let me ask you as I've read through the bill, and I don't want to kid around and tell you I've got a letter from the Governor who is very insulted because I don't have a letter, but we mandated this bill that every agency review its regulations.

The Governor has appointed all the heads of these agencies. We need a law to tell George Pataki to tell his agency heads to make these reviews? I would assume from what I understand was one of his executive orders, that this is all happening. Is that, in fact, happening?

ACTING PRESIDENT DeFRANCISCO: Senator Rath, would you yield?

SENATOR RATH: Surely. As the legislative body that backs up what the administration is doing, sometimes when the Governor takes a role by administrative order, I think we have to look to the future protection of the people of the state of New York no matter who the Governor is, and I believe that this is

appropriate in reinforcing that we feel that the Governor and his agencies have to look to themselves.

Remember, if you recall, I said earlier, there are 80 agencies that can promulgate regs, and so in their zeal -- and I'm not going to get into any kind of negativism as to self-fulfilling prophecies that agencies may have in relation to their own futures and what they need to do to continue their own -- their own role in government, but I think it's important that we say to the Governor, Yes, direct those agencies to look, but I think even further than that, Senator Gold, as we are -- we as the members of the ARRC can follow up on that and make sure that we're getting the kind of in formation that we need.

SENATOR GOLD: Well, Senator, will you yield to a question?

SENATOR RATH: Sure.

SENATOR GOLD: That's not my question. My question is the following: The Governor, who I happen to believe is an honest

man who believes in what he says -- I don't agree with some of the things he says, but I wouldn't ever question the sincerity or honesty of his position -- has made all these statements and he issued an order and he says to the agency that "I'm appointing a commissioner, and the commissioners are my people, men and women who go in there, and we're going to clean out all of that Democratic waste," et cetera, et cetera. Why do we need a bill to tell them to do it if that's what he has told the people he is going to go to, and if he has issued an executive order saying do that?

SENATOR RATH: Well, again, I believe that we need to look a little further in that bill, and I believe that's the one that has the five years in it, that talks about a sunset after five years, and so there's more in the bill than is at first blush but, again, if we put this into statute, then it will happen no matter who the governor is, if there is a governor who does not care as much about regulatory reform as this particular governor

does.

SENATOR GOLD: Well, will you yield to another question, Senator?

SENATOR RATH: Surely.

SENATOR GOLD: Isn't there something in this bill, for example, that talks about not making regulations that surpass the fed's and not making regulations that can do this and that. Isn't that something that the Majority in this house can control in our new legislation day by day?

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR RATH: I think that a cause celebre, as regulatory reform has become this year, when it's very high on everyone's agenda as it is right now, I think that, yes, a lot can be controlled and monitored through our efforts, yours and mine and Senator Cook and the other members of the ARRC.

I believe that we can and we should, but let's remember that every agency is not under the purview of the Governor. There

are agencies that stand alone, and I think that they also need to have -- to have this addressed.

SENATOR GOLD: Will the Senator yield to another question?

SENATOR RATH: Sure.

SENATOR GOLD: Senator, I can't speak about forever, but since 1935, which, who does math, 60 years -- 60 years -- one year, and that year was 1965 when Senator Marchi had to go through the grueling task of being in the Minority for the one year, but other than that in the 59 of the 60 years your party has controlled this house, and there has not been one piece of legislation which gave one itsy-bitsy, tiny little rule-making authority that you didn't control, and your party could have had sunsets in every single piece of legislation that created rule-making authority, but isn't it a fact, I mean, none of that was done?

So, Senator, isn't it a fact that all this rule-making that you're talking about

for 59 out of 60 years happened while your party controlled this house and indeed the governor ship for a lot of that period of time?

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR RATH: Senator, I think you raise a point that's been in all of our minds, and it has been the new wind that has blown through this Legislature this year and indeed through this government, and I believe that as we spoke of a piece of legislation that might have passed this house, some of your eminent colleagues were pointing out yesterday that many of the pieces that are coming along this week will have to look to the Assembly for a conference and, frankly, I welcome that opportunity because there is where we will probably start to pull the two bills together.

I'm very hopeful that members of the Assembly will look at this and say the Senate really is interested in the sun shining in on state government, and this is what I expect this omnibus bill will produce.

SENATOR GOLD: Senator, if you will yield to just one more question, but before that, if I was as skeptical as Senator Stachowski, then I would say, Well, you talk about a new wind, and wind is air and I won't argue whether it's hot or cold, but of the - this bill talks about the creation or it says the Governor is to designate his counsel to oversee certain things.

Now, I don't know whether I have this right, but my understanding is that the Governor has indicated that a Robert King, a nominee as director of regulatory management, 104,000 bucks, are we going to in this bill do away with that job since we're going to be able to have the Governor's counsel do this now?

SENATOR RATH: Well, Senator, with the leave of the Chair, the separation of powers has done a wonderful thing in our democracy and, as we look to what the executive and his appointee do, I think we need to look to the responsibilities that the people of the state of New York vested in us individually and

collectively and ensure that our will is carried through by virtue of statute, along with the Assembly, and as we send that over, then it becomes very clear to the Governor that we're not expecting him to do it alone, that we want to be partners with him, and I believe that this legislation accomplishes that.

SENATOR GOLD: Well, Senator, if you will.

ACTING PRESIDENT DeFRANCISCO: Senator Gold.

SENATOR GOLD: If you will yield to a question. That doesn't answer my question. What I'm saying is forget the separation of powers. I've read some of your husband's decisions, they're great on that issue, but my point is that this is the Governor who is appointing Mr. King, 104,000, and under this bill, we're saying the Governor's counsel should do the job, so that's not a separation of anything. It's the Governor appointing either Mr. King or having his counsel do it, and what I'm saying is if the counsel is going to do it,

why do we have to pay Mr. King who I'm not here to criticize or why do we have to pay 104,000?

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR RATH: Yes, I think that there is probably a definition of who does what in the executive -- on the executive floor and Mr. King, my understanding right now, is in a fact finding mode, out on the highways and by ways of New York State uncovering much of what we have seen, only in more depth.

The counsel with the -- with the legal responsibilities, I think, is the appropriate -- appropriate person to assume that responsibility. I think if there is -- that there's enough work to go around, frankly, in trying to get the regulatory burden off of the businesses, schools, health facilities, all across New York State. We're still safeguarding what we all know we must safeguard.

SENATOR GOLD: O.K.

ACTING PRESIDENT DeFRANCISCO: Senator Gold.

SENATOR GOLD: Yes, Mr. President, on the bill, very briefly, and there will be a lot more questions. I know Senator Dollinger and others have concerns, but what I think is fascinating is how we put out a bill with a certain philosophy and the bill itself violates that philosophy.

We tell the people that money is being wasted all over the place; we've got to cut down; we've got to conserve, and so we create new groups to do what we have groups doing. The Administrative Regulation Review Commission, which is already in existence and where we have members of this house and the other house participating, is already charged with responsibilities. In my opinion, we could do much more in that area than we've done.

It may be that the way the Senate gets structured, Senator Rath and others have a lot of responsibilities, and I know she's a very hard working person, but it may be that there are other duties, so we can't always do what we want to do, but we have a structure, and that -

that structure could be doing things.

Now, we're creating other structures and Senator Rath says, Well, there's enough work for everybody. I shrug my shoulders. I thought that's what this was all about; we don't want duplication. We don't want people doing the same kind of things. We want to pull in government, make it tighter, save the taxpayer dollars, and then in the State of the State which I took rather seriously and as I said to you, I -- I believe that George Pataki is an honest man and says what's on his mind. He talks about a job where someone is going to get a big number, 104,000 last I heard is above minimum wage, and this person has a big job, and they're going to be looking and questioning and pulling and whatever, and in this bill, we say, that's fine, you take your 104,000, you go on the road, you know, I guess with your guitar and visit every place, but we want the Governor's counsel to hang out in Albany and do your work.

Well, in all fairness, we're working on budgets this week and 104,000 doesn't

quite balance the budget, but you got to wonder why 104,000 to somebody whose job under the Republican philosophy, under this new wind -- no comment, Bill -- under this new wind, is going to be cutting back and making everything work.

I think that unquestionably there is more that we can do in the way of having a check and balance on regulations. Part of it is the fact that we -- we have not done our job very, very well. There's that terrible old expression, you know, fool me once shame on you; fool me twice shame on me.

Years ago, and I've only been around here for about 25, but years ago I heard people say we've got to do something about regulations. My God, the agencies, that's not the law I passed. Where did it say they could do that? Well, the first time it happened, shame on them, but what about the next year and the next year and the next year? And what about the fact that the Administrative Regulations Review Commission was formed years ago for this very purpose, and since that was formed -- and I

remember there were a number of years when Senator Present, very distinguished colleague, was running the commission and if you had a bill on this floor, Senator Present had to stand up and say, Yes, our commission has reviewed it and the grant of regulatory authority in here is O.K.

So forget the Civil War days. Let's talk about the last ten years. We supposedly have been reviewing all of the grants of regulatory authority that have been given to the agencies for all the time, and we've said, they're good, yeah, we want this bill, right. Of course, it had to be right because you wouldn't accept an amendment if we gave you the amendment anyway, but the bill was perfect. The grant of regulatory authority is perfect. So what are we complaining about?

Well, now, we hear that apparently it wasn't so perfect. Apparently we've given broad authority to the agency, and I say to you, in all fairness, who gave them that grant? It was not -- it wasn't George Onorato

who drew that bill that threw away the ballgame, you know. I can -- I can look around the room. Don't blame it on Catherine Abate.

I mean you people drew the bill and you people gave all these grants and now you're saying, Governor Pataki, you've been a member of the Assembly and you've been a member of the Senate, you have watched us throw away the ballgame. Come save it.

And I -- I just say to myself that a little bit of insincerity, but I'm curious to hear what Senator Skelos has to say. Could I yield to that?

SENATOR SKELOS: In response to that, Senator Gold, there will be an immediate meeting of the Higher Education Committee in Room 123 of the Capitol.

ACTING PRESIDENT DeFRANCISCO: Immediate meeting of the Education Committee - excuse me.

SENATOR SKELOS: Higher.

ACTING PRESIDENT DeFRANCISCO: Excuse me -- the Higher Education Committee in

Room 123 of the Capitol.

SENATOR GOLD: At any rate, Mr. President, I'm interested in hearing the rest of this debate and hearing some more that this new wind has given new religion to my Republican colleagues and how in this one phenomenal election that happened in November, everybody got religion. Everybody got education, as to how to redraft legislation. I'm very proud of that. I want to hear about it and at this point I'll sit down so I can continue my education.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I'm sorry Senator Bruno isn't here because I was trying to ask the first question. He said that this will create jobs and maybe Senator Rath can tell us, under the TQM model, you're supposed to know what your objectives are before you embark.

So perhaps Senator Rath, if she would yield to a question, could tell me how

many jobs this bill will create and over what time frame they'll create them just so I know at some point in the future when we do an analysis of whether this has worked or not like a good TQM process would dictate, we'll know how many jobs it's creating and we'll be able to make an evaluation of whether this will work. Senator Wright, if he will take that question?

ACTING PRESIDENT DeFRANCISCO: Senator Wright, would you yield?

SENATOR WRIGHT: Be glad to, Mr. President.

There is no specific identification of the number of jobs that are going to be created and, of course, that's just the converse of the problem that we have. We can't identify what the jobs have been lost heretofore by the additional regulations that have been imposed, because the agencies don't identify that information, so we begin the process first of all by requiring that there be a job impact statement incorporated, whereupon we can identify the job loss.

Then having done that, we know the problem that we're addressing, we can then resolve that and identify the jobs that will be created.

But more importantly than the specific number is the concept, and the concept is that the business community consistently tells us that the added costs of regulation adds to the cost of doing business. When you add to the cost of doing business, you make that business less than competitive. That business then leaves this state and those numbers are well documented, 5-, 600,000 jobs over the last half dozen years in the state.

If you were to generously attribute half of those to regulation, that would give you some sense of the impact that we're seeing in this area.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Wright would yield to another question.

SENATOR WRIGHT: Sure.

SENATOR DOLLINGER: Is it fair,

and is it the position of the Majority in advancing these bills, that half of those 600,000 jobs left the state because of the problems that this particular bill was designed to remedy?

ACTING PRESIDENT DeFRANCISCO: Senator Wright.

SENATOR WRIGHT: Mr. President, no, that's not the position. I was using that merely as an example to highlight the concerns.

In talking with the business community, they talk taxes, they talk regulations, they talk job loss of 600,000 jobs and the fact is no portion of it has been allocated to regulation. The fact is that it's a significant contributor to job loss in the state.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Maybe, if Senator Rath would yield to a couple questions?

ACTING PRESIDENT DeFRANCISCO: Senator Rath, would you yield?

SENATOR DOLLINGER: Again through you, Mr. President. I heard you mention that Governor Pataki put a freeze on new regulations and there are about 350, is that the number?

SENATOR RATH: Right, yeah, m-m h-m-m.

SENATOR DOLLINGER: O.K. It's been almost three full months since he put that freeze in place. How many of those regulations has he determined are not appropriate in this state?

SENATOR RATH: Interesting you would ask because I have sent a letter to the Governor about two weeks ago and I understand that the -- the draft is -- that they're developing a draft response for me as to how that is going to be dealt with. Those 350, there are only five agencies that -- that we dealt with.

There was EnCon, Health, Insurance, Labor and who is -- they were the five agencies that -- I'm sorry, I can't remember the fifth one, five agencies that do

the most regulating had the 350 ready to go and -- and the question -- and some of them have gone. Some of them went by waiver through the Governor's office and through the Governor's counsel.

We had a circumstance with a tax one that the Tax Department needed, it was pointed out to us by the Bar Association had to be done immediately, and it was. They went right in; within two days they had what they needed so that they could deal with their tax situation. And so it hasn't been a total bottleneck, but what it did was to slow -- slow it down, and one of the bills that we have in this package would continue this agenda development. 40 agencies, Business Council people spoke with me as late as just last week saying, What's happening with that, that bill of yours, and I said, Going into the omnibus piece as it comes out.

They were very anxious because they believed that the statement of the agenda is extraordinarily important to the regulated

community, so that all of a sudden they don't read an official document that this has been promulgated and they're expected to comply with it. If it's there before, they might have an opportunity to make some -- some comment, before it's promulgated as in the regular -- the negotiated rule-making piece we debated on this floor.

SENATOR DOLLINGER: Again, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: I just repeat the question. Do you know how many of the 350 have been determined to be inappropriate under the Governor's new standard?

SENATOR RATH: No, I don't, and I think that's a really good question. That's - the letter that I get, I'll be glad to share the response with you so that -- and if that letter doesn't answer our questions, then we'll go back and we'll write another letter and get more in formation because the time period is over, April

1st it's over, and those 350 or as many of them that have not gone through by special waiver, yes, I think we have some responsibility for that.

SENATOR DOLLINGER: O.K. Again through you, Mr. President. So we have no evidence today that any of the 350 regulations wouldn't be appropriate under either the Governor's new executive order or under the law as it currently exists in this state?

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR RATH: I'm not sure what you're talking about. That was a statement.

SENATOR DOLLINGER: No, but my question is we have nothing to suggest that any of the regulations that were frozen on the 1st of January would be inconsistent with the Governor's agenda or inconsistent with the theme of this bill, correct, because the Governor, who I assume has shared your view that there's too much regulation and shares the view that we've over-regulated certain communities, but yet

despite that seeming displeasure with the regulatory environment, there's no evidence that he's stopped or is not going to allow into effect any of the 350 regulations around the table, is there?

ACTING PRESIDENT DeFRANCISCO: Senator Wright, why do you rise?

SENATOR WRIGHT: Would Senator Dollinger yield to a question, please?

SENATOR DOLLINGER: I want to get an answer to mine, Mr. President, and I'll be glad to.

ACTING PRESIDENT DeFRANCISCO: All right. First, Senator Rath, can you answer the question, or would you like the question repeated?

SENATOR RATH: Let me say, as I recall, last year I sat there, George Pataki sat there. I think the persona of the new Governor is certainly known to people in this house and certainly those who served in the Assembly. The Governor made the comment, when he made his moratorium as his second piece of business, I

believe, when he took over the reins of government, his phrase was typical George Pataki, and I quote: I need to get my arms around these regulatory regulations, and we see these 350 here, we need to take a look at them. That was, quote, George Pataki.

SENATOR DOLLINGER: I guess I didn't get any of them; is that what you're saying.

ACTING PRESIDENT DeFRANCISCO: Senator Wright, why do you rise?

SENATOR WRIGHT: Senator Dollinger, would you yield to a question, please?

SENATOR DOLLINGER: Sure.

SENATOR WRIGHT: Senator, of those 350 regulations that have been placed on hold for the last 89 days, have you missed any of them?

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: With all due respect, Mr. President, I don't know what the

regulations were, but obviously some people missed them, because there were waivers granted. I have had several complaints from people in my district about the slow pace of the regulatory environment in getting relief in some of those instances.

I haven't missed them, but I have heard from parts of my communities, particularly health care and other areas, that people have been wondering about what's going on in the development of regulations to implement the bills that this Legislature passed last year and were signed into law.

So the answer is I haven't missed them, but some people that I represent have.

ACTING PRESIDENT DeFRANCISCO: Senator Wright.

SENATOR WRIGHT: I believe that's the point, Senator, that in fact given that volume of 350 regulations, certainly there are valid regulations, we have not contended that there aren't, that are being implemented that are consistent with statute that are carrying it

forth, but I would also contend that given 350 regulations, there are a great many of them that we haven't missed.

This state, in fact, has not come to a halt. We continue to move ahead. We continue to implement the programs and the services that are critical to this state, the point being that in this 90-day period what, in fact, has occurred is a documentation that we don't need as many regulations as are consistently promulgated by these agencies and, in fact, we can get by with less and that's what this -- this statute talks about.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, would Senator Wright yield to a question so I can clarify his statement?

ACTING PRESIDENT DeFRANCISCO: Senator Wright, would you yield so he can clarify your statement?

SENATOR DOLLINGER: Senator, where is your evidence that we don't need these

regulations? I assume if we don't need them, George Pataki will send them back since he now runs the government and since he now has the commissioners who issue these regulations, he can tell them himself; pick up the phone, they'll answer his call. He'll say, "Gee, Dr. DeBuono; gee, John Daly, Gee, X, don't issue those regulations. They're no good," and I assume that the commissioner will then say, "You're right. O.K. We won't."

So he's got the ability to stop any one of those 350 regulations like that. That's with the power we give in the executive. Is there any evidence that he's done that yet to any one of those 350 regulations?

ACTING PRESIDENT DeFRANCISCO: Senator Wright.

SENATOR WRIGHT: I don't - Senator, I have no personal knowledge having not perceived that issue with the Governor in terms of whether or not he has stopped any at this particular juncture, but in fact he does have that authority through his commissioners, but as

you're well aware, and I think all of us are, this is not the only issue that's on the Governor's plate at the present time as he works through budget and a number of other concerns and I think that only adds further credence to the need to place a moratorium on it for 90 days to ensure that we do carry through on those issues.

ACTING PRESIDENT DeFRANCISCO: Senator Rath, why do you yield -- why do you rise?

SENATOR RATH: I rose because I believe I can add to the debate between Senator Wright and Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'd be glad to have Senator Rath amplify or enlarge on the question if she so chooses.

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR RATH: Yes, Mr. President, the 350 regulations that we're talking about are those of the agencies that

they were to promulgate some time in 1995. They were not, as you might think, in a great horse race with the gong going January 1st, passing the horses are out of the gate. That's not exactly the way it happens, and I think the Governor has been prudent in suggesting that we need to take a look at these, because we have not had in place a mind set, an attitude, if you will, in New York State that would say, Let's regulate less if we can.

What we have had in New York State has been, Let's regulate more in order to safeguard whatever it is we're safeguarding with the regulations, and I believe the Governor's mind set on this is, let's take a look at them before they come out and cause any damage, and so with his new department heads and with the five agencies and the fifth one that I was trying to remember is Education, and as I spoke in my opening remarks, it's not just business, and it's not just the environmental issues, it's small government, it's the small municipalities, it's education, it's health care, it's every

where.

The volume of effort that needs to be done in order to unwind some of what we have put on the -- the yoke that we've put on the back of the people of New York State who try to do business, whether it's the business of education or the business of business, whatever it might be, we have -- we have done a real dis service and I don't know how it's happened, I don't know. It was done by well-meaning people, but -

SENATOR DOLLINGER: I -

SENATOR RATH: We're well-meaning but we're also zealous, and we get onto a cause and we think, yeah, it's a hundred percent, a hundred percent good; it's got to be better. That's not necessarily so, because the costs of 110 percent are sometimes just beyond anything that's reasonable.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Would Senator Rath yield to another question?

SENATOR RATH: Sure.

SENATOR DOLLINGER: Are you aware that the managed care regulations for Workers' Comp. which we required to be issued in order to put workers -- a managed care system for Workers' Comp. in 1993, almost two years ago we passed a bill that created managed care in this state, we required that regulations be issued and that those are among the 350 regulations that are sitting in limbo waiting for the Governor to do something with them?

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR RATH: You say they are.

SENATOR DOLLINGER: They are.

SENATOR RATH: Well, then if that's the case and we need to move forward - and those of us -- and I wasn't aware of that because I wasn't here until the very end of 1993 and I'm glad you brought that up because you, Senator Dollinger, like people all across New York State, are pointing out to us what we need to do to make this government and this system

work. If that one needs to come out quickly, I will have that fact taken and we will get a note to the Governor immediately that they should take a look at that one immediately because that one's important. I agree.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Again, will Senator Rath yield for one other question? Then I'll stop.

ACTING PRESIDENT DeFRANCISCO: Senator Rath, will you yield?

SENATOR RATH: Yes.

SENATOR DOLLINGER: It deals with your bakery example, much as I understand it. Someone -- was it at the EPA -

SENATOR RATH: Pardon?

SENATOR DOLLINGER: The EPA or the DEC?

SENATOR RATH: The EPA and this is very typical of the regulatory community, the EPA has one regulation and the DEC has come in with that which is greater or lesser, but the

EPA, yes, is the one that had the problem.

SENATOR DOLLINGER: But my understanding is the EPA came into the bakeries and said, This is the problem. The bakeries said, No, this isn't the problem but we can cure another problem by using uncycled fuel in our vehicles.

SENATOR RATH: I think the Senator is still framing his question.

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR DOLLINGER: Through you, Mr. President, isn't that the exact kind of joint decision making and regulation that we want to have?

SENATOR RATH: You bet.

SENATOR DOLLINGER: So what you site as an example of the bakery problem being over-regulation is actually an example of how you work together to come to the right conclusion.

SENATOR RATH: You bet.

SENATOR DOLLINGER: If that's the

case, then why do we need to change it?

SENATOR RATH: Why do we need what?

SENATOR DOLLINGER: Why do we need to change it. If we've got -- if that's the way it works now, why do we need to change it?

SENATOR RATH: Well, in the piece of legislation that we're talking about, the example that we have is not going to be changing anything, but there are in relation to the bakeries that we're talking about with the EPA and the DEC, that is the kind of thing that the negotiated rule-making legislation that has passed this house at various times would - would accomplish, and it's a matter of people of good will attempting to find the best answer and the people in the bakery business had the best answer as to how they could comply with the responsibilities of the Clean Air Act that the EPA said was their responsibility and then down through the DEC people who think the only way to solve it is smoke stack emission.

There's a little book, Senator, I'd like to recommend for your perusal, the name of it -- I have a compendium here of it -- that was done in U.S. News and World Report. The name of the book is "The Loss of Common Sense" and it's written by a man by the name of Howard. It's a new little book, a small volume, and in that example after example are cited how we have lost the kinds of common sense that are so -- here it is, The Death of Common Sense. If you'd like -- I'll tell you what, I'll Xerox this and I'll send you this and, if you like this much, then you can go get the whole book.

SENATOR DOLLINGER: I think I read the crib notes, Senator.

SENATOR RATH: You have read the book?

SENATOR DOLLINGER: No, I read the crib notes.

SENATOR RATH: Let me read for you, if I may, Mr. Chairman, the last paragraph and I think this sort of sums up what I feel about this issue: Laws cannot save us from

ourselves. Waking up every morning we have to go out and try to accomplish our goals and resolve disagreements by what we think is right. Energy and resourcefulness, not millions of legal cubicles are the things that made America great. Let judgment and personal conviction be important again. There is nothing unusual or frightening about it. It's just common sense.

And that's what this omnibus bill has tried to do. It has tried to pull apart some of the bad things that we are -- that we're doing, habits if you will, that we've gotten into, and it's put into place some of the good things that we need to do so that common sense can take over again in New York State and that business will say, yes, this is a good place to do business. They're not over-regulating us every day and every night.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, on the bill.

I agree with Senator Rath that the hallmark, touchstone in this discussion ought to be common sense, but I find it somewhat unusual when she used the example of Lake Erie being polluted, having garbage dumped in it for 50 years, 100 years. Why? Because that was the common sense thing to do that day. You had trash, you got rid of it. You dumped it in the water.

It turned out we decided that there was more common sense in regulating the use of toxins in water or dumping garbage. Why? Because government had the common sense to realize that simply using your private property to dump garbage in it was not the right thing to do, so we decided to regulate that in the common sense for the common good. It was the right thing to do; absolutely the right thing to do.

Now, all of a sudden, we've got this sense that the regulatory environment is out of control, and I said this the last time we debated, but I've come up with a new analogy.

You know that commercial about -

it's been in Rochester, it's just in between the Pataki commercials and the other commercials. It's a commercial where they turn on the television set and the monster comes up on the television set and the television set starts to move. The family doesn't know what to do. The television set chases them up the stairs and locks them in a room and it's trying to knock down the door. Then all of a sudden the kid says, "My gosh, I've got the remote." He points the remote at the TV set and goes "click" and all of a sudden the TV goes dead.

We have the power in this chamber to take the remote control and to click it to any one of the regulatory environments we want to. We can take the Department of Health and go "click", just turn off all of its regulatory power, because the only power they have is the power they get from us. We can turn off the power, and I find it somewhat inconsistent that from the other side of the aisle comes this chant that we've now created this regulatory monster that we can't control.

We do have, as Senator Gold properly pointed out, a regulatory review commission. We could review all these regulations ourselves. We could decide that they're inconsistent with the statutory authority we gave them. We haven't done that. We could sit down and decide that we don't want to give them regulatory power at all, that we will enact all the regulations into law. We haven't done that, and then to top it off, Senator Gold properly point out that my friend Bob King, my poor friend Bob King, County Executive in Monroe County, he gives up the job because George Pataki has promised him that he will become the regulatory policeman in the state of New York. And as Senator Gold properly points out, we're going to pay him $104,000 to be the regulatory policeman, but what does he find out upon coming to Albany?

He comes out that the Senate Republicans are going to pass a bill which says, "Guess what? You're not the top cop anymore. We're going to make the Governor's counsel the

top cop and we're going to let him be the policeman who decides what the regulations are, and we're not going to let you, Bob King, do that."

So it seems to me that my poor friend, Bob King, comes all the way down to Albany, finds out that he's not going to get the job he wants, and then he's going to find out that someone like Rick Dollinger is going to stand up and say, "Why should we pay $104,000 for Bob King to do what the law is going to require Mike Finnegan is going to do?"

It sounds to me like we're running into the old regulatory trap of simple, pure duplication of function. We're going to have two guys doing the same thing in this new slim-down government. We're going to tighten up the ship. I don't know how we can afford $104,000 for duplication. Mr. King might find out that he just -- his salary happens to go in the way of budget cutting, because certainly we don't want to put two guys in to do the same job.

It seems to me this whole bill, this whole concept, regulatory reform -- you're correct, Senator Rath, the wind is blowing; the word is regulatory reform. We've had the power to change it for decades. This Majority hasn't done anything about it. We haven't been able to work out a bill with the Assembly, and now all of a sudden because it's politically popular, everybody wants to make sure they're on the bandwagon.

Well, I don't think this bill does the job. I think it's got a lot of stuff in it that doesn't make a lot of sense. Start off with the first page in which they duplicate the functions of Bob King. I think it all goes downhill from there.

I think if we really want regulatory reform, let's roll up our sleeves. Let's do it here. Let's tell these agencies where they have been overly zealous. Give the Governor in this state who, as Senator Gold properly points out, now has all his commissioners who would guard against their

excessive zeal. We've all got it in place now. Why don't we wait and see what they do and then determine whether we need, I would point out, 56 pages worth of regulatory reform. 56 pages? I can see the regulations that spew from this will be 1,000 pages long. We can't put it in three or four pages. It doesn't seem that we can. This is part of the problem, 56 pages of regulatory reform.

With all due respect to our President of the United States, it's like a health care plan that they tried to reform health care with an 1100-page document. This may be politically very sellable, but I don't think it makes a lot of sense.

ACTING PRESIDENT DeFRANCISCO: Senator Abate.

SENATOR ABATE: Yes. Would Senator Rath yield to a question?

ACTING PRESIDENT DeFRANCISCO: Senator Rath. Senator Rath, would you yield to a question?

SENATOR RATH: Sure.

SENATOR ABATE: Yes. My concerns and questions are around the mandated negotiated rulemaking process, and what does not make sense to me because -- certainly through the years talking with my friends in the Republican Party, one thing that they have been very good at is clarity of message, and what's -- and also a conviction that their party does not represent special interests, that they're a party of independence, a party that certainly has all the initiative and gumption to rule for themselves, and it seems to me that this negotiated rulemaking procedure gives undue weight to a special interest. Maybe you can explain the change in direction of the administration in this regard.

SENATOR RATH: Okay. My understanding, and both of us being fairly new to the Legislature as we attempt to sort out what it -

SENATOR ABATE: You're a veteran in comparison to me.

SENATOR RATH: Pardon me?

SENATOR ABATE: You're a veteran in comparison to me.

SENATOR RATH: One-year veteran. Yeah, I guess I am a one-year veteran.

The -- my understanding is that the need for the negotiated rulemaking has been because the business community has not been a part of the discussions. They found out about the rules or the regulations after they were promulgated, and in many cases these rules and regulations have the weight of law. They're taken -- they're used by agencies that feel that the businesses are not complying. They take them to court and they do have the weight of law in many cases, and so the regulators -- and hearkening back to a few earlier words, I believe, from one of the other speakers, that we have the -- we have the opportunity to do all of this ourselves now. There's the Governor and his new -- new heads of agencies, but many of the people that are in the agencies that write the regulations are people who have been there for years, and they will continue to be there.

They are not going to be changed or replaced. They're civil servants, and for the most part they do their jobs very well, but unless there's a responsibility to talk with and work with the community that is about to be regulated -- and let's bounce back to my example of the smokestacks in the bakery industry.

If those people had not been brought in and the discussions held and the EPA brought in, all of what is about now to be a very successful common sense resolution to the problem, not such a costly one that those bakeries would have moved out of New York State. That wouldn't have happened, but that happened rather serendipitously. That was not because there was anything anywhere that said that that had to happen that way.

ACTING PRESIDENT DeFRANCISCO: Senator Abate.

SENATOR ABATE: Yes. Would you yield to another question?

SENATOR RATH: Sure.

SENATOR ABATE: I don't

understand and, as you know, I have been a commissioner of four agencies and if there is a strong, able commissioner, they can direct their staff that before any rules and regulations take place, that input be taken from the critical industries that are affected by those rules and regulations.

Are you suggesting that there aren't in existence now strong and able commissioners that can get that input, have those discussions, set up those committees prior to the promulgation of a rule and regulation and not -- and avoid the need to have a mandated negotiated rulemaking process after the fact that forces compromise upon that commissioner?

ACTING PRESIDENT DeFRANCISCO: Senator Rath.

SENATOR RATH: Yes. The legislation, Senator Abate, provides for, quote, "To the maximum extent feasible, membership on the committee shall include an equal number of agency and non-agency members." And so there is a recognition here that the agency that has been

dealing with this has the experience, yes, but I think we also need to make sure that those who it is being done unto are part of the discussion.

SENATOR ABATE: Senator Rath, you raised a good point, and I'm not aware of the answer to this or else I wouldn't be asking the question to this. How many people are agency people on this committee; do they constitute a majority of the committee?

SENATOR RATH: No, the agency does not -- let me take a second look in here to see the exact numbers.

SENATOR WRIGHT: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Wright, why do you yield -- why do you rise?

SENATOR WRIGHT: Would Senator Abate yield to question while you're waiting?

SENATOR ABATE: Yes.

SENATOR WRIGHT: Senator, would you acknowledge that within given areas people have special expertise and special knowledge

acquired over experience?

SENATOR ABATE: Absolutely.

SENATOR WRIGHT: Okay. And would you further acknowledge that, given that expertise, particularly if it's going to be in a regulated environment, that perhaps an agency, even a well-meaning commissioner who doesn't have that expertise could learn from the individuals with that expertise?

SENATOR ABATE: No question.

SENATOR WRIGHT: Then you would agree that, in fact, enabling that expertise to be brought to the question, to focus on resolving the problems, in fact, is not a special interest but utilizing special expertise, special experience to craft the regulation in the best manner we can to protect the interest of all parties.

SENATOR ABATE: But where I disagree -- there is no question that an able administrator needs to receive input from a whole host of special interests, but they should not leave the decision-making and the responsi

bility they have to protect all New Yorkers to any one special interest, particularly the special interests that would be most affected by the regulation.

I agree wholeheartedly that business needs to be at the table, that business should be consulted, but I do not believe that the shifting of decision making and the protection of all New Yorkers should be made by special interests. They should be made by the Governor, by the Legislature and appointed commissioners.

I believe this places too much power -- I mean, I'm still waiting for the answer where the majority of the committee is constituted by agency members or by special interest members.

SENATOR WRIGHT: I believe that you'll find that, in fact, this doesn't dispro portionately shift the governmental responsibil ities that agencies and commissioners have, but it does ensure that the special expertise, the experience, is brought to the table because,

unfortunately, heretofore, we've not had that kind of participation, and while I think this Governor and these commissioners will utilize negotiated rulemaking far more than their predecessors, historically, we've not seen that to be the case. We've seen the issue given lip service. We've seen regulations impose undue burdens when the industry has warned that this will not work and, in fact, this will cost money only to have the agency implement the rule and then come back six months later and recommend that it be rescinded because of that cost.

SENATOR ABATE: I just want to state again, I agree -

ACTING PRESIDENT SEWARD: Excuse me, Senator Abate. Could we just interrupt the discussion briefly? I'd like to recognize Senator Velella.

SENATOR VELELLA: Mr. President, would you recognize -- Senator Stafford has an announcement to make.

ACTING PRESIDENT SEWARD: Senator Stafford.

SENATOR STAFFORD: Thank you, Senator Seward. Thank you, Senator Velella. Thank you, Senator Skelos.

Could I please call an immediate meeting of the Committee on Finance in Room 332 again. We apologize for the interruption.

ACTING PRESIDENT SEWARD: Immediate meeting of the Finance Committee in Room 332.

Senator Abate, I believe you have the floor.

SENATOR RATH: Mr. Chairman, I think I have -

ACTING PRESIDENT SEWARD: And Senator Rath was about to answer your question.

SENATOR RATH: I have your answer, Senator Abate.

SENATOR ABATE: Okay. Just to respond again, I believe business and other interests in the state should be at the table, and government is negligent when they don't seek the input and expertise of these particular communities. However, the business community,

environmentalists, other people were not elected to govern, and when we shift decision-making from government to a special interest, I fear that the entire state will lose protections because there has to be someone at the helm balancing the interests of the state and coming forward for the protections that are critical and needed to safeguard all New Yorkers, and that's my fear, not that we in government shouldn't seek advice and expertise. I feel that this rulemaking and the fact that it's mandating, forcing compromise will shift the balance of power inappropriately but, Senator Rath, yes, I welcome the answer to my question.

SENATOR RATH: Okay. Let me continue on quoting from the bill: "That the membership on the committee shall include an equal number of agency and non-agency members and shall be limited to no more than 25 members unless the office determines a greater number of members is necessary for the proper functioning of the committee or to achieve the balanced mem bership; provided, however, that in no instance

shall the number of agency representatives exceed one half of the membership of the committee."

And so, it will be an equally balanced committee, no more than half the members. So the agency will have the balance on the committee if it should -- push should come to shove.

But I think we've agreed here today that we need to do something to reform over-zealous regulators, and your point, Senator, was one that I have heard as we've gone through the debate and, believe me, everyone knows that we need regulations and we need to safeguard the health, welfare, consumer protection interests, et cetera, but what we have heard from all over the state of New York and, indeed, people all over the United States, that we have been over-zealous, and I think we could afford to do that as a country and as a state because we had -- we had resources. We had a lot of resources, and I think we were able to spend those resources and there was still

more coming up behind them, but those days, I think, are waning or have waned completely. And so now we need to husband our resources and very carefully ensure, for example, that the bakery does not have to put on millions of dollars worth of scrubbers on smokestacks when all they need to do really is convert their fleet in order to be under the air emissions standard that they're required to do.

So I think we mean well, and this is what this omnibus legislation is aiming at.

SENATOR ABATE: When you go back to the constitution of this committee, you stated that no more than one-half of those members would be agency members. So I read that to mean 12 would be agency appointments and the other 13 would be from the special interests. So, conceivably, the special interests could force a compromise against the wishes of that commissioner if they control 13 of the votes.

SENATOR RATH: If the office determines a greater number of members is necessary for the proper functioning of the

committee, then the office will put in more people. However, the office -- it can be an uneven member. It can be an even number. The agency has the responsibility of determining whether it's even or uneven and whether the votes balance or are unbalanced, but the legislation provides for the balance of the weight of the vote to be with the office.

SENATOR ABATE: I have a couple other questions if the Senator would yield to those questions.

Who decides who is a special - let me use the words of the bill -- a "substantially affected person"? Who defines that, and what is the definition of that person?

SENATOR RATH: I believe that the substantial reference would be determined by the committee who is, of course, well meaning. There are -- throughout this omnibus piece of legislation, there is reference to major legislation and the term "substantial", and I believe that in this particular bill -- although

I am not the prime sponsor of negotiated rulemaking, I need to tell you, Senator, that it has passed this Legislature twice, and so there is a great deal of commitment to negotiated rulemaking in this house and, hopefully, we're going to see a good deal of interest coming from the Assembly, and I welcome, as I know you have spoken of the conference effort we see, I think, the first one happening today on the 65-mile per-hour speed limit, the effort of conferencing with the Assembly as we move forward to -- to give New York State some of this forward thinking and aggressive posture as we try to free up our resources.

SENATOR ABATE: Would the Senator yield to another question?

ACTING PRESIDENT SEWARD: Senator Rath, will you yield?

SENATOR RATH: Surely.

SENATOR ABATE: Thank you, Senator.

Clearly, the mandated process is put in place to reach a goal of consensus. Is

there a time limit on -- let's say the 20 to 25 people who constitute this committee do not reach a consensus after several months. Is there a time limit placed when that decision then would revert back to the agency?

SENATOR RATH: I think that the issue would drive the time limit, Senator. If something is burning and it has to be done, it will get done, and I think to put a time limit on it would be counterproductive, because we would be forcing a group into a hasty decision, if necessary, or saying that if it's not done by such and such a time, it's not going to be done because it's not important enough.

I think that -- and you spoke of the good will of the agency and the effort to reach consensus. I think that we have to go back to common sense and good will in some of this, saying that we cannot put into statute every single piece of everything. I think that's been part of the problem.

I don't know if you were on the floor as I read to Senator Dollinger what I felt

was a really important piece in this very important little volume that has come forward saying that, "We can't resolve and accomplish everything by putting things into millions of legal cubicles." That's -- that's just not possible.

I think we have to have some trust measured there. We set up the framework for this, and if we need a tighter framework when we negotiate this with the Assembly, I think we will all be in the room to talk about how tight a framework, but also how much flexibility we want to offer, because those are the two sides of what we're talking about here, a tight framework that mandates and locks it down and the flexibility to allow some common sense to come in.

SENATOR ABATE: Would the Senator yield to another question?

SENATOR RATH: Surely.

SENATOR ABATE: My concern is there are no time limits and we talk about the readoption of critical rules and regulations

that affect the health and safety of New Yorkers. What that could mean is that the interests of these special groups would outweigh the interests of all New Yorkers in terms of health and safety, and without these time limits, these issues could drag on and on without resolution.

SENATOR RATH: I don't believe - I don't believe that the critical pieces would fall into the scenario you've just outlined. They usually have their own time limits inside the legislation as to when they have to be done.

SENATOR ABATE: But it's not written in the legislation; it's not resolved there.

SENATOR RATH: If it's not resolved in the legislation, then the people who are responsible for the rules will have to work inside what they see as a framework.

But let me tell you, Senator, there's another piece in this -- in this omnibus resolution that says that when rules are promulgated on a specific piece of legislation

-- say it was your piece or it was my piece - that has to come back to the sponsor for consideration, because part of what we've seen here as we've looked through has been that well-meaning legislation has passed both houses and been signed and then gone to the rulemakers for promulgation, and although it bounces back to both the Assembly ARRC and the Senate ARRC, what we do at the ARRC is look for the specifics in terms of contradictions, if you will, with other parts of regulations or other parts of the law.

Very often the legislative intent has been lost, and that's a problem that we've highlighted very clearly here, and so you as the sponsor of the legislation or me as the sponsor of the legislation have a more serious responsi bility there, because we put forward with the legislative intent -- and very often the legis lative intent does not -- most of the time it does not encompass what the rules and reg's are that will promulgate that -- that reg... the law as they see it, and this is part of the

problem. The regulators don't very often see it as you might see it or I might see it and we might vote on something. They don't see it that way. They move forward and promulgate it the way they think it should be promulgated. The ARRCs check on it for technicalities, but not legislative intent.

So another bill in here will bring that back to you or bring it back to me so we can safeguard what our intent was and, in fact, one of the pieces that we didn't do last year that was in part of my package last year and, in fact, the Assembly was looking to do it, was to put into statute how and when that had to come back.

That just didn't happen, and we saw that there's some old legislation that have had rules and regulations promulgated, that it must have been in Xerox machines that didn't work very well. The pieces went through sideways. Half a piece was there, and there was no way of having any idea what the legislative intent was.

And so, although legislative intent does not come through right now even as we're debating this today, I think I'm going to have to ask my staff to please make a note that we resurrect that piece because it was a good piece and, Senator, I hope you'll co-sponsor that with me.

SENATOR ABATE: I look forward to talking with you on that.

SENATOR RATH: Thank you.

SENATOR ABATE: I have one last question. When the office defines and determines who is substantially affected, will that include consumers, union representatives, environmentalists?

SENATOR RATH: Absolutely.

SENATOR ABATE: Is it written in the legislation that they will be substantially affected parties?

SENATOR RATH: I think the substantially affected parties can petition the agency for inclusion in the discussion and, believe me, the groups that you're talking

about, my experience with them in 15 years in the county Legislature is that these groups will come forward and make themselves known to us, and in that we have sponsored this legislation, I think it's totally appropriate for us to advocate their inclusion. In fact, if they weren't included, I would think that it would not be a very complete negotiated rulemaking because all sides need to be heard.

And you know what else we need to do? We need to make sure that those meetings are publicized and people know when the meetings are going to be held, when those negotiated rulemakings are going to be heard, so that the public can hear it. They might not be on the committee, but we need that safeguard, Senator, and I agree with you.

SENATOR ABATE: Senator, would you consider including in this legislation the requisite -- the prerequisite that consumers - and that may be environmentalists; that may be other individuals, as well as represented labor -- beyond this mandated negotiating panel?

SENATOR RATH: The agency will make that decision as they pull that group to gether, and the agencies are our representa tives. Work with both sides of the issues, and they will see, and they will know and, indeed, if the agency isn't doing it correctly, then you and I assume our responsibility and we say to them that we believe that there's an interest here that is not being -- not being met; and if you would see the letters and the information that come through the ARRC, the people who want to participate -- we are opening this up very broadly in this legislation. I don't think we need to safeguard that. I think what we need is flexibility here, but the consumer -- the consumer groups will be there.

SENATOR WRIGHT: Mr. President.

ACTING PRESIDENT SEWARD: Senator Wright, why do you rise?

SENATOR WRIGHT: Mr. President, would Senator Rath yield to a question, please?

ACTING PRESIDENT SEWARD: Senator Abate has the floor, but with your permission -

SENATOR ABATE: Absolutely, yes.

ACTING PRESIDENT SEWARD: Senator Rath, would you yield to a question?

SENATOR RATH: Sure.

SENATOR WRIGHT: Senator Rath, would you agree that in the provisions of the bill that provide emergency rulemaking, that that mechanism would ensure that there be a timely resolution of the process if, in fact, we were under a great deal of pressure to resolve the dilemma?

SENATOR RATH: Of course.

SENATOR WRIGHT: And so that provision is already reflected in the bill to ensure that we meet those concerns?

SENATOR RATH: Yes.

SENATOR WRIGHT: Senator, would you further agree that -- in terms of the petitioning process that talks about petitioning to identify areas of interest, areas of impact that, in fact, that -- that petitioning process is a much better process in identifying those who have substantial interests or substantial

need than trying to identify by broad name categories or specific groups of individuals to be incorporated?

SENATOR RATH: As the people come forward to petition, I would agree with your premise, Senator, yes.

SENATOR WRIGHT: So, in fact, the very language talking about identifying those who are significantly impacted really becomes exceedingly inclusive to ensure that there are opportunities for all to participate.

SENATOR RATH: Yes, exactly.

SENATOR WRIGHT: And one last point, Senator. Would you agree that by defi nition the negotiating rule committee is to achieve a consensus in terms of its recommendation?

SENATOR RATH: Exactly, yes.

SENATOR WRIGHT: And by this language, that consensus is defined as a two-thirds vote?

SENATOR RATH: Right.

SENATOR WRIGHT: So consequently,

no one who is providing special expertise or assistance gives any composition of a committee. At best, 50/50 will be able to ensure a two thirds vote thereby eliminating the governmental responsibilities.

SENATOR RATH: Yes. I think that we see that as we read the bill, yes.

SENATOR WRIGHT: Thank you, Senator.

I believe you've addressed my concerns.

ACTING PRESIDENT SEWARD: Senator Holland.

SENATOR HOLLAND: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT SEWARD: Immediate meeting of the Rules Committee in Room 332.

Senator Abate.

SENATOR ABATE: Yes. On the bill very quickly.

Although I honor the good inten

tions of the Senators across the aisle, some times when a piece of legislation is not clear about defining "significantly affected individuals" and what we have is very broad language, people who have the, I believe, knowledge and experience to help the negotiations be successful, one can interpret that not to include consumers, environmentalists, labor representatives and other citizens of New York, that it will be my concern that there would be a weighting of this committee toward only one special interest, and if we are looking for a consensus and a meaningful consensus to protect all New Yorkers, there could be an abuse of this process.

I feel -- and it's ironic because these rules and regulations, and particularly, this mandated process is put in place to make sure that business is at the table, but I don't believe that there's any CEO of any large corporation would say that, in order for me to balance the interests of business, in order for me to include business at the table, that I have

to have this kind of process to force a compromise.

What we're saying is New York State agencies can't govern themselves, can't get input from business and other interested parties, and that they have to look to this body to force a compromise when, in certain situations -- and this is my primary concern - there are some rules and regulations that are not just necessary, they're critical to our health and well-being, and a commissioner and the experts within that agency feel that compromise is not warranted and that there should be readoption of a rule or a promulgation of a new rule, but they're going to have to wait to go through the process and potentially risk the fact that this rule and regulation will be so watered town, will be so compromised, that they will be giving up their responsibilities to govern and safeguard all New Yorkers.

I understand the need to have people at the table and input. I think this goes too far. I believe it will not just

produce compromising results but can compromise our futures and, for that reason, I'm opposed to this specific provision.

SENATOR RATH: Mr. Chairman.

ACTING PRESIDENT SEWARD: Senator Rath.

SENATOR RATH: If I might, a final comment, as I don't see any of my other colleagues -

ACTING PRESIDENT SEWARD: Senator Rath, we do have a list.

SENATOR RATH: Oh, there is a list?

ACTING PRESIDENT SEWARD: Yes.

SENATOR RATH: Of course. Well, then just let me make one final comment to Senator Abate's final comments.

First of all, this piece of legislation does not -- is not operative for emergency rulemaking when we're talking about the need to immediately do something to safeguard health and welfare, and in talking about compromise, I don't think compromise is

the intent of this legislation. I think it's consensus, and not forcing compromise but forging consensus is my belief.

Thank you, Senator, for your very informed dialogue.

ACTING PRESIDENT SEWARD: Senator Paterson.

SENATOR PATERSON: Mr. President, I hope Senator Rath's final comments to Senator Abate are not her final coments, because I was wondering if she would yield for a question.

SENATOR RATH: I would be glad to, Senator. I didn't realize that there were more that were interested.

SENATOR PATERSON: Senator Rath, in this bill -- in Section 3 of this bill, it states pretty clearly that any rules or regulations that are adopted after the passing of this legislation will expire five years after the adoption of the legislation and then there will be five-year intervals for regulation adoption.

My question is, is there a

section of the bill that addresses -- or is there a concern in the bill for issues of public health and public safety whereby rules and regulations may expire and there is not an agreement on what the new rules are going to be? In other words, during that interval of time, what does the bill provide that assures that we have public safety and regard for public health care?

SENATOR RATH: Senator, you're addressing, I believe, the very large area of emergency rules, and there is always an opportunity to do something very quickly with the emergency rule procedure. Now, there have been some abuses in emergency rules, and this is one of the areas that needs to be addressed more completely, but this is an ongoing -- an ongoing effort.

SENATOR PATERSON: Thank you, Senator Rath.

What I'm actually addressing are the lapses that are caused by the fact that the bill itself is promulgating the fact that the

rules that -- and regulations that exist are going to expire, and what I'm saying is that since this legislation seems to add a great deal more to what's already there in terms of review and agency policy, and we've got even a little bit of a misunderstanding as to who is exactly directing the agency, with all of that plethora of responsibility that's doled out, assuming that there is not an agreement, such as the fact that the budget, for instance, is supposed to be passed April 1st, it doesn't seem that that's going to occur because there isn't an agreement, and we have a lapse that's caused in state government at that time.

Now, what we sometimes do in the past is we have an emergency reappropriation by the Governor to make sure that government runs or that certain services that are deemed to be necessities are provided. So I'm saying right in this legislation there's a lapse, but what I don't see in the legislation is an answer for how to repair that lapse.

SENATOR RATH: Senator, the

agencies must give reasoned justification for the continuation of the rule when you get to the five years, including reasons, if any, why they disagree with the comments in opposition to the rule. So I believe that there is a framework here, to answer your concerns.

SENATOR PATERSON: All right. Thank you, Senator Rath.

Would Senator Rath continue to yield, Mr. President?

SENATOR RATH: Sure.

ACTING PRESIDENT SEWARD: Senator Rath, will you yield? Yes.

SENATOR PATERSON: In Section 53 of the bill, we have the agency gains share incentive program. This is a program that would provide for the 65 percent return to the state of savings and 35 percent to the agencies and then, of course, there could be an individual or a team that would offer up what would be considered to be quality improvements and, as a result of that, there could be an award of up to $5,000 per individual. In addition to that,

there is a management and employee committee that would review these improvements to determine what the -- the financial award would be.

My question to you, Senator Rath, is, let's say a commissioner, like the Commissioner of General Services might offer up an idea that would bring monies back to the state in a large sum. Would that inure to the benefit of the actual commission, the return of 35 percent of what would be the savings?

SENATOR RATH: Is it my opinion that that's appropriate, are you saying? I didn't get the very end of your question, Senator.

SENATOR PATERSON: I don't know what -- through you, Mr. President. I don't know whether the Senator agrees with this individually, but what I'm saying, would the bill allow for -- if the bill seems to allow for it, let me -

SENATOR RATH: Yes, it does. It provides that the -- that -- the gains savings

is the phrase that's being used, because I think we've seen so many places around the state, and you used OGS as an example, but I would tell you in the education world, they are very, very close with their spending at the beginning of their budget and at the end, they spend a lot of money just to finish it out because they know if they don't do it, it won't be there next year.

So what we're trying to do is to get a new mind-set so that people realize that to husband resources is good and if they do that, they don't get penalized by having to send it all back to the state. They're able to say that, if we have salvaged this much money by using our resources wisely, we get to use some of those dollars for what we think are important criteria or important projects or whatever inside their own agency, and I think that Senator Dollinger spoke eloquently earlier about TQM.

I think what we're talking about here is a TQM principle, by saying we empower our employees to do the best job they can once

they know what their job is clearly, and as TQM moves forward, yes, we let them share in the results of good management and good husbanding of resources, and they get to use some of those dollars for the advancement of the cause of their agency on their agenda, not necessarily always our agenda but, of course, we get to share some of the savings, so that helps the taxpayer of the state of New York the following year. Obviously, the dollars come back in and we have more to work with.

SENATOR PATERSON: Thank you, Senator Rath.

Mr. President, if Senator Rath would continue to yield.

ACTING PRESIDENT SEWARD: Senator Rath, will you continue to yield?

SENATOR RATH: Yes, surely.

SENATOR PATERSON: Hypothetically, the Office of General Services -- I use that example hypothetically because the commissioner believes that, by the consolidation by data processing services, that

he can save the state approximately $50 million, and if that is correct under this piece of legislation, then it would seem to me that 65 percent of that or, I guess, $32.5 million would go back to the state, but that would bring $17.5 million back to the Office of General Services under what this bill is providing if a committee voted to do that.

So now with $17.5 million, what I'm suggesting is that there could be a number of teams or individuals that might be eligible for incentives under that program. Now, I don't know if I would call that TQM. Maybe it is, but I'm just saying that it is something that is allowable under the bill, and I was just going to ask if you thought that that hypothetically could occur?

SENATOR RATH: Yes. I think hypothetically it could occur and, frankly, I think we would all welcome seeing those kinds of savings realized inside of any of the departments, and let me go back and make a little clearer my comment a moment ago about how

the gains sharing and gains savings could be used.

The director of the budget does need to approve the decisions that would be made by the department as to what they needed to do by way of being able to invest some money back in their program or their process that would give them yet a chance to operate more efficiently and more effectively, and so they are not completely cut free.

I think I maybe gave the wrong impression, but we know that we've all heard the war stories of departments that use their money because they know if they don't use it, they're not going to get the same amount plus the extended amount for the following year. That's the exact wrong kind of thinking, and this is attempting to put a screeching halt to that, saying, if you can effect those things, yes; then you all can work with us with the budget department at doing some of the initiative kinds of things that would be important to follow the goal, because I don't think everyone is out

there being negative and working against the goals that we all are here for.

SENATOR PATERSON: Thank you very much, Senator Rath.

That was very straightforward, very clear.

Thank you very much.

ACTING PRESIDENT SEWARD: Senator Leichter.

SENATOR LEICHTER: Thank you, Mr. President.

Mr. President, I have been looking through this bill since yesterday, and I can't say that I in any respect have mastered it, but it's clear that it's such a potpourri, a smorgasbord, a buffet, if you will, of ideas, notions, of so-called regulatory reform. Most of it comes from the Republican far right, this idea that in this world, regulations have suddenly become such a problem for the American economy.

Frankly, it sort of strikes me like a stop-the-world-I-want-to-get-off type of

bill, because the point really is that we have an extremely complex society. We have a lot of people. We have a lot of different interests. We have learned the effect on people's health, on consumers, of the activities of business and things that go on in our world and, as a consequence, you have to have a means of resolving differences. You also have to have an effective way of protecting people from harm.

What do regulations do? Regulations essentially deal with the health and safety of people and they protect consumers. That's the main aim and purpose of regulations, and regulations seek to develop ground rules as to how businesses will function, how individuals will function, and as our economy has become more complex, obviously the regulations have also become more complex.

That's not to say that there cannot be improvements. That's not to say that certain reforms are not valuable. That's not to say that there are not bureaucratic approaches that are harmful, that do hurt business, that do

hurt the consumers, that don't make sense; but then to come up with this sort of broad sweeping change and, if you look at it, this is going to create more administrative morass than anything that we do now.

As you look through the bill, you keep on seeing requirements for this report, that reform, every agency shall every year put forth a statement of purposes, and so on. We're going to impose such burdens on state government and such costs that any conceivable saving - and I submit there's really few, if any, savings in this bill -- are really going to be wiped out by the additional costs that we're imposing on the state.

I think, just as yesterday we had sort of welfare reform, today administrative reform, we're dealing with slogans. What we need to deal with is some sensible legislation. I submit to you that much that is here is totally unworkable. It doesn't make any sense. I referred to the administrative burden that we put on here.

My colleagues have pointed out other defects in this -- in this legislation. The one I like, and maybe I'll ask Senator Rath to yield on this -- let me find it. Senator, if you would be so good as to yield.

ACTING PRESIDENT SEWARD: Senator Rath, will you yield?

SENATOR LEICHTER: On page 24, it's part of the rulemaking cost/benefit analysis. It's on line 25 where it says, "In any case in which the proposed rule is based on one or more scientific evaluation or informa tion, you have to establish the reliability of the scientific information", am I paraphrasing that provision correctly?

SENATOR RATH: No, you got it. That's right.

SENATOR LEICHTER: I'm sorry. Did you answer that I did paraphrase it correctly?

SENATOR RATH: No, that was fine.

SENATOR LEICHTER: Okay. Now, is

that each and every scientific measurement that is used in the assessment requires that its reliability and validity be established?

SENATOR RATH: Senator, the piece of legislation that you have picked up mirrors some of the work that's being done on the federal level, and that all -- all levels of people that are talking regulatory reform which, by the way, I think was really spearheaded by the Vice-President when he wrote "Reinventing Government." That got an awful lot of people thinking in these terms and looking in these areas; and the piece of legislation that you're reading from is called The Risk Assessment/Cost Benefit Analysis Model that's being used - that's being looked at, and I think New York State may be a real front runner in this, because I see risk assessment and cost benefit analysis as, if you will -- and I will get to your specific -- but I'm really glad someone raised this issue. I see them as the book ends of really effectively going at regulatory reform, because if you do not assess how much of

a risk you can take, first of all -- and that's the protection of the health, welfare, consumer interests, et cetera, that we have been talking about over here on the risk assessment -- you need to establish that, and this is part of what you're talking about, the scientific undergirding of establishing the risk. This language is taken directly from the federal bill.

SENATOR LEICHTER: Well, Senator, the federal bill you're talking about, I assume is the bill of the House of Representatives, which I think people who are familiar with administrative procedures and who are concerned about the welfare and health of Americans, threw up their arms and said, "My God, these people can't really mean that," but, Senator, instead of trying to deal with these general statements -- and I have no problem with many of your general statements.

What does disturb me is when I take a look at the specific provisions of the bill -- and in this instance, my question to you

was very direct, which is, is that every scientific utilization or measurement that's part of the risk assessment needs to be validated.

SENATOR RATH: Senator, first of all, let me correct -- this is from the Senate bill, not the house bill that this is taken, and the effort, as I understand it, is to assure that we have followed down clearly as many of the scientific researchers -- what the FDA has to say about it -- as much as is possible in order to assess the risk.

Now, again, I think we need to go back to what some of the common sense issues provide for us, that -- and we're talking about people of good will. We're not talking about anyone who's trying to undermine anything. We're talking about people who are -- who are attempting to provide for sane, sensible regu lation, and when you're talking about verifying the scientific evaluations or information subject to risk assessment requirements, a description of actions undertaken by the agency

to verify the quality, reliability and relevance of such scientific evaluations, I don't think that that's too hard to do.

I think that there is some respected think tanks. There are certainly respected researchers at the universities throughout this country, and if we got a real - and I think this goes really to the heart of the environmental area that will be talked about, by the way, in the next piece of legislation that we'll be addressing today, which is as an omnibus that was prepared primarily by Senator Johnson and his work in that area. I think we are looking at what I consider to be the landmark piece of legislation and regulatory reform.

As I said, you're talking about risk assessment, but you can't talk about risk assessment without cost/benefit over here on one side and, again, if this is a regulatory issue we're talking about, we've got -- we've got to have a known risk and what that risk is here, and we've got to look over on the other side at

the cost/benefit of taking on that risk, if you will, or assuming how much risk you can take.

Take, for example, a circumstance where you can go to 95 percent of taking care of that risk and it's going to cost a company, let's say, $500,000. To go from 95 percent to 100 percent of mitigating those risk factors is going to cost them $1 million.

Now, if that risk factor is like the one I was talking about in the bakery - that was ethyl alcohol -- ethyl alcohol vapor that was going up in the air -- that's not a responsible approach to the risk. And we have scientists that work in all levels of government that can give us correct answers, like if they said to us, "One person in a hundred is going to die if you don't take that to 98 percent." There isn't a person in this room who would say that the cost of one person in a hundred who could have some sort of carcinogen reaction as a result of us not taking that risk from the 95 percent level up to the 98 or 99 percent where it would be, let's say, one person in ten

million, there isn't a person in this room that wouldn't spend the money -- vote to spend the money to do that, but that's where the book ends of sincere regulatory reform are going to come into play, and this is new. This is new thinking, and I compliment you for coming directly to the heart of the matter, and watching you this past year, I know you always do come directly to the heart of the matter, Senator.

SENATOR LEICHTER: Thank you, Senator.

You're very kind and gracious in your comments. I'm not sure that it's true, but I'll accept that part of your answer, but if you would be so kind as to continue to yield.

Senator, I happen to agree with you. I think risk assessment is an important tool, and we obviously have to know how you do the risk assessment, but I'm reminded of something that Senator Gold admonishes about continuously, and I think he makes a very persuasive, very valid point, that we're not

legislating concepts. The concept is great, but we've got to take a look at language.

You talk about people being well intentioned. I don't think there's anybody better intentioned than you are or Senator Wright, and I think that you sincerely want to deal with a problem that you see and you've obviously spent a lot of time and effort in trying to come up with something, so if I'm critical, it's certainly not of your effort. I think, in part, it's a different philosophy. In part, it's a different approach and, in part, it's also very difficult. Concepts are great. When you reduce concepts to language, that's when you run into difficulties, and we all know the expression, "The devil is in the detail."

Maybe just to make my point on this particular issue, let me try to put it specifically. Let's say an agency such as EPA or DEC says that you cannot put a particular effluent into the sewer because it's going to leach down into an aquifer and pollute the water.

Now, one of the bases for them saying so is the law of gravity. We all know the law of gravity. We deal with it. We've accepted it, but as I read this, the agency would have to go back and validate the law of gravity. I don't think whether they would have to do what Newton did, sit under a tree and see if an apple falls and hits them on the head, but I read that. If you use a measurement of -- of time, you would have to establish that. That's the problem I have with this bill that, after a while, it seems to contain so many notions, some of which really aren't workable.

Let me gladly get to the ques tion. Based on my example, as you read this, wouldn't you have to -- wouldn't the agency be required to validate Newton's law of gravity? What was it, the first law? I don't know.

SENATOR RATH: I think -- I think, Senator, there are some things that don't need validation, and according to this law, the section that you're reading from is that a - goes on to say "a description of the actions

undertaken by the agency to verify the quality, reliability and relevance of such scientific evaluations." What this particular risk assessment-cost/benefit analysis is dealing with is five agencies only, the Environmental Conservation Department, Health, Department of Labor -- pardon me, not five, three -- five was another bill that I did. It deals with only these three, because these are the three where we will find most of the difficulties, if you will, of being sure that the risk is something that we -- that we need to be very clear, and we need to validate our scientific researchers and our background, and I think that these agencies have inside of them and through the commission er, they have been doing some of this, but they have been doing it, and I think according to the way they think it should be done, and I think it should be something that this Legislature knows and recognizes as a responsibility that we have to have again.

As I say, the beginning and the opening dialogue talked about how many jobs have

been lost in the state and how many people have moved away, how much it's costing, and I'll go back again to my earlier comment. Everywhere that you read about regulatory reform, the phrase "between $500 billion and $800 billion are spent nationally." They are unnecessarily spent because of overzealous, unnecessary, burdensome regulation.

Now we're in a world market, and we have to compete as a country. We have to compete as a state, and as we do that, we need to assess how much risk is real risk. I would say to you that if the risk were one person in ten billion, I would say that, yeah, we've got a little risk; we could allow a little risk. I'm telling you one person in a hundred right now, someone brings that to me and I'll vote for almost anything we needed to do to say one person in a hundred, but I think we need to be sensible.

Let me point out to you, Senator, another -- I'm going to send you a copy of this too. I don't know if you heard when Senator

Dollinger got up. I talked about this little book, "The Death of Common Sense." I'll send this reprint over to you, but they do a little box inside and they talk about a specific instance that happened in Virginia and someone had their pen working and you'll appreciate this alliteration, "The Wrong Pollution Sollution", and what they had here was a rigid federal law requiring a Virginia company to spend $31 million to prevent a small amount of benzene from escaping the smokestack. The company was foreclosed, the possibility of spending money to clean up tons of harmful benzene emissions that came from a nearby source -- when the EPA went on site on this one, they found the benzene was coming from the nozzles, from the connectors as it was coming off of the fuel -- the big fuel ships that were coming in.

Common sense? No. But what you're talking about in here, you're talking about language, and I think that the agencies that are already doing this will welcome some guidance from us saying that we want to see how

they are getting to the risk assessment.

SENATOR LEICHTER: Senator, let me -- let me say, you can't legislate common sense and sometimes, as you know, common sense doesn't exist in this body either, unfortunate ly. I wish we could legislate it. I wish there was a pill you could give me that gave me common sense at all times. I hope I have it on occasions, but certainly not as often as I should have it and wish I had it, but it seems to me that what you're doing here with the risk assessment and maybe the example that you gave out of this book -- and I would like to read it -- is that there's a certain disbelief in the scientific -- in the assessments that have been made.

I mean, you talk of risk assess ments. Agencies have made risk assessments; and then you say people don't like the risk assess ment, so you put in this provision that you've got to verify every scientific technique or tool or measurement that you use, which I take it as I read this, it would be a horrendous job. You

would have to establish the basis of what are such commonly accepted tools as telling time, as the law of gravity, and I think it reflects, if I may say so with all due respect, what comes from the far right, which is sort of an anti intellectualism, an anti-academic. Your common sense is really very often, "Please, don't give me these facts. I don't want to hear it. Don't tell me that I can't put this out of my smokestack", and so on.

I'm reminded of something I was involved in as an attorney some years ago. I think it may have been in Senator Tully's district where there was a resource recovery plant to burn the garbage of the -- of the town of Hempstead on the Meadowbrook. I don't know whether that was your -- your district, but I'm sure you're familiar with it -- with the problem, and they found out that some dioxin was coming out of the smokestack, and somebody made a risk assessment and said, "You know, the risk to the community is less than driving on the Long Island Expressway", which is probably

true. People were up in arms and saying, "Listen, that's a risk that I'm willing to take, but I'm not going to take the risk of dioxin," and there was some justification because they didn't know what the effect of the dioxin coming out of the stack is and, for that matter, we still don't know.

My point is that we're not dealing with neat, simple issues. We're dealing with very complex issues, and they involve the health of people, and I know that the people in your district, Senator, would be as much up in arms as the people in my district if somebody put in a resource recovery plant and it said that maybe one out of a million people would die as a consequence of dioxin.

The point is that we're dealing here with the health and safety of people. Senator Wright gets up and he says, you know, we need the impact statement to say the jobs that are lost. It's something worth looking at but, Senator, in some instances, that doesn't tell you anything.

GE is going to say, "If you keep me from putting PCBs in the Hudson, we're going to lose 800 jobs or a thousand jobs." You're going to say, "Okay. Well, in that event, please keep on putting PCBs in the Hudson", although, it's going to create the public health havoc that we know it will. Well, obviously not, or in Love Canal. Are we going to tell -- would we have ever told the chemical companies to keep on dumping there because otherwise we're going to lose jobs?

There are times, Senator, that we have to make the tough decisions for the protection of the people of the state of New York, and what I'm concerned about is that you are impairing those protections. We also need to protect the consumers. We know that the consumers at times get gouged. We know that, if there is a regulatory protection for them, they're going to be overcharged. Utilities may overcharge them. So we have a whole enormous array of regulations to try to protect your consumer, my consumer, from having to pay too

high utility costs. I don't know how you can escape that. I don't know how you can avoid that.

One of the things that, Senator Rath, you said, Senator Wright said is, "Well, take a look at the 4- to 600,000 jobs we lost." By the way, every day it seems to be 100,000 bigger. Yesterday it was only 500,000 jobs. Yesterday it was the welfare people. They were responsible for our losing 500,000 jobs. Today it's the administrators because of their onerous regulations that have lost us these jobs.

But, come on, you know that's poppycock. You know that essentially we've lost jobs because of the world economy, because manufacturing cannot be conducted in New York State as it was years ago. Tomorrow we'll probably hear it was high taxes that caused it. By that time it will be 700,000 jobs, since we seem to be climbing at the rate of 1,000 a day, and that's responsible for the loss of the jobs.

And in fairness to you, Senator Wright, you did say that there were a lot of

factors -- and I don't mean to, you know, try to make fun of your argument, but I think there's an overstatement. There's an overstatement, and I think there's a failure to appreciate what it is that is really losing us jobs, but the one thing that puzzles me about the whole approach here of the Republicans, and particularly the Republican right, is you are trying to embrace programs that have failed. You like to talk about common sense, and I -- we all agree, let's have common sense, but we had the greatest deregulation that this nation had ever seen in the 1980s. That was the doctrine of the Reagan administration, deregulation and cut taxes.

Now, we know that cutting taxes and increasing spending gave this country an incredibly onerous deficit, but what did deregulation do? Yeah, we deregulated the thrifts. Let the thrifts go out there. We're going to allow business to go and create jobs. They created a $500 billion loss for the public, an enormous scandal. So that was shown to be a total failure. Common sense will tell you,

"Well, gee, let's not do it again." But what do we find? Here you come forth with a bill that is basically premised on deregulation, and deregulation has hurt us badly. Some instances, maybe it can work. Many instances it cannot work, and administrative changes -- you like to call it reform. I don't want to use that word because, obviously, you've already put your case in a favorable light, but I don't see this as reform, and I see these administrative changes as part of deregulation that hurt the protection that we need to give to the people of the state of New York.

And finally, let me just say, you keep harping about business and they don't like these regulations, and so on. Yes, I can understand some of these are going to cost money and, by the way, not just for business; they cost money to the consumer. I agree with what Commissioner Zagata said the other day, that the consumers certainly are going to have to pay also for helping clean up the environment, but that's really what we finally come down to, is

whether we want to have clean water, whether we want to have clean air, whether we want to have fairness in the marketplace, and that requires regulations and regulations require certain processes, and you can't just eliminate them. You can't reduce it all to negotiated rule making. I think Senator Abate rightly pointed out that your negotiated rulemaking is really biased and tilted towards special interests mainly, particularly the business interest.

So I submit to you that we could find in this bill some very valuable provisions, but if you take it in total, it would put an enormous burden on state government and would deny the public protection it needs.

Just like yesterday, there were provisions in Senator Holland's bill that I think are -- everybody could agree with, but I think if you take it in total, it was a punitive bill. So maybe we're following here certain ideological rituals and, as I said, yesterday was what was the welfare people; today it's the bureaucrats. Tomorrow it'll be the people that

impose taxes, and taxes are such -- but I submit it's about time we got away from the ideology and got down to the common sense, if you will, Senator Rath, of governing in a reasonable manner.

ACTING PRESIDENT SEWARD: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I'm sorry I was late coming in because we're having a conference committee on the speed limit and, therefore, I'm not certain about this issue, and so if Senator Rath would yield for a question.

Is it permitted for lower levels of government to make stricter regulation than the higher level of government imposes?

SENATOR RATH: If we're talking about towns and villages, they have some capabilities, but this legislation -- and I think you weren't here when I opened my remarks with a report from the Town of Tonawanda, which is one of my towns, that did a detailed study as to just exactly how much they could save.

We asked them. We said, "Give us some ideas about how we can untie your hands so you can be more effective," and I think it bears reading again what the supervisor said. He had his departments find examples of mandates that are outdated and duplicative and identifying those that go beyond setting goals and enter the realm of micromanagement of local government operations.

Then they did a costing out of how much they could save in the town of Tonawanda, and after 22 pages, each with a separate regulation on it, the bottom line as they costed them out, they could save some $830,000. Now, that's just in one town if we freed their hands up.

Our interest in micromanaging has been sincere. But when you get out there in the practicality -- and you were a mayor, so I think you are probably a person who could be real clear about some of the ways you could do it better if you were allowed to do it yourself, one of the provisions, it does allow, it gives

the flexibilities to the towns.

SENATOR OPPENHEIMER: You are right that when I was the head of the Municipal Officials Association in Westchester, I was looking to get relief from some mandates that I felt were not benefiting my village; however, I'm trying to reflect on the opposite side of this coin which is those instances where lower levels of government feel they want to impose stricter regulation. For example, there is the environmental law which may not go far enough as far as the communities that live alongside the Long Island Sound feel that they should go; therefore, stricter regulation is being sought just in those communities for the way they treat discharges, let's say, from the sewage treatment plants and the nitrogen that is going into Long Island Sound.

So I'm saying is it possible under this bill to provide stricter regulation at lower levels of government?

SENATOR RATH: This bill, Senator, deals with agencies and agency reviews.

But you raise a very good point, and I would be more than happy to talk with you about looking at something that would offer some opportunities for the other levels of government.

SENATOR OPPENHEIMER: Thank you, Senator.

ACTING PRESIDENT SEWARD: The Secretary will read the last section.

SENATOR PATERSON: Slow roll call, Mr. President.

THE SECRETARY: Section 66. This act shall take effect immediately.

ACTING PRESIDENT SEWARD: Call the roll. Slow roll call has been asked for. Are there five Senators standing?

The Secretary will call the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Babbush excused.

Senator Bruno.

SENATOR BRUNO: (Affirmative

indication.)

THE SECRETARY: Aye.

Senator Connor.

SENATOR CONNOR: (Negative indication.)

THE SECRETARY: No.

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

(There was no response.)

Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: I vote aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: I don't think so.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Goodman.
(There was no response.)
Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hoblock.
SENATOR HOBLOCK: Yes.
THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: Yes.
THE SECRETARY: Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Jones.
SENATOR JONES: Yes.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
(There was no response.)

Senator Lack.
(There was no response.)
Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
(There was no response.)
Senator Libous.
(There was no response.)
Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Aye.
THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: No.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nanula.
SENATOR NANULA: No.
THE SECRETARY: Senator Nozzolio.
(There was no response.)
Senator Onorato.
SENATOR ONORATO: No.
THE SECRETARY: Senator Oppenheimer.
SENATOR OPPENHEIMER: No.
THE SECRETARY: Senator Padavan.
(There was no response.)
Senator Paterson.
SENATOR PATERSON: No.
THE SECRETARY: Senator Present.

SENATOR PRESENT: Yes.
THE SECRETARY: Senator Rath.
SENATOR RATH: Yes.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago excused. Senator Sears.
(There was no response.)
Senator Seward.
SENATOR SEWARD: Aye.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
(There was no response.)
Senator Solomon.
(There was no response.)
Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
SENATOR STAVISKY: No.
THE SECRETARY: Senator Trunzo.
SENATOR TRUNZO: Yes.
THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
(There was no response.)
Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT SEWARD: Absentees.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Yes.
THE SECRETARY: Senator Gonzalez.
(There was no response.)

Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Padavan.

(There was no response.)

Senator Sears.

SENATOR SEARS: Yes.

THE SECRETARY: Senator Smith.

(There was no response.)

Senator Solomon.

(There was no response.)

Senator Waldon.

(There was no response.)

ACTING PRESIDENT SEWARD: Results.

THE SECRETARY: Ayes 37. Nays 17.

ACTING PRESIDENT SEWARD: The bill is passed.

Senator Skelos.

Senator Galiber.

SENATOR GALIBER: Yes, Mr. President. I was not in chambers, but I would like unanimous consent to be recorded in the negative on Number 218, Senate Bill 1931.

ACTING PRESIDENT SEWARD: Without objection.

SENATOR GALIBER: And one old request. Last week, when there was a slow roll call, I was absent from the chambers and I would like to indicate for the record that if I had been here, I would have voted in the negative on Calendar 213, Senate Number 1092.

ACTING PRESIDENT SEWARD: Without objection, the record will so indicate.

Senator Abate.

SENATOR ABATE: I ask for unanimous consent to be recorded in the negative on Calendar Number 218, 1931.

ACTING PRESIDENT SEWARD: Without objection.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. May I, too, be recorded in the negative on Calendar 218, please.

ACTING PRESIDENT SEWARD: Without objection.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President. Also I would like unanimous consent for 218.

ACTING PRESIDENT SEWARD: Without objection.

Senator Goodman.

SENATOR GOODMAN: Negative on 218, Mr. President.

ACTING PRESIDENT SEWARD: The record will so indicate.

Senator Kruger.

SENATOR KRUGER: Negative on 218, please.

ACTING PRESIDENT SEWARD: Without objection.

Senator Dollinger.

SENATOR DOLLINGER: Negative on 218, Mr. President, without objection.

ACTING PRESIDENT SEWARD: Without objection.

Senator Smith.

SENATOR SMITH: Mr. President. I would like to indicate, had I been present, that I would have voted no on Calendar Number 289.

ACTING PRESIDENT SEWARD: Without objection, the record will so indicate.

Senator Onorato.

SENATOR ONORATO: Mr. President. I request unanimous consent to be recorded in the negative on Calendar Number 218.

ACTING PRESIDENT SEWARD: Without

objection.

Senator Mendez.

SENATOR MENDEZ: I would like to be recorded in the negative on Calendar 218.

ACTING PRESIDENT SEWARD: Without objection.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President. Could I have unanimous consent to please be recorded in the negative on Calendar 218.

ACTING PRESIDENT SEWARD: Without objection.

Senator Skelos.

SENATOR SKELOS: Is there a Rules Committee report at the desk?

ACTING PRESIDENT SEWARD: Yes, there is.

SENATOR SKELOS: May we please have it read.

ACTING PRESIDENT SEWARD: The Secretary will read.

THE SECRETARY: Senator Bruno,

from the Committee on Rules, hands up the following bill directly for third reading:

Print Number 1554A, Budget Bill, an act making appropriations for the support of government.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT SEWARD: Senator Skelos.

SENATOR SKELOS: I move we adopt the Rules Committee report.

ACTING PRESIDENT SEWARD: All in favor of adopting the Rules report, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The report is adopted.

Senator Levy.

SENATOR LEVY: Yes, I request unanimous consent to be recorded in the negative on Calendar 218.

ACTING PRESIDENT SEWARD: Without objection, Senator Levy.

Senator Tully.

SENATOR TULLY: At the risk of sounding like a parrot, Mr. President, unanimous consent to be recorded in the negative on 218.

ACTING PRESIDENT SEWARD: Without objection.

Yes, Senator.

SENATOR MARKOWITZ: If I may, I would like to be recorded in the negative on Calendar Number 218.

ACTING PRESIDENT SEWARD: Senator Markowitz in the negative on 218.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT SEWARD: Senator Oppenheimer.

SENATOR OPPENHEIMER: Would you be good enough to reflect for us what the final tally is on bill 218?

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT SEWARD: Senator Skelos.

SENATOR SKELOS: I would like to call up Calendar Number 330.

ACTING PRESIDENT SEWARD: Calendar 330.

THE SECRETARY: Calendar Number 330, Budget Bill, an act making appropriations for the support of government.

SENATOR SKELOS: Mr. President. Is there a message of necessity at the desk?

ACTING PRESIDENT SEWARD: Senator Skelos, yes, there is.

SENATOR SKELOS: I move we accept the message.

ACTING PRESIDENT SEWARD: All those in favor of accepting the message, say aye.

(Response of "Aye.")

Those opposed, nay.

(Response of "Nay.")

The message is accepted.

SENATOR SKELOS: Lay the bill aside.

ACTING PRESIDENT SEWARD: The bill is laid aside.

SENATOR SKELOS: Mr. President.

At this time, there will be a recess for an hour and 35 minutes -- I'm sorry.

ACTING PRESIDENT SEWARD: Senator Kruger.

SENATOR KRUGER: Yes, Mr. President.

On behalf of Senator Solomon, I rise today to pay homage and respect to three individuals that we have up in the balcony, three young people, all 11-year-olds, all residents and school-age children in Senator Solomon's district, who were the first, second, and third prize winners of a U.S. Savings Bond contest that was sponsored by the New York State United Teachers Association.

At this time, I would like to introduce them. The first place winner is Alzaber Rubayat. Mr. David Qiu and Mr. Claudiu Irina.

(Applause.)

SENATOR KRUGER: Congratulations.

ACTING PRESIDENT SEWARD: Thank you, Senator Kruger.

Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Montgomery.

ACTING PRESIDENT SEWARD: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 218.

ACTING PRESIDENT SEWARD: Without objection.

SENATOR MONTGOMERY: Thank you.

SENATOR SKELOS: Would you recognize Senator Espada, please.

ACTING PRESIDENT SEWARD: Senator Espada.

SENATOR ESPADA: Mr. President. I also request unanimous consent to be recorded in the negative on Calendar 218.

ACTING PRESIDENT SEWARD: Without objection.

SENATOR SKELOS: Please recognize Senator Mendez.

ACTING PRESIDENT SEWARD: Senator Mendez.

SENATOR MENDEZ: Mr. President. There will be an immediate Minority conference in the Minority Conference room.

ACTING PRESIDENT SEWARD: Immediate Minority conference.

I believe there is some house keeping.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On page 15, I offer the following amendments to Calendar Number 116, Senate Print Number 1088, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT SEWARD: Amendments accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President. The Senate will stand in recess now until 2:00 p.m., at which time we will take up Calendar Number 330, Capital Projects, and following that

Calendar Number 290, Environmental Regulatory Reform Act of 1995.

ACTING PRESIDENT SEWARD: The Senate stands in recess until 2:00 p.m.

(Whereupon, at 12:15 p.m., the Senate recessed.)

(The Senate reconvened at 2:05 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. The Chair recognizes Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. Would you call up Calendar Number 330, S. 1554-A.

ACTING PRESIDENT KUHL: Secretary will read Calendar 330.

THE SECRETARY: Calendar Number 330, Print Number 1554-A, an act making appropriations for the support of government.

ACTING PRESIDENT KUHL: Bill is before the house. Message was previously accepted.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation has been asked for by Senator Paterson.

SENATOR STAFFORD: Thank you.

Mr. President, we are today taking up, I believe, our third bill in passing our budget for 1995-1996. This is the Capital Projects. I will go over it by subject.

In Correctional Services, we include funds of 8.6 million to convert the Willard Psychiatric Center into a 500-bed Department of Correctional Services-operated drug treatment center. I might add these drug treatment centers have done very, very well. We have one in my district in Chateaugay, one of the first ones to open. We think this makes a great deal of sense.

We have 30.2 million for the rehabilitation and expansion of the Gowanda Correctional Facility and 120 million for the purchase of the Riverview and Cape Vincent Correctional Facility from the city of New York. Some of you might not realize that we've

had these two City correctional facilities in our area, but they've been operated by the state -- state of New York; so they, in effect, have been state facilities.

In addition, 871 million in reappropriations are provided, including funding for five prisons previously authorized, and those are Friendship, Johnstown, Altamont, Comsfeld -- Comsfield, excuse me, and Romulus.

The CUNY portion of the budget, the City University of New York, we have new appropriations -- a new appropriation, authority is provided for new facilities for LaGuardia Community College for 14.4 million and 42.7 million for health and safety and ADA compliance. ADA stands for the American Disabilities Act.

The Education Department: We have a new appropriation -- we have an appropriation authority and it provides for cultural center improvements, emergency lighting and repair at the state School for the Blind and Deaf. The SUNY portion, State University of New York: A

new appropriation authority of 100.9 million is provided for health and safety repairs; 22.5 million for hospital rehabilitation; 5.5 million for dormitory rehabilitation and 31.2 million for community college rehabilitation and health and safety repairs.

Next the Energy Research and Development Authority. The budget provides for 16.1 -- excuse me, 16.5 million appropriation for the sale of bonds to support the activities on the Western New York Nuclear Service Center. This allows the state to fulfill its ten percent share of responsibility for West Valley; and, of course, we know that is a facility for hazardous waste. The federal government provides the remaining 90 percent of funding.

In the health field, we have funding for new capital projects totalling 2.8 million providing support for various minor rehabilitation and maintenance projects. The change in funding from the 1994-95 level is insignificant, and I will have to say that I agree with our staff on practically anything

they say, but here they say insignificant is $400,000, and I don't think it's insignificant, but that's what it is, the difference. Exactly, a lot more we have to find.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: Yes. Could you ask the distinguished gentleman from Plattsburgh to just keep his voice up a little bit. This is really good stuff, and I like the analysis and I'd like to hear it. It's something everybody should be able to enjoy.

SENATOR STAFFORD: I'll have to keep facing the microphone. I'll have to keep facing the microphone. I don't when I should. All right? Do I hear that someone says I'm talking too loud now?

Getting back to serious work here, Transportation. The Executive Transportation Capital Projects Budget includes 2.7 billion in new capital appropriation authority as follows: 2.72 billion for highway

facilities; 37.9 million for mass transportation and rail freight; 26.3 million for maintenance facilities and 9 million for aviation.

The budget also includes 7.2 billion in capital reappropriation authority for -- capital, excuse me. I'll start over, includes 7.2 billion in capital reappropriation authority as follows: 6.8 billion for highway facilities; 2.9 million -- no, 209 million for mass transport and rail freight; 58 million for maintenance facilities; 131 million for aviation, 1.8 million for ports and waterways and 3.4 million for design and construction supervision.

The executive capital projects bill has been amended to eliminate language changes within the special rail and aviation programs related to the executive proposal to waive the Chapter 56 Laws of 1993 transportation memorandum of understanding. This executive proposal had been rejected.

Urban Development Corporation: Various stadii were not included in the

Executive Budget reappropriation. The Senate is drafting a separate Article VII bill to restore funding to unfunded projects in addition to various other economic development projects.

Mr. President, this again is a budget that the executive, the Governor, and the Senate agree upon. There's no question about it that it's leaner. It does not include as much as many of the budgets we've seen in the past but, as we said yesterday, we are this year making sure that we don't spend more than we have and that we continue to work towards having an economy in this state which will be viable and which will be competitive with other states and we will not be losing the jobs that we have lost, we will not have businesses leaving our state, but instead remaining in our state.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Gold.

SENATOR GOLD: Mr. President, would Senator Stafford yield to just a couple of questions?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to a couple of questions?

SENATOR STAFFORD: I will.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator, the budget is basically -- the budget we're working on now, Capital Projects, is basically perhaps more than other kinds of budgets that we vote on, kind of a blueprint for the future. It's got some philosophy in it, and it's got promises in it. Wouldn't you say that's a fair comment, future promises?

If I can explain the question a little better.

SENATOR STAFFORD: I don't know just what you're talking about.

SENATOR GOLD: Let me get it out there. I know that you do, but let me get it out there. When we talk about the deficiency debt service budget, we're just paying bills, there's nothing really with that, and we talk about the legislative budget, the judicial

budget, we're paying salaries. We talk about state purposes budget and basically we're providing money for various things for the fiscal year. We talk about local assistance, and we're basically providing money for the fiscal year, but capital projects budget, the way I look at it, is sort of for the future. We're building something, capital projects. We're building something, so we're basically saying to the future generations that these are priorities; these are things we should be doing today to make sure that the state goes along certain lines. Is that a fair analysis?

SENATOR STAFFORD: No question, I think that really the entire budget really is a -- is a statement of philosophy, some in planning more than you have so well stated about the capital projects, but I would say and I said this a number of times, that the philosophy that we're attempting to put forth in this budget, which has been, as I say, agreed upon by the Governor and the Senate, the Governor's Division of the Budget, is saying to all of us that we

are going to stop spending more than we take in and we're going to realize that we are competitive with other states whether they be Mississippi, Louisiana, Vermont, Michigan, Florida, any state, because we have found the past years that thousands of jobs have left this state and we do have to do something about it.

SENATOR GOLD: Yeah, but if the Senator will yield to a question.

ACTING PRESIDENT KUHL: Senator -- Senator yields.

SENATOR GOLD: Senator Stafford, you haven't said anything I disagree with in that statement, but I'm trying to make a point so that we can move it along. The -- you're absolutely right, every budget is a statement of philosophy because we're paying people to do things. We're obviously saying that those are important things, but what I'm saying is that the State Purposes Budget and the Local Assistance Budget, those take us from fiscal year April 1, 1995 through the March 31st, 1996.

This particular budget, I think more than other budgets, talks into the future and so, for example, and I'm just turning pages, Senator -- believe me, this is totally random and this time I mean it -- on page 68, it talks about airport, aviation, state programs. I assume, if we're talking about 6.5 million, we're doing something because we expect that whatever airports are involved will be around.

On some other pages it talks about the Department of Correctional Services. We are, as we indicated today, buying jails or not, depending upon various criteria because people will know that, since we're buying 120 million in jails, we anticipate that in the future that's going to be the way we're going, those particular jails, those particular places.

We are doing things with schools, so obviously we are projecting into the future and that was my question. When you say this budget, Senator, perhaps more than any other budget projects into the future as what our

needs are so that we gear capital projects to that. Is that a fair comment?

SENATOR STAFFORD: Well, I -- as you said, what I've said, you don't have really any difference with. I basically understand what you're saying, but in clarification of my -- of my answer, I would say yes, each year we have to decide what we have and we have to decide what is really necessary and that sometimes there's changes in plans that we have made and that's often because of the economy, it's because of what money is available and it's because of priorities.

SENATOR GOLD: Mr. President, if the Senator would yield. Senator -

ACTING PRESIDENT KUHL: Senator Stafford, will you continue to yield?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR GOLD: Senator Stafford, I'm trying to arrive at some common ground with you, and I'm not going to let it go and I

appreciate your wonderful ability to, you know, not always give the answer that somebody wants and, Senator, every question that's asked you isn't a trap, but I'm trying to find out and what I think is fair.

Things change on a day by day basis, Senator Stafford, but isn't it a fact that if we, in the capital projects budget, decide we're going to build something, we're building it because we are saying this year that we anticipate that that project, whatever it is, is going to be needed in the future, otherwise we wouldn't be putting up the money today, Senator, for the bonding issue today to build it. Isn't that a fair comment, Senator?

SENATOR STAFFORD: Well, as you have mentioned, I have the ability not to give you the answer that you always want. Let me assure you, you also have the ability not to give me the answer I like sometimes, and I think it's because we have different priorities. We have different concerns. We are looking at the overall financial picture completely differently

and, again, that's one of the great things about this country. We can -- we can disagree, and I've not seen a budget that there was not disagreement upon but, as I say, each budget is a chapter. That chapter is written including a capital budget, which you're asking about. It's written for, first, what do we have to work with, funds; second, what are the priorities, what are the needs and then, of course, we have the provisions included that are of sufficient priority.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: If the distinguished chairman would yield to another question.

ACTING PRESIDENT KUHL: Senator Stafford, do you continue to yield? Senator Stafford continues to yield.

SENATOR GOLD: Senator Stafford -- Senator Stafford, among the many qualities which you have which I admire, and I do admire

them, certainly your patience is one of them, and while I'm not necessarily noted for my patience, I'm going to use you as a model and I'm going to try to have as much patience as you, so I'm willing to stay with it, Senator. Let's try again.

On page 553 of this budget, line 18, "state highways", says: Interstate construction, reconstruction, Westway trade and interstate transfer, other highway system construction, and then it talks about Route 9, Myers Road to Cotton Hill Road, reconstruction; Long Island Expressway between Maurice Avenue and the Brooklyn-Queens Expressway, et cetera, and it mentions, Senator, some very, very specific roads and it gives specific amounts of money.

Now, isn't it a fair statement to say, Senator, that we are putting the money into those roads because we don't expect next year to end those roads? We don't expect next year that we're going to have a bypass around those roads and we don't expect that next year there'll be a

different road.

So in that regard, Senator, I would imagine that we are saying to the people it's important to spend money for this road because this particular road, Route 9 and this particular road, Maurice Avenue, has an important place in our future and, therefore, in the capital projects budget, we're spending the money. Is that a fair comment?

SENATOR STAFFORD: Well, you - you had an introduction to your last question, so I'll have an introduction to this answer. You mentioned you're going to be patient. Well, I would also share with you that I know when I'm up against a Cornell lawyer, I mean that as a compliment, and I think I know where you're going, but I don't want to go there. So we're going to be discussing this.

SENATOR GOLD: Senator -

SENATOR STAFFORD: Now -

SENATOR GOLD: Will the Senator yield to a question?

ACTING PRESIDENT KUHL: The

Senator yields.

SENATOR GOLD: Senator, I appreciate the reference to my being a Cornell lawyer with offices at 40 Wall Street, New York 10005.

SENATOR STAFFORD: Don't do that; don't do that.

SENATOR GOLD: But that's not what we're doing here and, when you say you know where I want to go, that's another one of your abilities, because I'm not sure even. Senator, it's not a question of where I want to go or not go.

I've said this before, and I -- I think this year more than ever, I think the point should be made, I am very delighted with Governor Pataki's budget from the following point of view: I don't think there could be a clearer statement of philosophy than his budget and the fact that I can say to people I don't agree with it puts me right in a certain place and it puts the Governor a certain place, and while many things that happen in government get

all mixed up and mired and mushed, this year we don't have that problem, and I'm -- I'm thrilled with it.

I find that, for the first time in a long time, people come in to see me and talking about issues aren't talking in gray areas. It's exactly this point or that point.

But, Senator, I would imagine that from the point of view of your party that you ought to be standing around this state and this chamber this year with your chest thrown out there beautifully because, by gosh, ladies and gentlemen, we -- this is what we believe in. Former Senator George Pataki, now the Governor, respected Governor of this state, is now putting us on this road, and I want everybody in the state to know that I'm on the road. I assume that that's the case.

So I don't know why you would worry about where I'm trying to take you in a debate. I would think that I can't take you any place you'd be uncomfortable in this particular budget. I'm just trying to make the point that

-- that whereas other budgets take care of exacting needs, this particular budget, the capital projects budget, is a budget that requires vision.

Now, I'm not suggesting to you, Senator, that our other budgets don't. Certainly when we set up programs for public assistance, we are not suggesting to people that it's going to be public assistance for this year and next year it's out the window. Sure, everything has its philosophy, but in the other budgets, if we, for example, decide to give Mr. King 104,000 this year and, as a result of the changes suggested by Senator Bruno and Senator Rath, we don't need him next year, we can, in fact, terminate him and we would have spent 104,000 with no problem.

In this particular budget though, it's not that simple, because if we spend a million or $2 million on a certain road and next year we don't want that road, we can't pick up $900,000 of that road and put it some place else. We have blown the million dollars.

So from that point of view, Senator, maybe I better explain my question. Maybe I haven't. From that point of view, isn't the capital projects budget a look into the future saying that we want to build, actually build -- construct edifices, roads, whatever because in the future, two years, ten years from now, human beings who are taxpaying citizens, will use these facilities. We don't envision them driving on different roads. We don't envision them in different schools and tearing down these schools.

In that regard, isn't this budget a projection into the future?

SENATOR STAFFORD: Senator, you -- you mentioned that you don't want to or you don't make people uncomfortable. I believe when you first came here, you sat in the -- the seat right over there in front of Senator Waldon. You have made people uncomfortable since the day you sat in that seat. (Laughter) Now, that isn't a criticism. It's a compliment.

As far as the issue, and you

mention a transportation budget, you will find that many of these are included. Some are funded, some have money behind them, some do not, and then every year there are concerns; there is health and safety that have to be considered and there have to be revisions and that is really the way it has to be, because each year we have a different situation with the economy. There's priorities and, as far as the projects you are referring to in transportation, we have changes there also.

SENATOR GOLD: Senator, first of all, I -- I owe you one because, based upon your comment that if my wife were to read the record she would now know she's not the only person in the state of New York I've been making uncomfortable all these years, that there are others that join you. But to show you I have a memory, I remember when you sat back there.

SENATOR STAFFORD: 23 years.

SENATOR GOLD: Yes, and next to Senator Larkin or whatever.

Senator, in terms of the capital

projects budget, if you'll yield to a question.

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator Stafford continues to yield.

SENATOR GOLD: Senator, some of the projects in here I can understand have a statewide financial -- I mean statewide implication in terms of, for example, the New York State Thruway runs around the state and while it runs through towns, villages, counties, et cetera, you know, we think of that as a state situation, and there are many of those in this budget. I'm sure when we talk about prisons we talk about mental health institutions, things like that one might say are of a state nature. But aren't there also, Senator, many projects in this budget that are of great significance to particular localities in the state?

SENATOR STAFFORD: I think that we all have to understand that it's just logic, and I should have the ability -- ability to explain that, if it's there, it has to be somewhere, so it's there. That isn't exactly

right, but it goes something like that, or if it's a being that has to be somewhere, therefore, it's there and that isn't exactly right, but in other words any project in the state is going to be in a specific area, no question about it.

SENATOR GOLD: Well, all right, and, Senator, in terms of items, let me just - in all fairness, when you say it's got to be here, it's got to be there, it's got to be some place. I mean that really isn't true to the extent that, if a particular locality wants a particular item for either economic development or for particular -- or for particular -- I'm sorry.

Senator, if a particular locality, for example, determines that it needs a stadium, a particular locality determines that it needs a better railroad station or whatever, I don't think it's fair to say, Well, you got to -- we happen to have -- we went into a choice, they gave me a little railroad station; I got to build it some place. That's not the

philosophy. You don't have to put everything some place.

On the local part of this budget, Senator, I assume we are reacting to some extent, very responsibly so, but I assume that we are reacting to communities who tell us that they have certain needs and that's why part of the budget places construction in certain places. Is that a fair comment?

SENATOR STAFFORD: Well, I -- I'm sorry, I was thinking of something else. Just at the end, the end. Go ahead.

SENATOR GOLD: Yes. No, no, what I was saying, I appreciate that, Senator. It happens to me all too often, but what I was saying was, isn't it a fact that rather than just saying, you know, Here is a, you know, here's a stadium, for example, we ought to build one, don't ask me why but we ought to find a place to put it, let's look for a place. Rather than that being an impetus, isn't it more the impetus that a locality would say to us, We need either a stadium or a school or a hospital, we

have a specific need, and then the judgment of the 211 people plus the Governor then says, Yes, that project we're going to do and that has very, very significant local effect?

SENATOR STAFFORD: Well, I was answering your question about, for instance, if one of these stadii affects an area. Obviously they do, and it's a specific area. I have no quarrel.

SENATOR GOLD: Well, I don't know -- well, maybe I -- Senator, maybe I can make my point another way. Mr. President. Mr. President.

ACTING PRESIDENT KUHL: Senator Gold. Senator Stafford, you continue to yield?

SENATOR GOLD: No, that's all right, no. Senator DeFrancisco. Perhaps Senator DeFrancisco would yield to a question.

ACTING PRESIDENT KUHL: Senator DeFrancisco, would you like to yield to a question?

SENATOR DeFRANCISCO: Yes.

SENATOR GOLD: Senator, I don't

know how much of the debate you've had a chance to hear, but what I'm concerned about is that, to give an example, the city of Syracuse as a result -- as a result of a promise contained in the capital projects budget for school maintenance, has already spent out of pocket $338,000.

This particular budget, Senator, does not have that money in it. Now, there was other money promised to Syracuse in other places which will not come, I guess, under this budget and which this budget doesn't contain. But what I'm curious about, Senator DeFrancisco, is has the city of Syracuse indicated to you how they are going to find the $338,800 that they spent in anticipation that the state was giving it to them? I mean have they indicated to you where they're going to get that money from?

SENATOR DeFRANCISCO: If you mean by "the city of Syracuse," the mayor, I have spoken -- since I haven't spoken to every resident of the city of Syracuse, the mayor has -- I have spoken with him quite a bit on this

budget. Obviously, every mayor is concerned about the loss of support that this budget may bring to the cities.

The difficulty is that we've made promises beyond our capacity to keep, and I think what this budget is basically saying is, recognizing that we can't keep every promise that we made during an election year and that now we have to operate fiscally sound and everybody has to participate in that process and that Syracuse has to participate, so does Buffalo and New York City and Rochester and every place else, and that they will have to make do with what they receive.

The saving grace is that along with some of these budget cuts, there are going to be, as we debated this morning, substantial regulatory relief that each of the localities are going to be able to rely on to save money that they were spending on things that maybe weren't necessarily things that had to be spent, so I think it's a balancing act, and they don't like to do it, the city of Syracuse, nor does

anybody else, nor do we, but it's a fiscal necessity.

SENATOR GOLD: Will the Senator yield to one more question?

SENATOR DeFRANCISCO: Absolutely.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: I certainly understand, you know, the concept of balancing budgets and everything to, you know, pull in and not -- and not spend money you don't have. I'm not talkin' about that. It seems to me, if we say to the city of Syracuse or the city of New York or the city of Buffalo or a county that in the next fiscal year we can't be as generous with you because we've got problems, I can understand that dialogue, but this is a situation and there's no avoiding it, where the city of Syracuse specifically expended $338,800 believing from us -- and, Senator, you were a Senator last year, and I was too, and the budget we voted on made this promise. It says, Spend

the money because we're going to give it back.

Now, the mayor or whoever else is involved with the process says, "Wait a minute, I mean I -- I can understand you're not going to give me certain of the money and I won't spend it, but where do I get the 338,800 from that I laid out on your promise you'd give it back?"

I mean is that going to affect the tax structure in Syracuse, property tax? Will it affect services in Syracuse that they will now have to cut police or fire or do something else in order to take $338,800 from some place else to make it up because the state of New York is backing down on what was an absolute promise and commitment by Stafford?

SENATOR DeFRANCISCO: Nothing is absolute in this world as we know from this budget, insofar as we found after the election that there was a $5 billion deficit. We make promises based upon projections. No one can predict the future with certainty and, in this particular case, it was obvious that we not only didn't predict the future with certainty, we

were way off, and so the -- the reality of the situation is that, in certain instances with some of the cities and all of the cities, we have to re-evaluate when the picture is clear and, you know, I'd love to be able to say to Syracuse, I mean we may be able to adjust soon based upon the negotiations if the Assembly decides to participate, that maybe some of these items may be restored, but as of this point in time, it's an economic necessity. The money isn't there.

I fully expect, however, that in some of these items that we're concerned about, if there are additional revenues that can be projected or if there are other ways to adjust the budget once the Assembly decides to come to the table, it would be my preference that past promises be the first priority of this Senate, and I will vote in that way.

SENATOR GOLD: So will the Senator yield to one more question?

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR GOLD: Senator, your last answer puzzles me most of all because you say "if the Assembly comes to the table at all." I'm under the impression that the Governor and the Majority in this house have agreed on a budget, and that's your budget and, therefore, if this budget becomes the budget and if the Assembly didn't negotiate, did not negotiate, they say, "Governor, you want the budget, the Senate wants the budget, that's the budget," the fact of the matter is that there is no coming back and Syracuse has to find $338,800 that it was promised and it doesn't have.

It's not -- I can understand, Senator, when you say in negotiating that yeah, you might want some other monies for some other locality taken out of the budget so that you can get the 338-, but Senator, I hate to tell you, your 338- and everybody else's money adds up to -- I hope nobody is listening, $27 million, $27

million dollars that has been spent by localities all over the state, the vast majority of that, by the way outside the city of New York. Compared to upstate New York the City is pennies, is peanuts, looks like a big amount but you guys got 80 percent or something of that money, and you're basically saying to the people of the city of Syracuse that, if the Senate - if the Assembly will adopt this budget, it's O.K. by you, and I say to you where does the 338,000 come from?

SENATOR DeFRANCISCO: Well, Senator, the two years and three months that I've been a member of the Senate, we've heard repeatedly from the media that we've got to stop this process of deciding things behind closed doors, and we should really be responsible and responsive to the citizens of this state, and lay out the cards on the table.

Let us -- let the people of the state of New York know where you stand on issues and I'm sure everybody in this chamber believes in that process. So the Senate has said that,

since the negotiations apparently are going nowhere at this point in time and according to the Governor and the Majority Leader that the Assembly hasn't even put their cards out, let alone put them on the table, not even taken them out of the wrapper, let alone put them on the table, that the Senate, I think, is acting responsibly saying that, I think, Here is a budget that we could live with. We don't love it; we really don't love every bit of it. I certainly don't, and I'm sure many other people don't, but here's the budget that we would be willing to agree with, with the Governor.

Now, you're much more politically astute than I am, and there's no one in this room that truly believes that this is going to be the final answer in the budget because the Assembly, whether they want to presently or not, will have to at some point in time present their viewpoint of life in a proposal and there will be further budget negotiations. But the Senate is saying that this is what we would be willing to do, the fiscally responsible thing, and you

can motion and gesture and be comic as much as you want to, but that's my answer.

SENATOR GOLD: No, Senator, I think that's fine and I'm not misreading your words. You're saying to the people of your district that this would be fine. There may be amendments, there may not be amendments, and this would be fine, and what I'm trying to find out if you'll yield to one more question: Senator, how fine is it?

Will the city of Syracuse have to cut services for 338,000? Will it have to increase taxes for 338,000? How does the city of Syracuse make up the 338,000 that is promised? It's money that they spent because you and I, and I'm just as much in this as you are, we promised them and when you say things change in the world, things may change, Senator, but you know, we have a bad enough reputation as politicians out there now as it is.

Are we going to now pass a statute that says to the public, politicians are liars? I mean the public thinks that about some

of us anyway, but now it's saying you don't have to worry about it. I don't have to; I don't have to guess about it any more. Those SOBs in Albany told me, we were going to have 338,000. We spent it and, after I spent it, they said, Well, you really didn't mean it.

That's a little different, Senator, than cutting anticipated revenues for the coming year. Where do they get -- you're right, there may be more negotiations, but you're telling them today this is your idea with the Governor of a budget. How do they make up for 338,000? And I don't want to ask you again.

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield to the question from Senator Gold?

SENATOR DeFRANCISCO: Yes. You know, Senator, one way that they could attempt to make it up is through some of the savings, through the regulatory relief that we're going to provide to all localities but, more importantly, and I want to answer a couple of your points about politicians being liars and

emphasize again that what you try to do in a budget is anticipate what those things are going to be like in the following year.

They're not like that; we promised too much. We have to come back on some of these promises and, if we had to live with this budget, we would live with it. But I think unless we have been living in a different world, each of us, everyone recognizes that the Assembly wants to add more money to the budget, in fact to the tune of $1.8 billion in more programs. If you do this, the Governor and the Senate Majority Leader are being truthful, and I believe that they are being truthful, so everybody in this room knows that if -- that our position on this side of the aisle is that we want to rein in spending; we want to try to get more fiscally responsible so that in future years our children might have some jobs to go to in the state of New York.

Therefore, if we're going to still continue negotiations which we must, if we came out with a budget that was the final word

on the budget, and that called for increased spending of another $50 million or whatever the number might be, there's no question that the Assembly would say, let's take 150 million more, so in order to get the two points that we want to get to in this budget, one to get the -- our proposal on the table, start negotiations going and also end up with a fiscally responsible budget, we have to start somewhere, and this is the somewhere we're going to start.

SENATOR GOLD: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, on the bill.

SENATOR GOLD: Yes, just to make some comments. Senator DeFrancisco, you really want it both ways. You said that the Assembly hasn't put their cards on the table, but you say in the presence of the press that they want to spend a billion eight more. I don't know where you get that from if their cards are not on the table.

And the other thing which bothers

me more than anything is that your party wants to have it both ways again. You say that you will vote for this budget which, by the way, may hurt the city of Syracuse. You accuse the Assembly of wanting to increase the budget, but if that turns out to work, they're going to say you're spending and you're not going to walk around saying, you know, "I wanted fiscal restraint, and I would have voted for a budget that was much less but, believe me, don't worry, in the final budget we're O.K.," and you're not going to say we're O.K. because Sheldon Silver and a bunch of Democrats forced us to put up the money to pay the $338,800.

You're not going to do that. You as usual, and I mean you as the Republican Party in general, you as usual want to come in and tell the people you have a very low budget and then you sit there and you pray and you have your fingers crossed that the Democrats will put in the money that you need to go home and fund your projects.

But let me ask, Senator Rath,

would you yield to a question?

SENATOR RATH: Sure will, Senator.

SENATOR GOLD: Senator, I know all about this administrative hocus-pocus, but the fact is you've heard all this debate and I know you're sitting as the Acting Majority Leader and doing a wonderful job and should be there more often, but West Genesee, Senator, West Genesee spent $32,907 because you and I as a team, a dynamic team, promised them that, if they spent the money, we're going to give it back.

Have they told you how they're going to make up that loss of money?

SENATOR RATH: Well, Senator, I'm assuming that you would think that West Genesee considered us mean spirited, and I don't think they considered us mean spirited. I think that they know that, if we had made a promise that when revenues start to come in because business stays in New York State and expands in New York State, that indeed we're going to have an

opportunity to make good on that, and I believe they believe us and we believe them.

SENATOR GOLD: So, Senator, if you'll yield to one more question.

ACTING PRESIDENT KUHL: Senator Rath, do you continue to yield? Senator yields.

SENATOR GOLD: What you're telling me, Senator, is that this budget ain't the real budget. What you're telling me is that we're putting out a budget, but the genius of this budget is so apparent and so phenomenal that within days, maybe within hours or certainly within weeks or months, we're going to see a flow of money in this state so phenomenal that we'll be able to come back and do more spending because the only way you can get the money, Senator, is to do those two magic words, do more spending.

SENATOR RATH: Senator, the more spending, as you look in your crystal ball, I think, is something that you would subscribe to, I would subscribe probably after we've taken our

responsibilities to heart by paying up some of these previous commitments, that we would cut taxes again and hopefully continue an upward spiral into a wonderful future that we all look forward to in New York State.

SENATOR GOLD: Good. Thank you, Senator. I didn't quite plan that.

Senator Tully, would you yield to a question?

ACTING PRESIDENT KUHL: Senator, Tully, do you yield to Senator Gold?

SENATOR TULLY: Why not, Mr. President?

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Yeah. Senator - Senator Tully, I had a very good friend years ago and he used to live in Patchogue, and he hasn't called me for a while, but I would imagine that I might get a call with this budget because we promised Patchogue that, if they did some school maintenance work, we'd pay them a sum of money and, based upon that, they have

already spent -- already spent $72,000.

Now, do you know how the Patchogue budget is -- is geared to make up that 72,000 that we are not giving them now that they've already spent because of our promise?

SENATOR TULLY: Mr. President, I have trouble spelling Patchogue. Never mind indicating where it is. It's not in my county. It's in Suffolk County, but I think that they - it's an indication of Senator Gold's great knowledge of geography that he can move from places in the Adirondacks to places in the City to places in Suffolk County, and he is regaling and entertaining us for, I guess we have another hour or so to go through this routine, but it is entertaining. I'm finding myself really entertained by the whole thing but, if you do know the answer to the question, Senator Gold, I'd be delighted to hear it from you.

SENATOR GOLD: O.K. Senator, first of all, I didn't do some of this work. I was told that it was in your district. Maybe it's in Senator Trunzo's, but -- and I can't

answer for Patchogue with specificity, but in a general way, I assume they are going to have to either cut back on their road maintenance or have to cut back on their schools or on their police because they can't make up spent money from monies that they're going to need to do their continuing effort, particularly if we keep cutting our aid to localities, and I guess maybe in Patchogue, the real estate taxes are going to go up, but maybe -- let me see if I have a - well, Senator Holland, I -- would you yield to a question?

ACTING PRESIDENT KUHL: Senator Holland, do you yield?

SENATOR HOLLAND: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: First of all, Nyack, am I in the right place?

SENATOR HOLLAND: That's mine, yes.

SENATOR GOLD: I mean I did write these notes; you see I am educable.

Senator, I know Nyack and as a matter of fact, there's a few interesting restaurants there. But $36,800. Has Nyack indicated how they're going to make up the money we don't pay them that they've already spent on your promise and my promises?

And I made the promise only because of you. I said, "If Joe Holland says you're going to get that money, there's a man after my own heart, they're going to get the money."

How do you explain that?

SENATOR HOLLAND: Can you tell me what the 36,000 is for?

SENATOR GOLD: Yes, it's for school maintenance where we passed monies in our budget and said if you spend this money we will pay it back to you and, now, I'm not talking about the school maintenance money, Senator Holland, that they didn't spend yet, which we did promise them, but I'm just saying if you called up tomorrow and said, Hey, stop, stop, don't spend another penny, we can't give it to

you, they would say, Fine, I won't spend another penny, Senator. But, Joe, our dear friend, where's our check for $36,800?

What do you say to them?

SENATOR HOLLAND: I would say, Senator, that they have to cut just like everybody else does. I believe, and I would like to get the schools as much money as I possibly could, as you heard in the debate, the welfare debate yesterday. However, we are cutting at the federal level, we are cutting at the state level, and I believe it also has to be cut at the school level whether it is secondary education, or senior education.

SENATOR GOLD: O.K. All right. Well, Mr. President, on the bill. I -

ACTING PRESIDENT KUHL: Senator Gold on the bill.

SENATOR GOLD: I have an amendment that's been served and basically the amendment would restore -- yeah, in a minute.

SENATOR STAFFORD: Mr. President, Mr. President. Will Senator Gold yield?

ACTING PRESIDENT KUHL: Senator Gold, would you yield to Senator Stafford?

SENATOR GOLD: I mean I'm over whelmed but, of course, I will.

SENATOR STAFFORD: Only time I've ever asked you to yield.

ACTING PRESIDENT KUHL: Senator yields.

Senator Stafford.

SENATOR STAFFORD: Do you know that this was all in the budget last year, these questions you've been asking about these various districts, did you know that this bill will be alive and the money is there if the -- if the Division of the Budget pays it out? You do not need an appropriation.

SENATOR GOLD: Well, Senator, what I do know is that we're talking in terms here, I think, it will reappropriate.

SENATOR STAFFORD: Reapprop riation.

SENATOR GOLD: Well, Senator, I believe we absolutely do need the reappropria

tion because the fact of the matter is that if you're telling me that the Division of the Budget can just pay out monies, I'll tell you that that would cause such havoc in this state that I can't begin to tell you because at what point do they decide on reappropriations to pay or not, and we have always done the reappropria tions by way of the budget, and the one thing which I do not believe in, Senator Stafford, I do not believe in, is these kind of bulk things where a bureau of the budget can do what the Governor wants for political reasons in certain places rather than the Legislature taking the initiative, but I'm offering this amendment which is only the reappropriation for $27 million already spent.

Now, I'm very concerned about one of your members, a new member, Senator Marcel lino -- you don't have to yield, but I'm con concerned about you, sir, because your prede cessor promised Hicksville $57,000 and, Senator Marcellino, I don't think it's fair for you to have to go back there and say to those people,

"I just got elected and the first thing they did is they took the money away from us, and you got to raise your property taxes," and I want to save you from that because I think you deserve that, but this $27 million, as I am informed, most of it, over 20 million of it goes to upstate New York and Long Island, and all around the state, and this is not something where you're going to walk around and say, "I voted against it because I'm not throwing your good taxpaying dollars down into New York City."

Believe me, if my amendment passes, you will get a better deal out of this dollar in upstate New York and on Long Island than we'll be getting in the City.

But honor is honor. Honor is honor, and yes, we sometimes make mistakes and yes, there are situations where we can correct those mistakes, but you don't correct the mistake by promising localities money, having them spend that money and then say, "I was only kidding." That is one of the worst things we can do, and you talk about -- about fiscal

theories and fiscal responsibility. Fine. Come in with a budget and trim that budget, do anything you want to do, but don't take localities and say that not only are we going to be giving you less money for your future budget but that future budget is going to have to make up for money which I told you you would have to spend.

As a matter of fact, under the statute, I'm not sure, they may have even had an obligation to do this work based upon our putting up the money.

So, Mr. President, I thank everybody for their patience, but the bottom line is that this kind of a budget as I was trying to make the point with Senator Stafford, the Capital Projects Budget contains promises for the future and the localities in this state took that promise and said, O.K., you're promising in the future to pay me back that money, I'll spend the money. That's what they did, and no matter what else we do, we should honor our word to those localities.

ACTING PRESIDENT KUHL: Senator Onorato, why do you rise?

SENATOR ONORATO: Senator Gold, do you yield to a question?

ACTING PRESIDENT KUHL: Senator Gold, do you yield to Senator Onorato? Senator yields.

SENATOR ONORATO: As you know, I'm not a graduate of Cornell University or any other university in this state, so I'd like to ask perhaps a layman's question. What you're telling us here now that last year the Legislature made a contract to give these people X amount of dollars to spend. Some of the money they spent already based upon the good faith of the New York State Legislature passed this law guaranteeing this money.

Now, at the end of the year they tell them, they're not going to get that money because we're in trouble. What guarantee do you or anybody in this room now tell me regardless of what amendment you're putting through or what bills that we're passing here that anyone can

project in the future to start spending money on any capital improvement that we pass in this house of the Legislature? How can anybody spend anything? This is all "if" money what you're telling me right now.

SENATOR GOLD: What I'm telling you, Senator, and I'm glad you pointed it out, is that for years, and I think it was started under the Rockefeller administration, we had borrowing that was constitutionally satisfactory and we had other kind of borrowing, which said, you know, Look, we can't legally do it, but we're winking our eye and you can do it. The answer is, Senator, that in the budget process there has to be trust, and you're exactly right if you can pass a budget that says that in the future, we're doing this; this is our plan, go spend the money, and if you can withhold this 27 million, I don't know whether you can believe us about anything.

SENATOR DOLLINGER: Senator Gold, would you yield to a question?

ACTING PRESIDENT KUHL: Senator,

will you yield to Senator Dollinger?

SENATOR GOLD: Yes.

ACTING PRESIDENT KUHL: Senator refuses to yield, Senator -- oh, I'm sorry; he changed his mind. Senator Gold yields.

SENATOR DOLLINGER: Senator Gold, you mentioned a series of school districts, none of which at least that you've read were in Democratic districts in the Senate, and my question to you is, I mean if you were trying to advance the theory that the Majority in this house were one of the groups that had contrib uted to all of that additional spending in the last ten years by the state of New York, would it be a fair conclusion that you could draw that, when that money was allocated throughout the state, that the Republicans in this house were among the first to be at the trough so that their districts would benefit from all that excess spending that Dr. or that Senator DeFrancisco talked about?

I mean that's just a theory, but is there any credence to that theory?

SENATOR GOLD: No, I'll tell you what there is credence to, Senator, which you might find interesting.

It's very easy in this particular chamber where, based upon the geography of the Majority, to kick around the city of New York. Under the original bill with $62 million at stake, the city of New York was to receive the bulk of that money, so now I see the ears lighting up.

The city of New York was to receive the bulk of that money and that was in exchange for obviously other items in the budget. But the city of New York did not go out and spend. Maybe they knew better about the character of this Legislature because the city of New York spent only a minor part of that money.

What my amendment does is offer to save my colleagues in your Republican districts, and the reason I was reading off some of these names, and I could have read Skelos and Wright and Levy and Sears and Libous and Padavan

and Senator Stafford, I spoke to, but the point is that, if this amendment were to pass, it's your districts that we would be taking care of. That's where the biggest promises are being broken, so this isn't me coming in and saying, "Guys, you know, you've got your part of the pie; give me my part of the pie."

I'm not saying that. I'm saying that my conference contains people of honor and if it turns out that I offer an amendment and it does some good for some Republicans, I can't help that, what's right is right.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Gold will yield?

ACTING PRESIDENT KUHL: Senator Gold, do you continue to yield? Senator continues to yield.

SENATOR DOLLINGER: If I understand your answer to my question, Senator Gold, the answer would be yes, it would give credence to that theory, is that correct? The theory that those who are spending the money, the public's money, were the Majority in this

district and not the Minority.

Excuse me. You need to confer, please?

SENATOR GOLD: Yes.

SENATOR DOLLINGER: Thank you. Just one other question to Senator Gold if he won't yield for just one other question.

ACTING PRESIDENT KUHL: Senator Gold, do you continue to yield?

SENATOR GOLD: Yes.

SENATOR DOLLINGER: Is it fair to say, Senator Gold, that that $32 million in failure to reappropriate actually represents what I consider a first in the Senate that we are actually defunding a mandate? We will actually have unfunded mandates and we will have defunded mandates. Is it fair to say this is a defunded mandate?

SENATOR GOLD: The answer is, Senator, it's $27 million and -- and your characterization of it being defunding a mandate may actually be true. I can't tell you it's the first time we've ever done it. I can tell you I

don't remember us ever doing it again. I can not conceive of -- I don't ever remember Earl Brydges, Warren Anderson or anybody else who happened to have been the leader of this house coming in and saying that they were apologetic because for some reason we've had to cut back on a promise.

I certainly know that there have been times when we've cut programs and said, in the future we will not have this program, but the point I was making to Senator Stafford, which he did not want to give me an answer to for whatever reason, is that capital construc tion and these kind of programs are different because they are dealing with edifices and buildings and roads and, therefore, it's different projections than a program where you can fire an employee or whatever.

So I think it's the first time I remember, Senator, but I am not qualified to say we never did it. I don't think we did it.

SENATOR DOLLINGER: Again through you, Mr. President, if I could just clarify.

ACTING PRESIDENT KUHL: Senator Gold, do you continue to yield?

SENATOR DOLLINGER: As I interpret your answer, Senator Gold, and I do this all the time with my colleagues on the other side of the aisle, so I apologize for my not quite comprehending, but it is safe to say that we're $32 million worth of -

SENATOR GOLD: Absolutely, that's right. 27.

SENATOR DOLLINGER: 27, thank you.

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

SENATOR GOLD: I don't know, I never offered my amendment.

ACTING PRESIDENT KUHL: No, you never did, Senator.

SENATOR GOLD: Oh, I thought, and then I got distracted for a moment by Senator Stafford.

Mr. President, I offer the amendment which has been served and waive its

reading. I've explained it. It's basically a restoration of the 27 million, and at an appropriate time, I'd ask for a vote.

ACTING PRESIDENT KUHL: I am in formed by the Secretary at the desk that there is an amendment here. We will, without objection, waive the reading of it.

Is there anybody who wishes to speak on the amendment? Hearing none -

SENATOR STAFFORD: Just -

ACTING PRESIDENT KUHL: Senator Stafford, on the amendment.

SENATOR STAFFORD: Yes, when we get in these debates sometimes there are some vagaries or vicissitudes that confuse us.

I would point out, as I did earlier, that it was considered to, in effect, repeal the entire appropriation in the deficiency budget. It was not done and it is in the New York State Finance Law that, when there is an appropriation, it is alive if the Division of the Budget wants to fund it, for about three months after the end of the fiscal year.

Now, we have to consider all priorities. It's no -- this obviously is something that has to be considered. We have to consider everything, but at the present time we feel this is a budget that is solid, and I would say that we should stay with the budget.

ACTING PRESIDENT KUHL: Senator Paterson, why do you rise?

SENATOR PATERSON: Would Senator Stafford yield to a couple questions, please?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to Senator Paterson? Senator yields.

SENATOR PATERSON: Senator Stafford, I just don't understand the -- most of the -- most of this capital bill is reappropria tions. We were just speaking about a particular part that was left out, and so either I'd like you to tell me specifically why it was left out or I'd like you to just tell me why it's not in.

SENATOR STAFFORD: Well, I think again, it's a priority but you'll find if you

want to get confused, just work with a budget, any budget. Any budget. But as I said, this is a priority. It's something that I'm sure will be considered that when we put it all together and I've stated that as of this date, it is still alive and will be and we think we have included what we feel are the prior... real priorities.

ACTING PRESIDENT KUHL: Senator Oppenheimer on the amendment.

SENATOR OPPENHEIMER: I would just like to get on record that I have one -- I have something like a dozen school districts that have spent some money in reliance that we were going to be funding a certain share of - of the construction projects.

We are facing very large increases in student population in my county. Our county is second only to New York City in the rapid growth of youngsters coming into our school system and in the following communities, Harrison, Mamaroneck, Mount Pleasant, New Rochelle, Ossining, Pleasantville, Pocantico,

Port Chester, Rye, Rye City, Rye Neck, Scarsdale, Tuckahoe and Valhalla. In each of these school districts they have moved ahead with projects and they now are going to find themselves with some serious holes in their budget if we are not going to pay the money that we had said we would repay when they first entered into these contracts and did this building.

So I am certain I am not the only Senator with many school districts that have expanded, and I really wonder what we are going to say to them when we go back on our commitment and how in the world are they ever going to trust us in the future?

ACTING PRESIDENT KUHL: Senator Dollinger on the amendment.

SENATOR DOLLINGER: Mr. President, I'm going to vote in favor of this amendment because this amendment starts the avalanche. It's now going to start all my colleagues, just wait and see, because the follow-up to what Senator Oppenheimer said is,

you know, what they're going to do, Senator Oppenheimer.

They're going to raise property taxes, and this is the start. The one thing that this Governor promised is that we would not dump the cost of these kinds of services from the personal income tax and the business taxes which are broad-based taxes and which everyone pays and force them on our most regressive tax, a property tax.

Here is 27 million right off the top. It starts now. We're going to do it for the next week. We're going to continue to take things that we've promised people to do. We've told them that we've raised them through broad based taxes, and we're going to dump them on those regressive property taxes.

It starts today. This is the first salvo. Senator DeFrancisco says regulatory reform will allow them to save this money. Don't believe it for a second because, if you do, you're going to find that that's not going to be the way to save money and we're

going to start dumping costs and dumping expense from the state budget and from broad-based taxes into regressive property taxes even though the Governor said we wouldn't do it. That's another promise he won't keep.

ACTING PRESIDENT KUHL: Chair recognizes Senator Tully.

SENATOR TULLY: Yes, Mr. President. Would Senator Dollinger yield to a question?

ACTING PRESIDENT KUHL: Senator Dollinger, would you yield to Senator Tully?

SENATOR DOLLINGER: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR TULLY: Yes, Mr. President.

Senator Dollinger, I take it you've read the amendment in detail?

SENATOR DOLLINGER: I have not read the amendment in detail. I heard Senator Gold's explanation of it.

SENATOR TULLY: But like the

amendment because Senator Gold said something nice about it.

SENATOR DOLLINGER: Well, the way Senator Gold explained it, it seemed good to me.

SENATOR TULLY: Perhaps, Senator Dollinger, you could tell me where the $27 million is going to come from.

SENATOR DOLLINGER: Excuse me?

SENATOR TULLY: Where is the $27 million dollars to take care of the amendment going to come from? Is that specified in the amendment that you're supporting?

SENATOR DOLLINGER: I don't believe it is, Senator, and my understanding is that there is $350 million in additional revenue in this state which the Governor of this state, the Speaker of the Assembly and Senator Bruno have agreed is excess funds. That $27 million is no less than a tenth of that. My opinion certainly would be it could easily come out of that. We could afford that. We've all agreed we've got that kind of money available.

SENATOR TULLY: Mr. President. I understand, Senator Dollinger, that that's your opinion. That money, as you know, has already been earmarked on a three-way agreement between the Governor, the Speaker and the leader of this house. That money has been earmarked.

Now you're finding another $27 million, and you don't know where it's going to come from, but you're supporting an amendment that calls for the expenditure of $27 million dollars, and you have no idea where the money comes from?

SENATOR DOLLINGER: O.K. Again through you, Mr. President, in response to the question.

ACTING PRESIDENT KUHL: Senator Tully, you're asking Senator Dollinger a question?

SENATOR TULLY: That was a question.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR TULLY: Do you have any

idea where the money comes from?

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: My understanding is, Mr. President -- I'm not privy to the agreement between the Governor, the Speaker and Senator Bruno. I would love to be privy to that. If anybody has got an invitation, please extend it to me. I'd be glad to be a part of the discussion.

But my understanding is, Mr. President, if we had an agreement on where the 315 or $350 million would be, we'd have this budget solved. It would be all over and done with. My understanding through counsel is that there is no such agreement and, frankly, there's $350 million sitting there which is now being fought for between various parts of this Legislature over what we ought to do with it.

My opinion is, I agree with Senator Gold, take $27 million of it, keep our pledge to our school districts to give them the money and keep the most important promise of all

which is that we wouldn't dump costs on local school districts. We promised people we wouldn't dump our costs, our promises, break our promises and dump our costs onto local property taxes.

I vow, and I guarantee, if we don't put this money back in, Senator Oppenheimer's districts are going to raise taxes, Senator Stafford's districts are going to raise taxes because they already spent the money and they got to find some other way to do it. They don't have access to broad-based taxes like we do to be able to afford it.

ACTING PRESIDENT KUHL: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, which of the Senators, between Dollinger and Tully, has the floor?

ACTING PRESIDENT KUHL: Senator Tully does.

SENATOR PATERSON: Well, then, would Senator Tully yield for a question?

SENATOR TULLY: I hadn't

completed my questions to Senator Dollinger. I'll be glad to after I complete the question to Senator Dollinger.

ACTING PRESIDENT KUHL: Senator Dollinger, do you continue to yield to Senator Tully?

SENATOR DOLLINGER: I will continue to yield and then allow Senator Paterson to ask his question of Senator Tully.

SENATOR TULLY: Yes, Mr. President.

Senator Dollinger, how much of the additional $1.8 million dollars, $1.8 billion that Speaker Silver wants to put in the budget is accounted for by this $27 million?

SENATOR DOLLINGER: I don't know. I'm not privy to the fact that Senator or that Assemblyman Silver wants to put $1.8 billion -- again, Senator Tully, you're asking me to comment on negotiations that I'm not privy to. I'd be more than happy to participate. I have a feeling the participants may not want me there.

SENATOR TULLY: But I do understand -- Mr. President, if the Senator will continue to yield.

ACTING PRESIDENT KUHL: Senator Dollinger, do you continue to yield?

SENATOR DOLLINGER: I will, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR TULLY: I understand that your leader in this house has been privy to those negotiations; is that not so?

SENATOR DOLLINGER: It is true, yes, Senator, and I appreciate Senator Bruno's invitation to Senator Connor to do that for the first time this year; I think that's a good omen.

SENATOR TULLY: Do I take it that the time comes when you have not been informed by your leader as to what's going on in the negotiations?

SENATOR DOLLINGER: Excuse me, Mr. President. I apologize to Senator Tully. I

was having something whispered in my ear, and I did not hear the question. Would you repeat the question?

SENATOR TULLY: Let me see if I can consolidate the question in one form or another. Again, Mr. President, if the Senator continues to yield.

ACTING PRESIDENT KUHL: Senator Dollinger, do you continue to yield?

SENATOR DOLLINGER: I do, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR TULLY: In response to my initial question, you indicated that you were supporting this amendment for the expenditure of $27 million without knowing whether or not there was any specificity for the funding of that contained in the amendment because you only heard Senator Gold speak of it.

Now, I further find from you that you have not been advised by your leader, who is part of the negotiations, as to how this

expenditure of funds of the extra 300-and-some odd million was to be spent. You don't know about that?

SENATOR DOLLINGER: No, I -- Mr. President, let me make sure Senator Tully understands my prior answer.

What I said was that, as I understand the current budget negotiations there is an agreement there is a sum of money available for covering costs. That cost could be costs that have already been incurred by local communities such as this one, or it could be used, rolled over into next year to fund costs through '95-96. My understanding is that the reason why we don't have a budget today is because the -- the leadership which is negotiating that issue have not reached a conclusion on how to spend that money.

What I am suggesting, I support Senator Gold, wherever he is, Senator Gold's amendment, which is there's 350 million available. This is something, a classic example of where we made a promise last year, where this

Legislature, acting pursuant to its constitutional power with the Governor who acted pursuant to his constitutional power, said, We're going to promise all these local communities this much money in schools. Why? Because they desperately need it. They needed it so desperately that they went out and spent it simply in reliance upon our promise, fool hardy that they were.

What I'm suggesting now is that we take 27 million of that $350 million and that we put it into fulfilling this promise so that we don't break our big promise to them, which was to tell them to go ahead and spend it in reliance on our promise and, when they spent it, tell them that they got to raise it through their property tax.

That's the complicated answer to your question, Senator.

ACTING PRESIDENT KUHL: Senator Tully.

SENATOR TULLY: Just finally again, and if Senator Dollinger will continue to

yield.

SENATOR DOLLINGER: Yes, I will, Senator.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR TULLY: You're still saying that you support the expenditure of $27 million without knowing where that money is coming from; is that correct?

SENATOR DOLLINGER: Mr. President, I've explained it before. There is a pot of funds, I am willing to take $27 million out of that pot of funds.

I would only point out that last year, although I didn't vote for the budget, so I guess that's a bad example, but I was going to say, the Majority of this house said we should spend that money. We had the money last year. Where did it go? It's now contained in that $315 million dollars that we didn't spend last year that we now have available. Let's fulfill our promise here and spend it here. That's all I'm saying, Senator.

SENATOR TULLY: It's really remarkable to me, Mr. President, that Senator Dollinger, who was against it last year, suddenly is in favor of it this year.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Connor.

SENATOR CONNOR: Yes, I heard my name mentioned before and I wanted to set the record straight. There was a five-way agreement that there is $300 million in additional revenues next year. There is no agreement about closing this year, but the Comptroller tells me that funds are coming in in record amounts as we speak this very week.

The Governor agreed that there's at least $35 million in additional revenue from the lottery. There was hundreds of millions of dollars in additional available funds put on the table in the negotiations by Senator Bruno, and the only leader I ever heard in those meetings ask for more spending was your leader, Senator Bruno. Assemblyman Silver never asked for

additional spending. I don't care what you read in the paper or what the Governor's spin masters put in the paper about 1 or $2 billion. There was no request for additional spending for a simple reason. The Speaker kept saying before we can discuss spending, we have to have a total agreement on what the available funds were, because we don't want to talk about spending any money. We don't want to talk about spending any money, that we don't know, that we don't agree is there in revenues or other available funds, including estimates of expenditures on some fixed programs as the Governor -- the Governor proposes to spend. That's where the negotiations were.

Now, we have a one-house budget coming out piecemeal in this house where, according to a press conference I heard Senator Bruno and the Governor say there'll be 350, I think it was, million dollars in additional spending. No one's provided numbers to anyone including the press about where that money will be spent, nor do we have the bills in front of

us. We have this bill and I'm told there'll also be another bill ready at midnight tonight for tomorrow.

So your leader has said, the Majority Leader of this house says there's additional money being spent and he won't say where it's being spent, and we don't know where it's being spent. This amendment is an attempt by Senator Gold and his colleagues to say where we think 27 million of that 350 million that you say is there, and that you, the Majority and the Governor, say they're going to spend ought to be spent. We think it ought to be spent to relieve from the local property taxpayers the burden of paying for these expenditures that they already made because of you passed last year.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would Senator Connor yield to a question?

ACTING PRESIDENT KUHL: Senator Connor do you yield to Senator DeFrancisco? Senator yields.

SENATOR DeFRANCISCO: You mentioned that Speaker Silver had not agreed to any additional spending because there was no closure on the -

SENATOR CONNOR: He hasn't asked for any spending, Senator.

SENATOR DeFRANCISCO: Excuse me, Speaker Silver hadn't asked for additional spending because he wanted to get closure on the issue of what the additional funds were before he spent them.

SENATOR CONNOR: Absolutely. That's way you balance a budget, Senator.

SENATOR DeFRANCISCO: I understand that. Now, can you tell me what Speaker Silver's position was as to the available revenue, in addition to what the Governor's available revenue?

SENATOR CONNOR: Well, Speaker Silver's staff put an estimate on from available one shots, most of which were suggested by Senator Bruno, that I understand came out to about a billion dollars. His estimate of those

items Senator Bruno suggested was a little higher than Senator Bruno's estimate, which was, I think, $800 million or maybe $750 million because Senator Bruno came up with the one shots like selling state land, and so on. That's one area.

Another area is the re-evaluation of certain costs as proposed by the Governor, in other words not talking about adding to Medicaid, just saying the Governor wants to do -- proposes this much Medicaid, and we think that number of patients, those services will cost slightly less than their estimate.

That particular item was based on the fact that last year the Assembly had felt that the executive, different executive, same methodology, I might point out, had under estimated -- had over-estimated that Medicaid expenditure by 300 million. The executive accepted a hundred million, the executive and the Majority in this house accepted a hundred million, and the end of the year results were that the formula run through the program in the

Assembly computer estimate was accurate and, in fact, 300 million less was spent on Medicaid than had been estimated.

So those are the kinds have calculations that went into determining available funds, but many have those items were put on the table both through fiscal staffs in the Senate and the Assembly as well as the Division of the Budget were examining those projections, and so on, and reached no conclusion about whether they were available, how much they were worth.

As of Sunday when the Governor returned to his campaign rhetoric and decided that he would encourage a one-house bill in this house, and I guess the softener was this agreement where the Governor agreed that your Majority could spend $350 million more. Of course, nobody knows where you're going to spend it, so perfectly fair for us on this side to say spend $27 million to relieve your property taxpayers from these repair costs that were made in the past.

SENATOR DeFRANCISCO: Will the Senator yield to another question?

ACTING PRESIDENT KUHL: Senator Connor, do you continue to yield?

SENATOR CONNOR: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DeFRANCISCO: An aggregate number, was there an aggregate number that Speaker Silver said was available?

SENATOR CONNOR: No, there was no aggregate number. There were categories, most of which were suggested by Senator Bruno a week and a half ago when he wanted to spend a lot more money, and then the -- it was unresolved about that. The Speaker never advanced any requests for spending because we never got to the point of agreeing on the money available. Senator Bruno did say he wanted to spend more money. We never got into the specifics of that either, you know, in fairness to Senator Bruno because there was never any agreement on the

available amount.

I read in the press, the Governor's people are spinning two billion and a billion eight. I never heard those numbers articulated at any meeting of the leaders, nor were they. Items of possible available funds were put on the table. As I say, most of them are by your representative.

SENATOR DeFRANCISCO: All right. Would the Senator yield to another question?

ACTING PRESIDENT KUHL: Senator Connor, do you continue to yield? Senator continues to yield.

SENATOR DeFRANCISCO: So you're saying that Assemblyman Speaker Silver will not get into what spending should be done until there's agreement on available funds?

SENATOR CONNOR: Yes, that's right.

SENATOR DeFRANCISCO: You're also saying that the Speaker has not come up with a figure yet as to what he believes through his estimate, through his staff, as to what the

available funds are?

SENATOR CONNOR: Well, on some items that were put on the table, including ones put on by Senator Bruno, of possible available funds, there were estimates put on by the Assembly and the Senate, as well as, I think, by the Division of the Budget. Those were not generally shared in the meeting. They were kept pretty close to the vest. In fact, I think there was a joint list prepared by the two majorities and submitted to the Division of the Budget. There was then no agreement on the amount.

The Speaker took the position, well, we really can't talk about whether we're -- whether or what we want to restore until we really have a decision on whether these funds are available. I think that's very prudent budgeting.

SENATOR DeFRANCISCO: I have one last question, if you'd yield.

SENATOR CONNOR: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DeFRANCISCO: Did Speaker Silver mention when he might provide what his estimates are for available funding for the budget or how much money he might provide us with what his ideas are for spending. Or when he might provide us with an idea of some bills that his Conference might be willing to put on the floor and debate out in the open like we're doing today?

SENATOR CONNOR: If -- he absolutely did, Senator. In fact, he said he'd be happy to talk about possible spending once there was agreement on the available funds. As I say, he submitted -- his staff submitted estimates. Your majority staff -- Senator Bruno's staff submitted estimates. We had their estimates and the goal was to first negotiate if, in fact, there were available funds beyond the $325 million, $335 million and that was the topic of negotiations when suddenly, for whatever reason, the Governor and Senator Bruno

decided to hit the campaign trail and go back to not negotiating but doing a one-house budget which even this one-house budget I've been told in the press conference I heard has additional spending in terms of hundreds of millions of dollars but they haven't told us where, so I think it's very fair for us to advance a modest proposal of $27 million to relieve local property taxpayers throughout the state of this cost that they incurred relying on our funded mandate. Bad enough the unfunded mandates. This was one that was supposed to be funded and we're reneging on it and saying, You eat the costs. That's what this amendment is about, Senator.

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

SENATOR GOLD: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the party line vote.

THE SECRETARY: Ayes 32, nays 26, party vote.

ACTING PRESIDENT KUHL: The amendment fails.

On the bill. Senator Dollinger.

SENATOR DOLLINGER: Am I next in the line-up of persons -

ACTING PRESIDENT KUHL: No, Senator DeFrancisco is next on the line-up to speak on the bill. You're second to that.

SENATOR DOLLINGER: My apology.

SENATOR DeFRANCISCO: I think everybody on this side of the aisle would love to provide all funding for all things that would be the best things for us individually, and I think the political easy thing to do would be to restore funding for everything and for everybody so that we could go back to our districts, and all the lobbyists and special interest groups that come to Albany can say that that Senator was just a wonderful person. He restored all

the spending; our programs are continuing. It's business as usual, and it's a great day in the state of New York.

But unfortunately that type of thinking is what's gotten us to the position that we are in right now with a $5 billion deficit, and just like I would love to be able to restore everything to my district and every one else would love to restore everything to their districts, the facts of life are that you just can't do it any longer. It's the long range that we're pulling for at this point in time, and the long term means that we want to have a better future so that there are businesses in this state, there are individuals, small businesses in this state as well, that are going to be able to be productive, create jobs so that individuals can work rather than to be dependent on the state on one of the programs that unfortunately might have to be cut.

I'm certain that there are going to be restorations in other areas as the negotiations go on, but I think it's crucial for

us at this point in our negotiation within a few days of April 1 to put some cards on the table and, according to Senator Connor, we still don't have a position yet from the Assembly as to the spending that they intend to ask for. The Assembly has not given us any idea of what they believe to be the available funds even as yet, and we're hours away from the final bell in this negotiation process, and I think it's incumbent on us to start passing bills, to present a position out in the open for public debate, for scrutiny, for criticism, so that we look bad in our districts because we have this concept that we want to be fiscally prudent, so that maybe this time next year we aren't in the same position and we aren't this way five years from now showing that we have still again reduced funding for education because other parts of the budget are eating away the available revenues in this state.

There are going to be restorations and I believe that we're going to hear about some of them in additional budget

bills that will be discussed on the floor as early as tomorrow. The fact of the matter is that it is crucial on each of these budget bills to follow that philosophy that we talked about this morning to make certain that spending is reined under control so that the short-term pain that all of us are going to recognize turns into a long-term gain for this state and we finally turn the corner to prudent fiscal responsibility and to a brighter future for generations to come.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I have a couple questions; I'm not sure who to ask them of. They relate to other projects that were in the budget last year but are not apparently in this capital part of the budget.

ACTING PRESIDENT KUHL: Senator Stafford, would you yield to a couple questions from Senator Dollinger on the bill?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator Stafford yields.

SENATOR DOLLINGER: Like to find out, through you, Mr. President, what happened to the -- the Nassau County Natatorium?

SENATOR STAFFORD: I have stated from the beginning that we've had requests, we've had priorities. We had to determine who would be in this particular budget. Now, I've been here long enough to know that just because one bill doesn't contain a project doesn't mean that another will -- will not contain or will contain it.

There's no question that there will be various ongoing issues discussed. I've never seen a budget passed that we didn't have a clean-up bill, and the longer you stay here, the more you realize that that clean-up bill is important. So that's where we are at the present time.

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

ACTING PRESIDENT KUHL: Senator

Stafford, do you continue to yield? The Senator continues to yield.

SENATOR DOLLINGER: Can I assume, because the Nassau County Natatorium is not in this budget that, when we finally have the budget approved, there will be no money for the Natatorium?

SENATOR STAFFORD: I -- I guess if I was going to make a broad stroke with a conceptual brush, so to speak, a general statement, I would caution anybody on assuming anything here during the legislative session, the budget, or exactly what is going to pass or what isn't going to pass or what is going to be included or what isn't going to be included, because that can change.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Stafford will continue to yield.

ACTING PRESIDENT KUHL: Senator Stafford, do you continue to yield?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: Senator

continues to yield.

SENATOR DOLLINGER: Senator, that was Senator Marino's pool, was it not? I mean that was put in the budget because it was in Senator Marino's district, was it not?

SENATOR STAFFORD: I'm going to be as kind as I can at the present time. You have all sorts of ways of debating. We all have our swords. We all poke at each other, but think. Just think before you talk.

SENATOR DOLLINGER: Well, again through you, Mr. President, I appreciate the advice from Senator Stafford.

I -- my intention here is to simply find out there's no money in this budget for the Natatorium as it currently exists. Where -- can we assume that, since that was an item that was put in there at, I think it's safe to say perhaps at the request of this house, that we're passing a budget today which doesn't have it, that we'll never see the pool again?

SENATOR STAFFORD: I'll go through my answer again on assuming. It's very

difficult to assume here in the Legislature. You have 211 legislators. You have a governor and various decisions are made. They're sometimes changed the next day. We all realize that there are various concerns, and I would say to you again, I wouldn't assume anything.

SENATOR DOLLINGER: Well, again, through you, Mr. President, if -

ACTING PRESIDENT KUHL: Senator Stafford, do you continue to yield?

SENATOR DOLLINGER: We know that Governor Pataki railed against the pool during the campaign. We know that this budget does not include the pool, and for the life of me I can't figure out any reason why the Assembly would go to bat for a pool that was put in originally at the request of a member of this house, and my question is, is it safe to assume that, since there's no one in favor of the pool, that there'll be no pool in the final budget?

SENATOR TULLY: Mr. President.

ACTING PRESIDENT KUHL: Senator Tully, why do you rise?

SENATOR TULLY: Mr. President, will Senator Dollinger yield for a question?

SENATOR DOLLINGER: Mr. President, I'll be glad to yield after Senator Stafford answers my question, if he would.

SENATOR STAFFORD: Would you go over that again?

SENATOR DOLLINGER: Well, again -

ACTING PRESIDENT KUHL: Do you wish to go over that again, Senator Dollinger, or would you yield for a question from Senator Tully?

SENATOR DOLLINGER: No, I'd like Senator Stafford to answer the question. Then I will yield.

ACTING PRESIDENT KUHL: All right.

SENATOR DOLLINGER: I'm just trying to find out, Senator, is it safe to say there will be no Natatorium in the final budget because the Governor is against it; he talked against it throughout his campaign; it was

proposed by this house and added to the budget. It's not in this year, therefore, it's not going to be a part of this budget, and there's -- the best I can tell, no reason for the Assembly to add the pool into the budget.

SENATOR STAFFORD: Well, first, I've given you my position on assuming, so you know you have that.

SENATOR DOLLINGER: Right.

SENATOR STAFFORD: And as far as the Assembly goes, I don't think any of us can speak for the Assembly -- for the Assembly. In fact, they're not -- they're not even speaking for themselves, and you want me -- you want me to -- you want me to start sharing with you what is going to do -- what they're going to do over there.

What I would suggest you do is get on the phone. Do you have any -- I can't ask you but, if you have anybody over there in the Assembly that you communicate with, I'd ask them.

SENATOR DOLLINGER: If they want

a pool?

SENATOR STAFFORD: Well, you asked me if they were going to consider it.

SENATOR DOLLINGER: Well, best I can tell, no one from the Assembly has ever talked about putting a Natatorium on Long Island. That was a project which originated in this house, and my question is, is it safe to assume the Governor doesn't want it? This house -

ACTING PRESIDENT KUHL: Senator Stafford, do you continue to yield?

SENATOR STAFFORD: I believe in the course of business here, my colleague was going to ask a question and then, of course, I'll be glad to continue to yield. I guess my question, or your question, I would only say, if you're trying to determine whether there's going to be an item in the budget, I would suggest again here that you talk -- be glad to have you talk with me or what it is as far as the priorities, and I'm sure that we can keep you up to speed.

If you're going to ask about the Assembly once again, I'd say the best place to go is -- is the Assembly. Now, with that, I guess you had wanted to ask a question.

ACTING PRESIDENT KUHL: Senator Tully, why do you rise?

SENATOR TULLY: I would ask if Senator Dollinger would yield to a question.

ACTING PRESIDENT KUHL: Senator Dollinger, do you yield to Senator Tully?

SENATOR DOLLINGER: I would be glad to yield. I have other questions for Senator Stafford, but I'd be glad to yield.

ACTING PRESIDENT KUHL: The Chair would just at this point remind the members that this debate started at 2:05, so the two-hour limit or the two-hour time limit within which to challenge would be up in about 20 minutes. There are several other members who have a statement they'd like to make, so with that, Senator Tully, Senator Dollinger yields.

SENATOR TULLY: Thank you, Mr. President. Senator Dollinger, would you be

surprised if I told you that the Good Will Games which are the Olympics for handicapped children have been attempted to be sited in many places in this country and reduced to three sites, one of which was New York. The final site was on Long Island in the district of another Senator from Long Island, not Senator Marino, and that this discussion and this pinpointing of that site came about as a result of a discussion by the former Governor, Mario Cuomo, with the editor -- the former editor of NEWSDAY, Bob Johnson in Atlanta, and it was as a result of that discussion that it was brought forward to this house as a potential site not only for handicapped children for their Olympics but as an economic boon for that community, developing jobs and providing incomes, and providing in a sense of providing a site for these people to have their Good Will Games.

Did you know that?

SENATOR DOLLINGER: Mr. President, my understanding is that this was for the Good Will Games, but the Good Will Games

that we talked about and I -- if I'm incorrect, please correct me -- they were the Good Will Games sponsored by Ted Turner, that these involved world class athletes, much as we once did the World University Games up in Buffalo which I won't comment on whether they were successful or proved to be the economic boon. We last year picked up a portion of the tab for having the World University Games there, but my understanding is, Mr. President, that this pool was part of the inducement to try to bring those games to Long Island.

SENATOR TULLY: Well, Mr. President, I would like to clarify that for Senator Dollinger, if I may.

SENATOR DOLLINGER: Mr. President, I'd be glad to yield to Senator Tully to clarify that question.

ACTING PRESIDENT KUHL: Senator Dollinger yields to Senator Tully for a correction.

SENATOR TULLY: The pool was utilized by handicapped children in their

special Olympics, and it was initiated by the former governor and was then brought to the attention of this house and that's how it came to be located in that particular location.

Many other sites were considered in this country. It narrowed down to three. The only one in this state was that site in Long Island.

SENATOR DOLLINGER: Again, through you, Mr. President, if I can just make a comment in response to Senator Tully, then I have a question for Senator Stafford.

ACTING PRESIDENT KUHL: The floor is yours, Senator Dollinger.

SENATOR DOLLINGER: Senator, if that's the case, why isn't it in the Republican version of the Capital Budget? I gather we're not going to have an economic boom in Long Island. Why was it deleted from the budget? Perhaps Senator Tully can tell me why we're debating a capital budget that doesn't have it in. Are we saying goodbye to the Good Will Games?

SENATOR TULLY: Mr. President, I certainly can't speak as to what the leaders have agreed upon in the budget, but I think we all know that Governor Pataki has made it plain that we're not going to spend as much money as we have in previous budgets all under Democratic administrations. For the first time in, I don't know whether it's 20 or 40 years, we're spending less money than we have in a previous year's budget, and many things must fall. This may well be one of them. Hopefully it won't be, but it may well be one of them.

SENATOR DOLLINGER: That addresses the point that I make perfectly. I mean I just point out that there's going to be no pool, right? I mean I can write on here "no pool"?

SENATOR TULLY: Mr. President. Senator Dollinger, if I had my way, there would be a pool because I think it's very significant; it's very important to the handicapped people. It's very important, I think, to show that we care about people with handicaps and to give

them an opportunity to perform in an Olympic setting, and it's very significant that we should do that.

It's certainly not something that we should make a joke out of or play with placards in this chamber.

SENATOR DOLLINGER: I'm not - excuse me, Mr. President, I'm not playing with any placards. I'm just pointing out, can I write it's safe to say the Republican position is no pool?

ACTING PRESIDENT KUHL: Senator Dollinger? Senator Dollinger? Are you asking Senator Tully to yield?

SENATOR DOLLINGER: I apologize.

SENATOR STAFFORD: No. Now -

SENATOR DOLLINGER: No what? There will be a pool or there won't be?

SENATOR STAFFORD: N-o, period. But now let me just share with you, now that you have completed. We had also in this Legislature a few years ago, this Legislature a Senate, the the Assembly and the Governor, we had the World

University Games in Lake Placid, and they were very successful. I didn't want you to feel that there was any question about the games because they were good, very, very good games.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Do I still have the floor, Mr. President?

ACTING PRESIDENT KUHL: Floor is yours.

SENATOR DOLLINGER: Could I ask another question?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield?

SENATOR DOLLINGER: No. Actually it deals with other projects in other districts. Is Senator Goodman here?

ACTING PRESIDENT KUHL: Asking Senator Goodman who doesn't appear to be in the chamber to yield.

SENATOR DOLLINGER: O.K. Perhaps Senator Stafford can answer the question.

ACTING PRESIDENT KUHL: Senator

Stafford, do you yield?

SENATOR DOLLINGER: The current -

ACTING PRESIDENT KUHL: Senator Dollinger. Senator Dollinger. Senator Stafford do you yield?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Thank you, Mr. President.

Now, the proposed budget also excludes $1 million for the Metropolitan Museum of Art. Is it now the position of the Senate Majority that there will be no addition for the south wing of the Metropolitan Museum of Art?

SENATOR STAFFORD: How much money was that?

SENATOR DOLLINGER: One million dollars.

SENATOR STAFFORD: I realize, as many do, that the Metropolitan Museum of Art is one of the finest museums in the world. We're fortunate that we have the museum in New York

City. There has been consideration as far as making these funds available. Again, as I said to you, that's very possible, it's very possible that there will be other bills. I mentioned to you what I called the "clean-up bill" and I've been here in years when we've had more than one.

Have you ever -- excuse me. Will Senator Dollinger yield?

SENATOR DOLLINGER: Mr. President, unfortunately, because of press of time, I know there are other speakers that want to talk, I have just a couple more questions. I don't believe I should yield at this time, Senator. I apologize. I'm trying to get - trying to give other people a chance. I'm going to ask a couple more questions and then I'm going to go.

SENATOR STAFFORD: Mr. President.

SENATOR DOLLINGER: I don't have to yield, do I? I've got the floor.

ACTING PRESIDENT KUHL: Senator Stafford, why do you rise?

SENATOR STAFFORD: I just got to once more ask my distinguished Senator from - (Pause-laughter) from Rochester.

SENATOR DOLLINGER: With all due respect, I obviously haven't been as uncomfort able as Senator Gold has been in the last 20 years. I'm trying my best.

Mr. President, can I ask Senator Bruno a question?

ACTING PRESIDENT KUHL: Senator Bruno, do you yield to Senator Dollinger?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR BRUNO: Wonderful.

SENATOR DOLLINGER: Senator, there is a project which I believe is in your district at SPAC, the Saratoga Performing Arts Center. We have authorized $3.9 million. My understanding is that SPAC has already spent $600,000 of that money.

Is it the position of the Senate

Majority as reflected in this bill that there will be no funds for SPAC?

SENATOR BRUNO: When? No funds for SPAC when?

SENATOR DOLLINGER: Well, there's no -- there will be no money for SPAC in the next budget; can we assume that?

SENATOR BRUNO: You know, I think Senator Stafford is about as articulate as anyone in this chamber, and he said very clearly, Senator, you can assume anything you want to. Be my guest. Assume anything you want to.

SENATOR DOLLINGER: But is it safe to say again that you -

ACTING PRESIDENT KUHL: Are you asking Senator Bruno to continue to yield? Senator Bruno, do you continue to yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: It's clearly

the position of this Majority not to give SPAC that money in this budget, if -- Mr. Majority Leader, if this money happened to end up in the final budget that wouldn't be because of anything that the other side of the house had to do. Our colleagues in the Assembly would be entirely responsible for that and should claim the entire credit for that; isn't that fair?

SENATOR BRUNO: Mr. President, if we were talking about what was fair, I guess we wouldn't be having this conversation, because what is really appropriate is to really talk about something meaningful relating to our process here in moving a budget forward.

What we're doing here is moving a budget process forward. We are, Senator, in the light of day, middle of the afternoon, discussing the Senate proposal to do a budget, in broad daylight, and before the public, media present, and we have invited your colleagues in the other house to do the same, so that we can publicly acknowledge who wants to spend what, and I address that to my good friend, who wants to

spend what, and what revenues we want to create, Senator. That's what's going on here.

We are establishing this week what we are prepared to commit to the people of this state by way of spending and by way -- by the end of this Friday, by way of revenue, and by Friday night, if you stay tuned, all of the assumptions that you are making will either be acknowledged or denied by Friday.

So be patient and you will see whether there are swimming pools and whether SPAC's in and whether your funding for the schools that the Speaker is interested in, whether that's in, all of those questions that you've been asking, sometimes rhetorically here, will be answered.

Here is the bottom line, Senator. This house will have passed a balanced, complete budget on March 31st. Your colleagues are going to ask -- going to have to answer to the people of New York State in why they have not passed a completed budget by March 31st, such as it is.

Now, you have some additions you

want to make, be our guest. You're making the amendments. But, Senator, if you don't have a budget by March 31st with your colleagues, then why don't you suggest to the Speaker that he pass this budget and the people of this state will have what they deserve, a balanced budgeted with spending and revenues that will become law on March 31st, and it will be the package that you're going to pass between now and March 31st, Friday.

That's our proposal to you, Senator.

SENATOR DOLLINGER: I appreciate the Majority Leader's sentiments. I'll be real quick to finish.

I assume there's no pool, there's no Metropolitan Museum of Art, there's no SPAC, there's no coastal rehabilitation supp'. All the money that we put in last year for the coast of Long Island -- I don't live there, isn't a big deal to me, maybe a big deal to the members of this body.

I can assume if we pass this

budget, if you pass this budget, that if all these items show up in the budget it's not because the Senate Republicans want them and, frankly, I would hope that none of the news letters, none of the information, none of the press releases that we've been treated to for the last number of years will show up in Long Island or in Saratoga with Senator Bruno's name on it, Metropolitan Museum of Art with Senator Goodman's name on it or anybody on Long Island about the pool because it will be a demonstration that those are all put back by our colleagues in the Assembly and when there's any credit to be given for that spending, it will be simply because our colleagues in the Assembly wanted it.

Can't have it both ways, gentlemen. If you want to pass this budget and somehow all of a sudden these things sneak back in, maybe it will be because the Majority in this house wanted it to appear to the public that it wasn't spending or wanted to go back to the trough as it has before.

ACTING PRESIDENT KUHL: Chair recognizes Senator Marchi.

Senator Skelos?

SENATOR SKELOS: Can you tell me what time the debate began on this bill?

ACTING PRESIDENT KUHL: The debate began at 2:05.

SENATOR SKELOS: Thank you very much.

ACTING PRESIDENT KUHL: Chair recognizes Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Thank you very much, Mr. President. I have a couple of questions of information, and I suppose I should ask Senator Stafford. I'm not sure. I wanted to ask you about the Corrections budget.

SENATOR STAFFORD: I'm sorry. I apologize. I was listening to staff. I should have given my ear.

SENATOR MONTGOMERY: All right, Senator Stafford. If you would yield, I would like to ask you a question about the Corrections budget.

ACTING PRESIDENT KUHL: Senator Stafford, do you yield?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: The Senator yields, Senator Montgomery.

SENATOR MONTGOMERY: The 252 million, does that -- does that include any new construction?

SENATOR STAFFORD: No new construction, Senator.

SENATOR MONTGOMERY: No new construction. Does it include any new facilities?

SENATOR STAFFORD: I'll get your answer to that in just a minute, Senator.

SENATOR MONTGOMERY: And so my assumption is that there may be a portion of it for new facilities, but the largest percentage is for the upgrading -

SENATOR STAFFORD: Yes.

SENATOR MONTGOMERY: -- of the correctional facilities that are already in existence.

SENATOR STAFFORD: Right.

SENATOR MONTGOMERY: And is that 200 -- if you will yield again, does that 250 million include any reappropriation, or is that, the 250 million, is that separate from reappropriation?

SENATOR STAFFORD: No.

SENATOR MONTGOMERY: In other words, that includes reappropriation?

SENATOR STAFFORD: Yes. I don't believe -- I don't believe there are -- there are reappropriations here.

SENATOR MONTGOMERY: O.K. So we have a separate reappropriation based on last year's budget, and we don't have that figure in front of us. I know it's in here, but I'm just -- I couldn't add it all up.

SENATOR STAFFORD: Another 64 million is appropriated -- is reappropriation, I'm sorry.

SENATOR MONTGOMERY: Is reappropriation. So we have about what, 1.2 billion, somewhere around there, in total outlay

for the correctional facilities including reappropriations from last year and in this year's outlay of 250 million.

SENATOR STAFFORD: The -- I want to be accurate, Senator. Your question is obviously the -- a good question. All of the money will not be spent of that 1. -

SENATOR MONTGOMERY: Of the 1.2? Okay. But that is the outlay for the last two years in terms of the prison facilities. Do we have -- do we have any facilities that are in - in progress that have already gone to construction phase-out of 900 million, do you know?

SENATOR STAFFORD: Just one second. This is the quietest I've ever heard it.

ACTING PRESIDENT KUHL: Senator Stafford, just for -- excuse me, Senator Montgomery.

Senator Stafford -- Senator Stafford, if you could just kind of slide that way a little bit, I would -

SENATOR STAFFORD: So when I talk it goes in.

ACTING PRESIDENT KUHL: Yeah, I know. It's tough when there's a member in the back that you want to respond to, but if you could just sort of slide to your left a little bit -- I know it's difficult.

SENATOR STAFFORD: Senator and my colleagues, I apologize. We had a meeting that our staff member was attending. This is -- I hope will make it clear and correct.

There are Friendship, Johnstown, Altamont, Hounsfield and Romulus that are planned and there are appropriations, but there's a question about really whether they'll be built or not. That's what it is.

SENATOR MONTGOMERY: So are those from last year's budget?

SENATOR STAFFORD: They are from last year's budget; yes, they are.

SENATOR MONTGOMERY: Okay. So what is that, five new -- we're looking at five new facilities?

SENATOR STAFFORD: Yes.

SENATOR MONTGOMERY: All construction -- is that all construction or any of that -

SENATOR STAFFORD: These were all appropriated at 18 -- 1989 and '90 and no work has been done.

SENATOR MONTGOMERY: Thank you.

If you would yield, Senator.

SENATOR STAFFORD: Sure.

ACTING PRESIDENT KUHL: Senator Stafford, do you continue to yield?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: The Senator continues to yield, Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Senator.

On the mental health, specifically the Community Reinvestment Act, the -- when the commissioner came before the Finance Committee, he indicated in his presentation of his budget that he intended to use part of that Community Reinvestment Act

funding for capital purposes, and it was my understanding that the -- the agreement that we made last -- the agreement that the Legislature made with the Governor -

SENATOR STAFFORD: Right.

SENATOR MONTGOMERY: -- did not include capital funding as part of that, but I don't see any indication that there's going to be capital funding in this budget for that purpose out of that particular pot of money. Does that mean that we're not, in fact, going to be spending any of that money for capital purposes now?

SENATOR STAFFORD: Even know he's -- even though -

SENATOR MONTGOMERY: Even though he said that he was?

SENATOR STAFFORD: Right. This includes the answer or is the same answer that has been given a number of times. There will be a number of bills, I'm sure, and the issue you raised is raised also over here and has been raised in a very clear manner and will be

considered and certainly very well meets some of the -- some of the goals that we all usually have.

SENATOR MONTGOMERY: Will those be an Article -- will that be an Article 7 bill?

SENATOR STAFFORD: It could possibly be, but it could be an amendment or it could be actually another bill.

SENATOR MONTGOMERY: Another - it could be a bill that would be a statute -

SENATOR STAFFORD: Right.

SENATOR MONTGOMERY: -- changing the whole program essentially?

SENATOR STAFFORD: Could be - yes, it could be an amendment or -

SENATOR MONTGOMERY: A chapter amendment?

SENATOR STAFFORD: That's a term that was used. I'm showing my age. Some people don't use that anymore.

SENATOR MONTGOMERY: M-m h-m-m.

SENATOR STAFFORD: And it's

probably just as well, but on any bill that passes, you can amend that bill and say that chapter amends that bill so they said -- so just an amendment.

SENATOR MONTGOMERY: Oh, I see. All right. I was -- I was -- that is of particular interest to those of us like in my district where we -- that's been one source of stabilizing the issue of housing for mental health -- mentally ill, and so you can see why I'm concerned about it. I would hope that we don't -- don't change entirely the mission and the focus of that program.

But let me go -- in the area of school construction, Senator, if I could just ask one last question.

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to one last question?

SENATOR STAFFORD: Certainly will.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: What is the

-- what is the -- what is the status vis-a-vis the -- this legislation of that school construction funding?

SENATOR STAFFORD: 27 million. Is that the -- actually, this is -- has been mentioned a number of times, and I again would just point out, I have heard people often say here that things aren't written in stone, and I kind of thought it rather boring, but I'm learning that we pass a bill and very often we pass another bill and, as we have mentioned, that 27 million is a concern to many here in the Capitol, and I think it's a priority that will very possibly receive consideration.

SENATOR MONTGOMERY: Thank you, Senator.

I certainly hope that -- I would hope that we're not willing to spend much more money on brand new lovely prison facilities and we can't come up with 27 million to maintain and renovate and restore our school buildings across the state. So I just want to go on record with that.

Thank you, Senator.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Jones.

SENATOR JONES: Yes. I had a couple questions. I'm listening here today and actually I'm almost embarrassed to get on to this discussion because I stand here concerned about mental illness and the elderly and the poor, but I guess we need to deal with the document that's in front of us.

I was going to offer something a little different today. Actually, I was going to offer you more cuts than you already have in here. I looked at the section on stadia, and I heard Senator Stafford early on, and I'm going to ask him to explain to me -- in the essence of time, I'm not going to offer that, but what I was going to say is I believe that there are - were 18 stadia originally in the budget and now there's only 6, so I was going to suggest the other 12 also be removed in the issue of fairness, the ones that -- because apparently the debate has not really been clear as to

whether or not these are an economic development issue for communities, and I have not been able to figure out what the criteria for the decision making was.

So, maybe, Senator, you could just tell me, did you ever consider not funding any because certainly it would save us more money, or what exactly was the criteria; if you would be so kind to tell me.

SENATOR STAFFORD: The first thing we have to do, Senator, is not use the stadia as a political football.

SENATOR JONES: I agree. I agree.

SENATOR TULLY: Mr. President.

ACTING PRESIDENT KUHL: Senator Tully, why do you rise?

SENATOR JONES: I agree.

SENATOR TULLY: Point of information.

ACTING PRESIDENT KUHL: Senator Tully, why do you rise?

SENATOR TULLY: Point of

information, Mr. President.

ACTING PRESIDENT KUHL: Yes.

SENATOR TULLY: What time did the debate start on this bill?

ACTING PRESIDENT KUHL: The debate started at 2:05.

SENATOR STAFFORD: I think probably it was considered. I -- I would say first -- and no one has briefed me on this, but it's economic development. Now, where these decisions are made, where they're placed, I think many of us could say, "We want to do this" or "Why does this area get this?"

I can remember some of my colleagues -- I'll never forget. You know, Syracuse is a really, really conservative area, and I looked up one day, and the state was supporting a stadium in that area, and I looked around and I said, "Well, what's this all about?" I've learned that the state and the city have gotten back the money many times.

Now, where these facilities are, there obviously had to be considerations.

There's obviously some places that want them that are not getting them. I wouldn't say there's probably any area getting a stadium that doesn't want it, but those decisions have to be made.

SENATOR JONES: Would the Senator yield to one more question?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to one more question from Senator Jones?

SENATOR STAFFORD: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR JONES: I guess -- it's obviously the decisions were made. I guess maybe you didn't understand my question, Senator. The question is how were they made? Was it on the basis of size? What were the criteria that were the final -- the reasons that these decisions are in here?

SENATOR STAFFORD: Well, I think there probably were many, many reasons and, again, I would say it's obvious. Is there a

base there? Will the stadium really produce? Are there people? Will there be people there? Is there local support? Has there been actual start of development? I think that's -- those are the -- you know, I'm sure those are the considerations.

SENATOR JONES: Will the Senator yield?

ACTING PRESIDENT KUHL: Senator Stafford, do you continue to yield?

SENATOR STAFFORD: Sure.

SENATOR JONES: Are you aware -

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR JONES: -- Senator, that the cities -- I agree with, you know, the issues you raised and I've also read those same things in the press. However, are you aware that many of the criteria you just talked about, for instance, whether they had started, whether it had gone through the committee, many of those left out did meet those criteria?

SENATOR STAFFORD: Did you read

what I said in the press, you said?

SENATOR JONES: No, no. I said I've read some of the things, Senator, that you just mentioned as being whether or not the project was started. I read those things in the press.

I guess what I'm saying to you is are you aware that some that are left out did meet those criteria?

SENATOR STAFFORD: Well, you know, there probably -- there's much criteria, I'm sure it wasn't one, two or one thing. I would say that I'm sure any area that had the initiative to put together a group or put together a package and wanted to construct a stadium, I'm sure that if any were not included, they would be concerned, and I certainly would understand -- I think that's something we should consider in the future.

SENATOR JONES: Thank you, Senator.

On the bill itself.

ACTING PRESIDENT KUHL: Senator

Jones, on the bill.

SENATOR JONES: Some of the things you said, you know, I certainly agree with, although I frankly have to tell you that I see most of it as kind of double talk because this issue has been played out in the paper.

I totally agree with you that it should not be a political football but, unfortunately, that's what it's become, and I know Senator Hoffmann was planning to join me there.

What my solution to this is that none be funded. I do happen to agree with you that economic development is an issue but if it is, then it has to be the same issue for everybody. I would be happily willing to join you in saving money if you had made this decision last year and said "The government doesn't belong in this arena." If that's the decision -- if the decision is we can't afford it, then clearly we can't afford it and I accept that.

I feel very comfortable talking

about not spending money because I do recall last year that a tall gentleman over there and three of us sitting here did have our hands up saying no to all -- what I heard you people refer to today as "election year promises", so I feel very comfortable, since I was not part of those promises, to certainly question you on how you could go back on your word on many of these now.

So I think if we want to join together and say, Let's be fiscally responsible and we shouldn't be doing these things, I could probably go along with you, but I can't go along with the issue when we make decisions that seem to have not universal criteria and not even criteria that anyone can clearly understand as to how they were made.

So I certainly can't support this, and I really think you should take a look at maybe we should take a look at none of them or certainly maybe everybody should be treated fairly in this state. I assume that's what we're here for.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I will be brief. I believe there's an amendment at the desk. Is there an amendment there?

ACTING PRESIDENT KUHL: Senator Oppenheimer, there is an amendment at the desk.

SENATOR OPPENHEIMER: And I'll waive its reading.

ACTING PRESIDENT KUHL: Without objection, the reading is waived. You have a couple of minutes to explain.

SENATOR OPPENHEIMER: Thanks.

I offer this sort of in a sense in defense of our honor and our reliability and our responsibility and our trustworthiness.

What this is, is it says "The executive shall not defer, delay, fail to proceed with, impound funds for transportation projects in the '94-95 state budget, the '95-96 state budget or the 1994 memorandum of understanding without the written consent of the

Chair and the ranking member in -- of the Transportation Committees in both of the houses."

You may recall that, with a great deal of deliberation, we created a transporta tion plan which got written into the memorandum of understanding in '94 and we really struggled with that, and we tried to put in geographic distribution and prioritizing of the projects, and the memorandum of understanding now the Governor wants to end because he's just impound ed the money.

This amendment says that the legislative -- the Legislature should have the power to maintain our role in the decision making just as we have the role in creating the projects and promising that we would move ahead with the projects in a scheduled manner.

We did not participate in this unilateral cut in the appropriations, and I must say this has unilaterally created a crisis with in the construction industry. This moratorium was done only by the Governor. We had made

promises, and the Governor has caused this moratorium to make -- which indeed makes us look less than reliable and less than trustworthy, and I think for the future, we should -- I think we should rectify it for this year, and I think we should also put in protections so that, in the future, our word is -- is reliable, and people will trust what we say.

So I would like to move this - this amendment.

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

SENATOR LEVY: Might I ask -

ACTING PRESIDENT KUHL: Pardon?

SENATOR LEVY: I was going to answer.

ACTING PRESIDENT KUHL: Do you want to speak, Senator Levy?

The Chair recognizes Senator Levy on the amendment.

SENATOR LEVY: Very briefly. I just wanted Senator Oppenheimer to know that our

honor is intact. Our honor is intact, because last night -- and you may not -- probably it was late last night, you may not be cognizant of it, but the highway and bridge projects that were frozen for fiscal year '94-95 which ends on Saturday, those projects were released last night.

SENATOR OPPENHEIMER: Oh.

SENATOR LEVY: So those projects are going to be obligated before -- before the end of the fiscal year, and all of the five parties to the negotiations on the budget have agreed to one thing.

There's an Article 7 bill that we lovingly call the "big ugly", and that is the bill -- that's the bill that would take the splits out of the law, abolish the memorandum of understanding, deal with the '87 bond issue. Everyone has agreed that we are not going to do that bill. We're not going to take the splits out, and so on, all the other provisions of that bill. We're not going to proceed with that Article -- that Article 7 bill.

And I just wanted to tell you, Senator, there are $10 billion worth of trans portation projects or will be in the budget, of all different types of projects. There are thousands and thousands of projects, whether we are talking about appropriations, reappropria tions, and so on, and it just really would be totally impossible to -- to, whenever a project couldn't advance because it wasn't ready to advance to have to, on every one of those thousands and thousands of projects, to get the consent of the people that would be required to consent under this proposed amendment. So it should be defeated.

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

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The amendment is lost.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: Slow roll call.

ACTING PRESIDENT KUHL: Slow roll call has been requested.

Seeing five Senators, the Secretary will call a slow roll call.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Babbush, excused.

Senator Bruno.

SENATOR BRUNO: Yes, Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Bruno to explain his vote.

SENATOR BRUNO: We have been talking here for over two hours, and I would just want to remind my colleagues that what

we're doing is a continuous project, and this doesn't end today. More will be done tomorrow, and more will be done Friday and, as I said before, by Friday, a lot of the questions that have been raised here will have been answered as to additions and subtractions.

I also want to indicate that we here by Friday will move around $499 million. That's the move that's taking place. 164 million are moves within the Governor's proposal. In his budget, we're moving 164 million. The other 335 million comes from 300 million increased revenue projections and 35 million increased lottery projections, '95-96. There was three-way agreement on that number. So what we're doing here has been agreed on in terms of spending the revenues, and that's all we're doing is spending the revenues that had three-way agreement.

If, later, Mr. President, we have three-way agreement on additional revenues based on the fiscal condition of this state at the time we pass a budget, well, then, we will do

undoubtedly more tax cuts and more restorations.

I vote aye.

ACTING PRESIDENT KUHL: Senator Bruno in the affirmative.

THE SECRETARY: Senator Connor.

(Negative indication.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Dollinger.

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

I rise, Mr. President, to oppose this bill.

I guess I'll call my attention and be very parochial. This bill excludes funding for both the Greater Rochester Sports Facility as well as the War Memorial. There was

a deal between this Legislature, the Governor and the people of my community to fund both of those projects. This deal is being reneged on by the Senate by saying that we're not going to fund that $27 million appropriation, along with many others as my colleague, Senator Jones, pointed out.

I would call on both of my colleagues from Monroe County, the new Senator Maziarz, Senator Nozzolio who stood right in front there at Frontier Field when they broke the ground and threw the shovels full of dirt, that we were going to build this stadium, I was way off to the corner. Other people were at the center stage.

I think in fealty to the people of our county, we have to stand up and vote against this budget because it renegs on a deal made to the taxpayers of Monroe County, a deal made by County Executive Bob King, the same County Executive Bob King who is now going to go out and do regulatory police authority that we're going to have confidence in, he made a

deal that said "No property taxes, no local property taxes will be used to build the stadium."

If we don't pass this bill -- if we vote in favor of this bill, we're reneging on that deal. We're going to leave the people of Monroe County $11 million in the hole because that's what they've already spent in property taxes which they'll have to spend because we're not going to fund the stadium.

I would just point out as my elaborate discussion earlier pointed out, if it is restored, please, don't anyone in this chamber take credit for them. It'll be my colleagues in the Assembly who put the money back in.

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

SENATOR DOLLINGER: No.

ACTING PRESIDENT KUHL: Senator Dollinger in the negative.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

ACTING PRESIDENT KUHL: Senator Farley to explain his vote.

SENATOR FARLEY: Thank you, Mr. President.

I'm going to vote aye. Again, this is the second step; yesterday we took the first step to having a budget on time, and we're doing this out in the open as Senator Bruno has said. I'm pleased to vote and support this. It's not the final answer, but I'll tell you it is a final answer as far as this house is concerned. We've got a complete budget. It's the first time in my tenure that we have done such a thing as this, and I urge everybody to support it. Maybe we can get a budget relatively on time in this state for the first time in 11 years.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Farley in the affirmative.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold to explain his vote.

SENATOR GOLD: Senator Bruno, I have said behind your back and I'll say it to your face, I'm impressed with some of your concepts in terms of opening the process and doing things and having leaders' meetings that have four leaders and all of that -- four leaders and the Governor, I wasn't -- but, Senator Bruno, you're asking us to now void all of that because you say by Friday we will know how you move around 499 million and, Senator, most respectfully, I trust you as a human, but I have a different philosophy than you. So to ask me to just accept your philosophy that, by Friday all these things will be done, I can't do it.

We were asked earlier today by Senator Tully in an exchange with Senator Dollinger, which wasn't the most pleasant, how can you talk about spending 27 million? Where

are you going to get it from? Well, Senator Bruno, you said that once the Governor had given his budget, they found 35 million by just saying, "Well, your estimates are wrong on the lottery," and that's not really creating money. That's moving a pencil, but last I heard 27 million was less than 35 million. You also talked about 300 million other revenue measures which we found that are in addition.

So what I'm saying, simply, we had a Governor who said, "This is a budget; this is what we've got to spend; this is it and we're going to cut taxes," but the Governor said, "This is a proper spending plan", because I assume if this Governor thought that there were needs, he would take care of that.

So I don't know why he now hasn't said, "We have 335 million more, I want to give 335 million back to the taxpayers in cutting taxes." That would fall right in line with his plan. If he's planning to give that money back in programs, then he's basically saying that he is spreading pain to people who have real

needs.

So I don't understand it. My position today is very simple. I am certainly not going to vote to approve major, major capital construction in this state without knowing the plan. In the past we've passed budgets late, but we have passed budgets that exist in totality. We haven't been asked to play this guessing game of "Here's part of the budget. I won't tell you what the rest is. Pass this. Tomorrow, here's another part. I won't tell you what the rest is. Pass this."

It might be, Senator Bruno, if I saw the whole budget, I would have to say, "Boy, that Joe Bruno, I always loved him, but isn't he brilliant? Look what he did." But I can't say that now and I can't say it later because we don't have a spending plan in front of us. So -

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR BRUNO: -- as head of the Joe Bruno Fan Club of Forest Hills, on a

personal basis, I have to vote no on your bill.

ACTING PRESIDENT KUHL: Senator Gold in the negative.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann.

ACTING PRESIDENT KUHL: Senator Hoffmann to explain her vote.

SENATOR HOFFMANN: Thank you, Mr. President.

I think that Senator Jones had the most appropriate idea of the day in attempting to introduce an amendment. Fortunately, time prevented her from doing the amendment, but I would have gladly joined her as a co-sponsor in an amendment that would have addressed one of the more hard to fathom issues about this whole

capital budget, and that is the criteria under which some stadiums are seem -- are deemed worthy and others are deemed unworthy or are subject to some future appropriation at some unknown time by some unknown means.

I'm sorry, but I regret to tell my colleagues, that's not an acceptable budget procedure by which the residents of the city of Syracuse want to see the issue of stadia addressed, and I join Senator Jones in decrying the very singular targeting of Syracuse for unfair consideration in the entire sports stadium process.

So, for that reason, as well as many others, much of which are based on confusion and a lingering concern that this process is much more convoluted than it should be at this stage of the game, I am also compelled to vote no.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Explain my vote.

ACTING PRESIDENT KUHL: Senator Jones to explain her vote.

SENATOR JONES: I guess I just want to correct or take issue with a couple of things that have been said today.

If we mean we're doing these in the daylight by the fact that the sun is out, I guess we could accept that, but to me the daylight would have meant that I had this document several days ago, weeks ago, and I would have had plenty of time, as usual, to go over it and look for every single thing that might be in here.

So if daylight means the sun is out, I guess I'll accept we're doing it in the light of day but, you know, I guess I don't really see any difference in the process. In fact, I see it somewhat worse because now we're look at something that's a maybe.

So I definitely vote no.

ACTING PRESIDENT KUHL: Senator

Jones in the negative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Yes.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: Mr. President -

ACTING PRESIDENT KUHL: Senator Leichter to explain his vote.

SENATOR LEICHTER: -- to explain my vote.

Mr. President, as I listened to

the debate and the explanation of the Majority on this bill, it's clear to me that this budget is being done with a wink and a smirk like, "Well, don't take it seriously. Oh, $27 million, oh, it will come back and this will come back, and this is going to change." Now, if you're telling the public you're passing a budget then clearly you don't intend this to be enacted in the law.

It reminds me a few years ago when Governor Cuomo put out his budget and somebody said to him, "Governor, what would you say if we passed a budget the next day?" And his answer was, "I would say I didn't mean it," and it's clear that what you're telling us is that you don't mean it because you know that this budget is one that, first of all, breaks the promise that this Legislature and this state government made to its localities last year in many areas.

Transportation is one. I have grave concern about this -- what this will mean for commitments, again, commitments that the

state has made for rebuilding roads, specifically Route 9A, the West Side Highway in my district.

But it's clear that this is a charade. We're telling the voters "Oh, look, we're passing a budget", but God forbid that this budget from your viewpoint should ever be enacted into law.

Mr. President, I vote in the negative.

ACTING PRESIDENT KUHL: Senator Leichter in the negative.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

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

ACTING PRESIDENT KUHL: Senator Libous to explain his vote.

SENATOR LIBOUS: Mr. President, I have had the opportunity to listen to some of the debate this afternoon, and I find it amusing because I hear people talking about commitments,

and for 12 years under the previous administration, nobody knew what the word "commitment" meant. I mean, we would giveth, we would taketh away, we would add, we would say we didn't do that, we didn't really mean that, and I just find it amazing that all of a sudden today, 1995, new administration, new leadership in the Senate, we want to get a document done on time because that is a commitment.

There's a commitment to have a budget passed by April 1st, but obviously because we don't have all the players who want to come and play, at least we are going to abide by that commitment. And you can get up -- and my friends on the other side of the aisle who I certainly respect and I know are always doing the best -- in the best interest of their constituents, let me just say something to you.

Don't worry about my district. I'll take care of my district. Worry about helping us get the Assembly Democrats to get a budget done on time by April 1st. That's the commitment you ought to be worrying about,

because there's people in this state that need this document. They need the programs that are here, and for those of you who have sat like I have and listened and met with people and shared their concerns, if you really cared about them, you would move forward and you would try to bring this thing to finality.

So, Mr. President, I vote aye and I say that we get this budget done on time.

ACTING PRESIDENT KUHL: Senator Libous in the affirmative.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: To explain my vote.

ACTING PRESIDENT KUHL: Senator Marcellino to explain his vote.

SENATOR MARCELLINO: I rise to explain this particular vote because I heard one of the learned colleagues on the other side, Senator Dollinger, talk about not taking credit

for various things that may not at present be in the budget.

What I will take care of or take credit for in my particular district is an improved fiscal environment that I believe this budget will create, jobs that would lead into my area, jobs which have been lost to other states and other areas out of the New England area, tax cuts that my people need, the limitation of a $5 billion deficit that is dragging the state down and down and down and down, and there's no argument about that. $5 billion has to be made up somewhere, and it's painful. It's not pleasant.

I don't like going back to my people and telling them that they can't have "X" and they can't have "Y" because they've always gotten it in the past. I don't like to be the person to tell them that the bucket is empty when others who preceded me have filled it up. The bucket is empty.

And I will take credit for reduced spending. For the first time in many,

many years, this state budget will reduce spending, not by gimmicks, not through nonsense, but through reality. When I ran in the special election, my opponent made the Governor's budget the issue. This was supposed to be the issue that was going to defeat me, and I ran on the Governor's budget, and I said I would stand with the Governor, and I did, and I won two to one.

I say to you, ladies and gentlemen, this budget is the right thing to do, and I thank you for being patient; I thank you for listening me, and I thank Senator Gold for being kind and not beating me up before.

I vote aye, sir.

ACTING PRESIDENT KUHL: Senator Marcellino in the affirmative.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Mr. President, I merely want to point out that the road to a happy conclusion to this whole budget drama receives a very substantial start and statement here.

What troubles me is the funereal

silence at the other end of the third floor, and it is not an adequate substitute for a meaning ful joinder of the issue.

I think when that takes place, Mr. President, that most of us will be pleased with what we could do this year in turning this state around and also meeting some of the concerns that have surfaced even during the course of today's debate.

I vote aye.

ACTING PRESIDENT KUHL: Senator Marchi in the affirmative.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: Mr. President.

ACTING PRESIDENT KUHL: Senator Markowitz to explain his vote.

SENATOR MARKOWITZ: I've heard your comments, Senator Marchi. It's not that the other side of the house are quiet. They're attempting to do it with much greater sensitiv ity and care and respect for the people that

they serve at our end.

I believe very clearly that the era we've entered into of selfishness and do less with less government approach will be a short lived one. That's what I pray and hope because, unlike our new Senator from Long Island, you can go back and tell your folks that they have to do with less, and if they respond to that appeal, then I think they should do with less, but I have to tell you that there are communities in this state that need greater attention, and the role of government, in my opinion, is to provide to those in need. That's our role, to provide to those in need, to provide a helping hand, to help make our residents live the best that they can live in our society, and we take different approaches.

I said it yesterday. I'll say it again today, and I know that I will definitely say it again tomorrow. We have a different philosophy here. You want to do less with less and I want to do more for those that genuinely need it, because I believe when you help those

greatest in need, you help everyone in the state of New York.

I vote no.

ACTING PRESIDENT KUHL: Senator Markowitz in the negative.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Aye.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery.

ACTING PRESIDENT KUHL: Senator Montgomery to explain her vote.

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

I am just compelled to vote no on this budget. I think it really does not make the kind of statement that we talk about when we're out campaigning because there's not one new dollar that I can find. I do not find any new appropriations in this budget for the Divi sion for Youth, for building youth facilities in my district or anywhere in the state, but I do

see $250 million in new appropriations in addition to a reappropriation of some $900 million for prison facilities to be renovated, restored, maintained, brought up to standards, removal of asbestos, all of the things that we certainly want to see done but we seem to be more willing to do it to prisons than we are willing to do it for children in schools and in youth facilities across the state. So that in and of itself is enough for me to vote against the budget.

I vote no for that reason along with all of the other important issues that have been raised here, but that to me sends a message to young people in my district that I cannot support.

I vote no.

ACTING PRESIDENT KUHL: Senator Montgomery in the negative.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

ACTING PRESIDENT KUHL: Senator

Nozzolio to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, we've heard much about what is not in this document today. I'm very pleased what is in this document which, in my opinion, will help revolutionize much of the way prisoners are incarcerated in this state today.

This budget contains a provision to convert the Willard Psychiatric Center into a drug and alcohol rehabilitation and detention center, taking those who need treatment, those who are committing crimes because of their drug or alcohol addiction and putting them in a set ting of genuine rehabilitation. It is a proced ure, a policy, in my view, that will revolution ize the way our substance abuse criminals are dealt with in this state, providing them an opportunity for genuine rehabilitation.

It also serves, by doing this, to keep the prospect of building new prisons down in the sense that it will free up cell space and

dormitory space that could otherwise be used to serve and to house those who have committed violent crimes, in conjunction with the Governor's decision to ensure that violent criminals will be kept in prison as opposed to being let out through work release before their sentence is up.

This provision will ensure that our state will receive millions of dollars in assistance from the federal government through the federal crime bill, and it's absolutely essential in our efforts to crystalize a new day for criminal justice in this state.

It will enhance the economy of the Central Finger Lakes and, as such, I believe it is necessary, and I applaud the Governor and this Legislature and Senator Bruno for putting it in a capital budget.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: How do you vote, Senator Nozzolio?

SENATOR NOZZOLIO: I vote aye.

ACTING PRESIDENT KUHL: Senator

Nozzolio in the affirmative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Onorato.

ACTING PRESIDENT KUHL: Senator Onorato to explain his vote.

SENATOR ONORATO: To explain my vote.

Mr. President, I generally vote along with my colleagues on most budgets since I have been here, but today's budget doesn't restore my faith in this legislative body.

We have been talking about all of the cuts that are necessary and how much pain we have to inflict across the state, but I don't see that pain being inflicted uniformly across the board.

We did not fulfill our commitments that we made in last year's budget, and this budget today does not correct that inequity. We were able to identify today $27 million of committed funds that were unfunded. I don't know if those funds will be refunded or

not. Maybe as a result of today's debate, they will be, but until such time that these funds that we committed that were spent by our localities is restored to this budget, to restore our integrity, to restore the belief in the public that what we passed in this legislative body really means something, I am forced under the circumstances to vote no.

ACTING PRESIDENT KUHL: Senator Onorato in the negative.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: On -- yes, I would like to explain.

I will be voting no, and I think Senator Onorato covered why -- why I will be, and that is that, in so many instances where we promised in the last budget and we are not delivering, that means but one thing to the constituents that I represent.

That means that our property taxes are going to have to bear that because we are already -- we have already built or we are

in the process of building and we will not get the money that was assigned. We knew it was coming from the state, and somehow the state isn't fulfilling its promise and, therefore, the increase in property tax is going to be extremely burdensome, and we were promised that this would not happen, and it is happening.

And, therefore, I'm going to register a no vote.

ACTING PRESIDENT KUHL: Senator Oppenheimer in the negative.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson to explain his vote.

SENATOR PATERSON: Mr. President, I received a letter the other day from Maria Linnell who lives on Columbus Avenue in my district who is a constituent of mine who believes, if you read this letter, that I am a Republican.

She said that because she has

voted for Republicans her entire life and that she voted for me as a Republican. She is angry that we -- "we" Republicans are not passing this budget on time and we are cutting services to different areas that she doesn't think should be cut.

So with that kind of attitude in the atmosphere, I think that this letter gives me a unique understanding of the Majority's position today, and I can understand why there would be a need to put these bills out before April 1st, even though we're probably going to have to come back and do it all over again, and I think that there's pretty much been through the contentiousness of this debate some honesty about the fact that these bills are going to be debated again, but the reason that the amendments were put forth and the reason that we have been talking about some restorations to areas where we promised money in a previous budget and did not deliver, that the individuals who live in that district and the officials who try to administer government in those areas

relied to their detriment on our promise is because since we are going through the process of actually passing a budget, whatever happens, we who are on this side of the aisle thought that we should do it honestly, and that's why we offered these amendments.

We are pretending that this is the real budget. That's what we were asked to come here to do and that's what we've done. I don't understand why there was any real problem with that. It's an imaginary process, and so we had some imaginary ideas to solve some - provide some solutions.

Because of the fact that there was not an acceptance of the well-meaning suggestions that we include those in the process who were left out after they were included before, I would like to vote no, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson in the negative.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

(There was no response.)

Senator Santiago, excused.

Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Aye.

THE SECRETARY: Senator Smith.

ACTING PRESIDENT KUHL: Senator Smith to explain her vote.

SENATOR SMITH: Mr. President, I'm very glad today that we have not been required to put up a performance bond because, if we were, it would have been revoked, because each day we continue to perpetuate a fraud and a sham on the people of the state of New York, yesterday and again today, with a one-house budget, and I'm still waiting for the people of the state of New York to come down upon our heads and it should be soon.

I vote no.

ACTING PRESIDENT KUHL: Senator Smith in the negative.

THE SECRETARY: Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Solomon to explain his vote with a little bit of help.

SENATOR SOLOMON: You broke my train of thought. I guess "train" is the appropriate -- train is the appropriate word here.

I guess we're going to see in the passage of this budget -- of course, whether or not this is the real budget, I tend to doubt. I remember Robert Moses came up with a legislative trick in the early 1920s, and he said, "You know something, if you start a public project, even if there aren't funds for it, it has to be finished from some place, whether it's local taxes, state taxes; you have to get the money for it. Very rarely do you stop public

projects" and, unfortunately, I think what's going to be proven in this project is the Robert Moses theory continues to hold for public projects.

Because, in reality, the city of New York found out during the fiscal crisis they closed some projects. It cost them more to reopen and complete those projects than if they had completed them at the very beginning.

I think that's what this budget is going to show. It's going to cause some localities to raise taxes, property taxes. It's going to cause a lot of harm on other localities. I don't know if there are other contracts, if there's a stadium, if there are contracts to actually run the stadium, there may even be an events book, which there are now going to be contracts that might be breached.

I think this is a problem that we have. Passing this budget is going to cause a lot of pain and a lot of grief and, unfortunate ly, it's not going to be spread evenly.

I vote no.

ACTING PRESIDENT KUHL: Senator Solomon in the negative.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford to explain his vote.

SENATOR STAFFORD: Mr. President, this is a long day. Senator Marchi said to me, -- a few minutes ago reminded me, I think it was Caesar that said gallia -- omnia gallia est divisa in tres partes. I think that means that all gall can be divided into three parts. The gall here today that we heard at times, I assure you, can be divided into three parts: Politics, politics, and politics.

We're doing a job here today. We're making sure that we carry out what we've heard last fall and we're passing a budget as has been pointed out by our Leader many times,

and I can only say this is within the framework of what we're doing so that we no longer spend more than we take in.

Thank you.

ACTING PRESIDENT KUHL: Senator Stafford in the affirmative.

THE SECRETARY: Senator Stavisky.

(There was no response.)

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yep.

THE SECRETARY: Senator Volker. Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

ACTING PRESIDENT KUHL: Senator Waldon to explain his vote.

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

I must vote no on this bill, and

there are many reasons. Let me count the ways, I could say, but I won't. I'll give you but three for openers.

One, in my district, there's a place called the Rockaways, and over the period of the last few years, the Rockaways have been visited by severe storms, and the beach that was once so beautiful and once able to support life in such a fine fashion now is almost non-existent, and this budget moves $800,000 that would have been for the nourishment of that beach.

My three reasons are very parochial. The second, though parochial, is in a different way parochial. Sophie Davis Biomedical School at CUNY, and that would allow doctors to emerge from my community, be they black, be they white, be they Latino, but they would be from the City and they would be available to serve the under-served in the city of New York, and we sorely need that. That has been removed at the tune of $14 million.

Some years ago as a young police

officer I wanted to go back to school and finish my education, and because I was working around the clock, there was no place to go which could accommodate my need except at that time the College of Police Science now known as John Jay. We twice put in our budgets over the previous two years $10 million for phase two and now that has been removed.

The week before last I was in the office of Jerry Lynch and he exacted a promise from me and the promise was that, if this item can be saved, I will do all that I can do to save it. I don't know if there's anything I can do to save it, but at least I can go on record that I'm disturbed and distressed by the fact that there's no funding in this budget, in this capital budget, for the John Jay College of Criminal Justice of which I am an alum.

In thinking about my vote, Mr. President and my colleagues, I recall seeing the Wizard of Oz. I remember Dorothy clicking her heels, returning to Kansas, she and Toto. They experienced the munchkins and they experienced

-- and they had at the time experienced that Oz was not Oz, but merely a charade, some might characterize it as he was a canard, a big lie.

I don't think that we're in Kansas, we're in New York, and this is not a charade, this is real. We're talking about people being able to live well and not live well.

And for all of those reasons, I now click my heels and vote in the no.

ACTING PRESIDENT KUHL: Senator Waldon in the negative.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: The Secretary will call the absentees.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Stavisky.

(There was no response.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 36, nays 22.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT KUHL: The Chair would recognize Senator Solomon.

SENATOR SOLOMON: Yeah, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 218.

ACTING PRESIDENT KUHL: Without objection, Senator Solomon will be recorded in the negative on Calendar Number 218.

SENATOR SOLOMON: And, Mr. President, I would like the record to reflect that, if I had been in the chamber to vote on Calendar Number 289, I would have voted in the negative.

ACTING PRESIDENT KUHL: The calendar will reflect, Senator Solomon, that had you been in the chamber when the vote was taken on Calendar Number 289 that you would have voted in the negative.

The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. Thank you.

With the consent of the Majority Leader, I'm going to ask you, Mr. President, to welcome to our chamber a colleague of ours from Massachusetts, state Senator Lois Hines from Massachusetts who's here visiting with us today and who will also give a speech, an exploration of the Massachusetts experience on welfare reform, and I particularly invite my good friend Senator Joe Holland to come and join and listen to the experience of our sister state on this, and we'll do that after this session is over.

Mr. President, if you would welcome her to our house, I'd appreciate it.

ACTING PRESIDENT KUHL: Senator Leichter, thank you for bringing it to our attention.

Senator Hines, very nice of you to be here with us. Thank you for sharing some time.

(Applause.)

Senator Skelos.

SENATOR WALDON: Thank you, Senator Skelos.

If I may, Mr. President. I respectfully request unanimous consent to be recorded in the negative on 218, Calendar 218, and I respectfully request the record to show that, had I been present and in the chamber for our vote on Calendar 289, I would have voted in the no.

ACTING PRESIDENT KUHL: Senator Waldon, without objection, you will be recorded in the negative on Calendar Number 218, and the record will reflect that, had you been in the chamber when the vote was taken on Calendar Number 289 that you would have voted in the negative.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. At this time, I would like to call up Calendar Number 290, S.3683, and ask that the last section be read and the roll call opened for two members to vote at this time.

ACTING PRESIDENT KUHL: The

Secretary will read Calendar Number 290, Senate Print 3683.

THE SECRETARY: Calendar Number 290 by Senator Bruno, Senate Print 3683, an act to amend the Environmental Conservation Law, the State Administrative Procedure act, the Public Health Law and the State Finance Law.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 33. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Please recognize Senator Goodman for the purpose -

ACTING PRESIDENT KUHL: Senator Goodman, how do you vote, sir?

SENATOR GOODMAN: In the negative, sir.

ACTING PRESIDENT KUHL: Senator

Goodman recorded in the negative.

SENATOR SKELOS: Please recognize Senator Gold.

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

SENATOR GOLD: On the advice of Senator Goodman, in the negative.

ACTING PRESIDENT KUHL: Senator Gold in the negative.

Senator Solomon, how do you vote?

SENATOR SOLOMON: In the negative.

ACTING PRESIDENT KUHL: Senator Solomon recorded in the negative.

SENATOR SKELOS: Senator Leibell.

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

SENATOR LEIBELL: Negative.

SENATOR SKELOS: Would you please close the roll and an explanation has been requested. That's it.

ACTING PRESIDENT KUHL: Senator

Solomon -- excuse me. Senator Leibell is recorded in the negative. Roll call is withdrawn.

Senator Kruger.

SENATOR KRUGER: Mr. President, I would ask as well to be recorded in the negative.

ACTING PRESIDENT KUHL: Senator Skelos, Senator Kruger is asking permission to be recorded on this roll call.

SENATOR SKELOS: Without objection.

ACTING PRESIDENT KUHL: Senator Kruger is recorded in the negative on Calendar Number 290. The roll call is withdrawn.

The Secretary will read the last section.

THE SECRETARY: Section 33. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT KUHL: Senator

Bruno.

SENATOR BRUNO: That was very good, Mr. President.

Thank you.

ACTING PRESIDENT KUHL: An explanation has been asked for by Senator Oppenheimer. Will you be handling the debate or will Senator Johnson?

SENATOR BRUNO: Senator Johnson.

ACTING PRESIDENT KUHL: Senator Johnson, an explanation has been asked for by Senator Oppenheimer.

SENATOR BRUNO: Mr. President, if I may, I would like to just say a few words because this relates to deregulation in the Environmental Conservation Committee, as you well know, and of all the committees -- of all of the commissions in this state that have inhibited the growth of business, it probably has been EnCon, and the main reason has to do with over -- being overly zealous and having over-regulated. So this is an attempt to turn things around and let the business people in

this state know that this Governor and we understand that what's going on in the past can't continue in the future.

So I'm asking our colleagues to join with us, Mr. President, in supporting this very necessary legislation.

Thank you.

Senator Johnson.

ACTING PRESIDENT KUHL: Senator Johnson for an explanation.

SENATOR JOHNSON: Mr. President, my colleagues, as we sit here today, the U.S. Senate is presently debating a bill on regulatory reform. It's very similar to this bill and to the previous regulatory reform bill, S.3682, debated earlier today by Senator Rath.

A similar measure was passed in the House of Representatives last month by a vote of 286 to 141. The federal measure requires a cost/benefit analysis and an enlightened "brownfields" policy and other reforms such as contained in today's reform bills.

I would like to read a little

something here I got off the news wire a short time ago.

ACTING PRESIDENT KUHL: Senator Johnson, will you pardon an interruption, sir?

Ladies and gentlemen, can we take the conversations out of the chamber? There's a lot of movement in the back. Members please take their seats. It's getting rather difficult to hear the debate, and this is a very serious topic that we're addressing.

Senator Johnson.

SENATOR JOHNSON: Thank you, Mr. President.

I'm sorry, I have to apologize for my voice, but I'll do the best I can.

This is an article and the caption is "Clinton Regulation", might be of interest to the other side of the aisle particularly. "Trying to beat Republicans to the punch, President Clinton today promised to make it easier for businesses to comply with federal rules on drugs, medical devices and the environment. 'We will stop playing "gotcha"

with decent, honest business people,' the President said after unveiling a series of steps to streamline regulation by the FDA and the Environmental Protection Agency.

"The changes include allowing regulators to weigh fines for businesses that violate negligible rules, giving small business a six-month grace period to correct violations, consolidating federal air rules and allowing drug companies to change the way they make some drugs without government approval.

"Clinton chose a print shop in nearby Arlington, Virginia for the announcement, underscoring his emphasis on reducing the regulatory burden on small businesses. Custom print owner Stu McMichael now fills out 20 toxic emission forms. Clinton's reforms will reduce his paperwork to one form."

Some of the other notes here on the Clinton plan, "reduce overall EPA reporting and record-keeping requirements by 25 percent, gives small business a grace period to correct EPA violations, simplify reporting requirements

for air, water and waste emissions, reduce penalties for companies that take responsibility for finding and fixing environmental violations", and on, and on, and on.

And what this says, Mr. President and my colleagues, is that we have dropped the ball in this state. While the members in this house of both parties supported the reforms which I had advanced in 1993 and 1994 and reforming environmental regulations by considerable margins, I might add, neither the Assembly or the previous governor gave a nickel's worth of support for our regulatory reform efforts, and now we find that other states and the federal government have to jump on us by advancing reforms in which our state, New York State, could have been the leader and should have been the leader.

To return to the bill before us, it's based loosely on 9 of the 21 recom mendations which were developed as a result of a series of EnCon hearings we held -- myself, Senator Rath, Senator Wright, Senator Daly,

Senator Pataki at that time and Senator Spano, in the fall of '93 and resulted in this report that we published just about a year ago today.

During the 1994 session, many of the ingredients in the present bill before us, as well as from this -- from this report were passed by separate items in this house with the support of the Majority, including, certainly, the Democrats, as well as Republicans.

I would like to tell you a little bit about this bill. Some of the things this bill will do will try to reverse the adversarial relationship which existed over the years between the DEC and government, and it's kind of interesting, this little article was in the paper here a couple days ago, it said, "a Kodak blast versus the DEC. State environmental regulations help Eastman Kodak Company decide to add jobs in Colorado, rather than Rochester and force them to meet standards that had little scientific basis, the company's top environmental officials said at a conference here."

The official said, quote, "I considered making a new color print product that Kodak bought in 1991 but decided it would take too long to get the necessary permits from the Department of Environmental Conservation. We recognize it may take months of delays so we decided to do it in Colorado. "The venture now employs 70 people in Colorado. It could grow to 200", he said, and one of the other problems that they had with DEC besides the delay in getting the permits was that the other problem was DEC's use of informal guidelines rather than formal regulations to force strict pollution standards, and he said that it forced to do - it forced the company to do costly remediation which had no scientific basis for being done. He said the state needs laws and rules to protect the environment but cost/benefit analysis should be used to decide whether to adopt a regulation.

What I'm talking about here, what Senator Rath talked about this morning, what we talked about a year ago when we debated these

bills is that there should be some rational basis for regulation, and it shouldn't be that, because we can do it, we're going to do it, period. That's what's driven business out of this state.

So what we want to do is identify overly burdensome and outdated regulations and provide a mechanism for getting rid of those regulations which are unnecessary; sunset all new environmental regulations after five years; stop penalizing non-responsible parties; ensure environmental regulations are consistent with the laws which are adopted in this body to deal with it and not to go beyond those laws; provide incentives for voluntary disclosure and remediation of environmental problems; provide a grace period for people to allow the person responsible for minor violations to correct it or to be in compliance instead of just penalizing them and closing them down; and create specific departments to assist business, regulatory compliance; provide public access to all internal policy documents and memorandums,

and that's what Kodak was talking about. They come up with their own rules and regulations as they go along. You never know where you stand.

The creative bodies in the DEC consistently come up with new regulations which may not have any connection with the law or they just dreamed up a new one that they say it's not a regulation, it's a guidance memorandum, it's a technical document, but it's not a regulation, but if you don't it, we'll penalize you, fine you, close you down, and overall to make the department more environmentally friendly.

This is called the Environmental Regulatory Act of 1995. I think it's perhaps appropriate to let other people address their concerns about it or ask questions, and I would do so at this time.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: A couple of things that I have been able to make out that was said. Sometimes it's very hard to hear on this side of the aisle.

To Senator Bruno, something that he said. It appears that the other side of the aisle seems to be making out business to be the enemy of environmental protection, and that is very upsetting to me. We have, in fact, in most of our states, where our economies are strongest, we see our strongest environmental law, and I would very much wish that we would stop trying to pose these two as enemies to each other, because it certainly is not the experience of the very successful states in our Union.

In listening to what was said, I believe that was a report on President Clinton's -- a news release on President Clinton's proposals. Let me say that I would strongly support reductions in paperwork which is one of the chief items in that response that you just gave us, and also, I would strongly support speeding up our response so that people coming before our DEC or our DOH can get a prompt response. That's only appropriate and civil, and I think that's the way we should be going.

However, this bill, I think -- we have three smokestacks from the Environmental Planning Lobby, and I really think it's worthy of four smokestacks or maybe it's worthy of 500 smokestacks. This is really an attack, the bill before us, on citizens' health and environmental health and protection of all of our natural resources. It's, I think, a potential war on every environmental and health measure that we have ever passed in -- in this Legislature.

I was looking at -- many key terms are -- are undefined, and that is an enormous problem. For example -- and I'll quote here from Section 17 -- "requires that each agency, including DEC and DOH, identify all regulatory programs that," here we quote, "impose unnecessary burdens on the regulated public" and another one, to, quote, "identify obsolete rules", and "each agency shall", another quote, "identify rules and regulations that warrant amendment or repeal", and here's another quote, "modify the rules accordingly."

These terms aren't -- are not

defined in the least and, you know, there's no -- no legal framework, and DEC and DOH can just go around dismantling our existing laws based on, you know, very nebulous words. I mean, what really constitutes unnecessary burden or obsolete rules?

I would like to mention something else that I spoke earlier about, and that is that the state can't promulgate more stringent law than the federal government has enunciated and passed, and this is very disturbing, because we may have problems in New York State that are severe to our state, but there is no federal law that really deals with the severity of the issue in our state, and we should be able in this state to meet the needs of our water and our air, and it says that we may not promulgate laws in New York that are more stringent than the federal government.

Also, another provision that requires that each rule adopt a sunset five years after it's promulgated. I think you're going to need an army of people in DEC and DOH

to evaluate all of these laws every five years, and people would not be able to act in reliance on any laws because they wouldn't know which are going to be reviewed in five years and deter mined to be unimportant and then be negated.

It's just -- I have more questions on this very nondescript, very obscure language, like who's going to know what's a minor violation? Are we giving discretion totally to DEC to determine what is a minor - minor, you know, violation?

And then I see that DEC is prohibited from enforcing the law against any violator who discloses such a violation. I can see a whole lot of widespread abuse in this one. I mean, if he comes and tells us that he's violating, then we're just going to say, "Fine. Clean it up," and then who's going to pursue to see if he is going to be cleaning up the mess that he's created?

It exempts persons who distribute, formulate or repackage restricted use pesticides from certification requirements.

Now, this is a very keen concern to women because we have a lot of -- so far it's just anecdotal, we don't know for sure, but we do have anecdotal evidence that links pesticides and breast cancer and certain reproductive disorders. So exempting these people is -- is a very fearsome, very scary concept.

At any rate, I feel that this - this bill should have maybe 100 smokestacks because I see it as gutting all of the legislation that we have put in place over a decade or two with much effort and really an attack on citizens' health and our environmental health, and I would urge all my colleagues to vote against this bill.

ACTING PRESIDENT SEWARD: Senator Mendez.

SENATOR MENDEZ: Mr. President, I am going to support this bill.

For many, many years, the environmental agency has been practicing in my district what everybody knows is called environmental -- environmental racism. The

whole community in the Bronx, starting from the borough president down, my colleague, Joe Galiber, we fought and fought very hard to try to make this state agency be reasonable and take a real good look at the situation that -- and the danger to the health and to the environment of my constituents in that district when they insisted and persisted and placed their chemical incinerator, an incinerator that burns chemical waste.

I think that -- and so, in our neighborhoods like -- in neighborhoods that are similar to some parts of my district, the same complaint is heard over and over again. The least that this bill will do, Mr. President, is to stop the arrogance, the utter arrogance and insensibility of some bureaucrats in that agency when they deal with problems with minority districts.

So that the issue that this bill will undo the good health, the good legislation in the area of health in New York State, that is a lot of bunk.

I think if you really look closely at most of the sections in this bill, they had been passed by the majority of all of us here, and now they are in an omnibus bill - which I think it's very good, and above all, as I said before, Mr. President, it will really make that state agency stop practicing environmental racism in the state of New York and be more sensitive to the needs of a good environment in neighborhoods such as the south Bronx, East Harlem, Bedford-Stuy' and Bushwick and many others throughout the state.

I will support -- I am very glad to stand up and support this bill.

ACTING PRESIDENT SEWARD: Senator Leichter.

SENATOR LEICHTER: Mr. President, we've had a long day and we talked about regulatory matters earlier today, and I think a lot of what was said at that time also applies with this bill, but I think that it's fair - it's fair to just focus on a few of the provisions of this bill because, really, what

Senator Johnson does -- or Senator Bruno is the main sponsor, but Senator Johnson as the spiritual sponsor of this bill, and what it does really is to dismantle the environmental protection for the people of the state of New York, and I would just say to my good friend, Senator Mendez, that nobody needs environmental protection more than the people who live in your district and my district and urban areas, and to deny them the protection that this bill is going to -- is going to produce is really particularly harmful to people who come from these communities where, as Senator Mendez did say correctly, you find many environmental burdens placed on them.

Let me just point out a few of the provisions here that I think are highly unwise. This bill provides that, after five years, every regulation which is enacted after the effective date of this bill will sunset. Now, you may have incredibly important, significant, protective regulations. Why would you require those to sunset? It's true, you can

go through the entire process of readopting the regulations, but you ought to -- you ought to approach this the other way, which is, if a regulation is no longer needed, then maybe you can start a process of removing that regulation, but automatically, to say, "We're going to be devoid of any of these protective regulations", again, places people at risk.

There's a provision in there, limiting on-site monitors. Why would you want to do that? Why would you want to deny DEC the proper authority to put on on-site monitors when there's a serious environmental problem? We know that there are people who, unfortunately, have dumped illegally. We know that there's people who use chemicals, pesticides, other products which are dangerous, which can pollute our drinking water. We know that there are companies that, through carelessness or unintentionally but, nevertheless, have polluted the air, DEC ought to be free to put on on-site monitors, and we should not decide in this fashion that we will handcuff the Department of

Environmental Conservation in carrying out its function of protecting the public.

You know, I thought that Senator Oppenheimer stated very well, it's not a matter of the business community being set up against the rest of the public and that DEC has seen its job or that its function or role has been to impede and impair business. Far from it. We can harmonize in many ways, environmental concerns and business concerns, but there are times when we climb into public safety meaning that you've got to step in and there's some people doing things that are harmful to the environment, and I emphasize again, what we're talking about here is the health and the safety of people.

Let me just go to another provision. This is one -- and we debated this last year when many of the provisions in this bill were set forth in separate bills, and this limits the Department of Environmental Conserva tion when it's considering an application, and it has asked for more information that, when

that additional information comes, the Depart ment can't send it back and say, "Based on this additional information, we now have these other questions." It seems perfectly logical that, if additional material is submitted to the Depart ment, that it may then raise questions that the Department ought to be free to go into.

I think this is just an example of this bill which has everything but the kitchen sink thrown into it and it has this preconception that the Department of Environ mental Conservation and our regulations to protect the air and the water and to protect the beauty of this state somehow or other is impeding business and is causing the job loss that we've had in this state. It just isn't so.

We've learned in the last 20, 30 years important steps need to be taken to protect people from cancer-causing substances, to protect people from breathing unclean air and in large portions of our state, and in particular, in Senator Mendez' district, the air

quality fails to meet federal standard. People are drinking, in parts of our state, water that is not pure, but Senator Johnson wants to take away the powers of that agency which is supposed to help us get clean air, clean water and protect the beauty of this state. I can't understand the sort of animosity, the antagonism to environmental regulation.

And I submit to you, Senator Johnson, that the people of this state want to be safe. You might just as well say, "Well, we're going to get rid of police officers." Yes, DEC has some police functions and those are as important for our welfare as it is to have police officers.

So I would ask you, if you look at this bill, that you will see very much as your so-called welfare reform bill yesterday and the regulatory so-called reform bill that we had earlier today, it's sort of a collection of every ideological Republican right-wing approach and it's thrown into one bill, into one package, and what we get, I submit to you, is a real

mishmash.

Some of the provisions here, we've supported in the past, Senator Johnson, but taken together, you are emasculating environmental protection for the people of the state of New York.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, would Senator Johnson yield for a question?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to a question from Senator Paterson?

SENATOR JOHNSON: Oh, sure. Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields, Senator Paterson.

SENATOR PATERSON: Once he knew it was me, Mr. President, he was happy to yield.

Section 6 of the legislation where there is a restriction on DEC's rendering of a judgment of incompleteness on an

application -- I can understand why you put the section in there, Senator Johnson, because what the staff of DEC is doing right now often is using that as a way to delay because they don't have the resources and they don't have the time to process some of the permits.

What I'm suggesting to you is, why not just give DEC more time because, I think what you outlined here in Section 6 is really too strict. A rendering of the judgment of incompleteness gives the DEC only one opportunity to, in a sense, examine the permit. Once that is made, if the answers to the questions that are sought reveal further doubt or skepticism about the actual permit, you've restricted DEC. So since they may be in a sense using a mechanism in an improper way to effect something that really is important, why not just extend the time? That's my suggestion. I wanted to hear what you thought about it.

SENATOR JOHNSON: Senator Paterson, I think you heard me read the little article about Kodak. That's just from the paper

on March 22nd. They left because it would take too long to get a permit to put a small 70 person unit into their operation which already has 20,000 employees.

The reason this is in here is because our hearings determined that the greatest impediment to business staying here, expanding here, was the interminable period of time it took to get a permit. So what we're saying is that the Department should let the applicant know, give him an outline of every thing they want to know about this operation, this change of procedure, this new product they're manufacturing, whatever process is taking place, and tell them that this is incomplete and these are the things we want you to address, and we shouldn't let the DEC continue interminably holding up business people who want to grow and expand and create jobs in this state.

That's why we say that, Senator, that they shall examine it carefully, tell them the first time what they want, business will get

it, and then they shall act upon that application.

SENATOR PATERSON: Thank you, Senator Johnson. What I'm actually saying, to be clear on this, in the Kodak case situation what they were objecting to was red tape, the administrative bureaucracy. I addressed the administrative bureaucracy.

Where I'm making the suggestion to you is on the second point, the seasonal permit, 50 days for a minor permit, 90 days for major permits since DEC already has trouble meeting those deadlines, and that's what resorted to the process in the first place, and because we have in our budget to stretch the already overburdened Department, why don't we lengthen the period so when Kodak applies for a permit they know when they can start based on the time periods? I'm not objecting to your desire to cut down on red tape.

SENATOR JOHNSON: Thank you, Senator. That section you're talking about, we haven't changed. That gives the Department a

15-day period to examine the application. We haven't changed that. If you feel it's important to change it, perhaps we can make a separate law, amendment, to extend that period but the whole idea is to expedite the process and not delay the process.

SENATOR PATERSON: Okay. That's a good idea, Senator.

SENATOR JOHNSON: Thank you.

SENATOR PATERSON: I'll put that bill in. I hope it's acted upon in 15 days if you think it's a minor bill or 30 days if you think it's a major bill.

On this bill -- and thank you for the answers to my questions, Senator Johnson.

On this particular bill, I just think that there are too many vague statutes that exist in this piece of legislation, too many situations that limit the authority of DEC. If DEC has at times in a sense obfuscated the desire to generate business in the state, then maybe we need to address that. But the idea of having a five-year limit on all rules

and regulations and just as in Calendar Number 218, the bill that we addressed earlier today, does not really provide for the overlapping period or the lapses where regulations may, in a sense, sunset and we have not put in place the regulations that can be helpful, I just think that that is not going to in any way help the safety of the people in the State of New York.

There is a section in this bill that involves a 72-hour notification of landowners of any kind of violation on the property. Again, here again, we see a situation where we are concentrating on one area and not investigating what may have actually been the harmful waste that may have been discovered. We're overreaching and stretching the Department's job to conduct the research, to go and find and do a title search to find out who the owner is; meanwhile, we may have an oil spill or some other land disaster that we need to address a lot more quickly.

We talk in terms of the financial requirements, financial security requirements to

balance the environmental issues with conducting business, but the reference to it in the legislation is so vague, it just makes it unclear as to what it is that the Department is able to do and what the Department is not able to do. We certainly have in this legislation hindered the process of an agency because in the past the agency has made decisions that we haven't liked.

Well, that is a whole new area of law. Just in the last 25 years, we've started to address the environment. In the 19th century, the country was so industrialized, we put so many pollutants into the atmosphere, we have so many CFCs and carbons in our atmosphere right now that we have to have some of the strict requirements. It is a problem for those who are seeking permits. It is a problem for business, but it is a cancer that will envelop us all unless we have some kind of strict adherence to some standard of environmental protection, and that is why I can not in good conscience support this bill.

Thank you, Senator Johnson.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Abate.

SENATOR ABATE: On the bill. I know that the hour is late and everyone wants to go home, but I feel so strongly against this legislation. I think this legislation is so dangerous that I feel compelled to speak for just a couple moments.

I understand that everyone will speak that there is a need for this legislation because we have to balance the need for economic development and environmental protection; and I understand when we have sound economic development, it broadens our tax base. It produces revenue for the state. It increases the stability of the state, and no one in the world, no rational person, is against economic development which will bring money and jobs to the state, but when we use economic development as a guise, as a symbol to destroy our environment, our health and welfare, then we are

misusing economic development and its good intentions.

I believe under the guise of this legislation, this legislation will enable the state to overturn every health and environmental measure that was passed by the Legislature over the last few decades. There are two areas and I know my colleagues have mentioned it and I just want to reiterate my concern. It's the one that requires DOH (Department of Health) and DEC to identify and possibly amend and repeal regulations that are obsolete and regulations that are unnecessary. These are such vague terms that I believe if this part of the legislation is challenged in court, it will not withstand constitutional challenge. These terms because they are so vague can be interpreted any way one wishes; and if one wishes to dismantle environmental protections altogether, one could argue that all rules are obsolete and unnecessary.

The other area that I think is of grave concern is restriction by DEC on its use

on on-site monitors. As an enforcement mechanism, that is one of the most critical ways to see violations, to uncover violations, to make sure areas are safe, and what's very strange that on-site monitors will only be restricted to certain areas and certain violations. On-site monitoring will not be available to coast and marine resources, flood control, mining, wetlands, pesticides and fish and wildlife.

I ask, and this is rhetorical because I know the night is late and I might not change anyone's mind, why are we excluding these vital areas from on-site monitors? To make the situation even worse, it limits the cases of facilities with poor compliance records. Only in those cases can on-site monitoring be used. I suggest that there will be few areas with poor compliance records when you limit the use of on-site monitors.

This is a critical enforcement for the DEC. You take that away, they will not be able to establish -- particularly in

facilities that there should be on-site monitoring -- to establish a poor compliance record.

I'm not one that's prone to overstatement. I know that when we debated the death penalty, we talked about it was a very sad day. I think today is also a sad day for environmental protections in this state, and it's a sad day for the role that government must play in protecting our health and safety.

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

SENATOR DOLLINGER: Mr. President. One question for Senator Johnson if he would yield.

ACTING PRESIDENT KUHL: Senator Johnson, would you yield to Senator Dollinger for one question?

Senator yields.

SENATOR DOLLINGER: As I understood, Senator Johnson, the United States Senate is debating a bill that would affect the Environmental Protection Agency and deal with

some of the issues that are addressed by this bill. Is that correct?

SENATOR JOHNSON: Senator Dollinger, it includes regulatory reform essentially across the board. That's why I said it's similar to the bill which Senator Rath and I separately introduced. Some of the elements of these bills are contained within the federal debate at this moment, yes.

SENATOR DOLLINGER: Again, through you, Mr. President. It's also my understanding that one of the things this bill wants to do is we don't want to go any further than the federal government in particular areas of regulatory control in respect to the environment. Isn't that correct?

SENATOR JOHNSON: That's not a part of this bill, but that was part of our report, yes.

SENATOR DOLLINGER: Under those circumstances, Mr. President, if Senator Johnson will yield to one more question?

ACTING PRESIDENT KUHL: Senator

Johnson, do you yield to another question?

Senator yields.

SENATOR DOLLINGER: Why shouldn't we wait until the federal government acts on its bill involving regulatory reform with the EPA before we jump ahead and do this with DEC and either stick our necks out too far beyond what the federal government will do or not stick our neck out as far as the federal government is going to do, if the purpose is to create some kind of correlation between the federal efforts in the environment and the state efforts in environment?

SENATOR JOHNSON: Well, Senator Dollinger, I prefer New York State be the leader in reform and not wait for Congress, which has forced us into a lot of the things we've done which have been negative for the economy without any particular benefit -- without any particular benefit to the environment which got us in the situation where we are. We should try to chart our own course as much as possible not going beyond and more restrictive than the federal

government because this state has a particular problem with the economy and loss of jobs which you are only too familiar with, of course.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Johnson will yield?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to another question?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Senator, I thought that was part of the problem was that we were out front doing all these things that were far more advanced than what the federal government did and that one of the things that I have heard complaints about from the other side of the aisle in the last two years has been the fact that we're too far ahead of the federal government. Why don't we wait until they act and then figure out how we can work our environmental regulations to work hand in glove with theirs?

SENATOR JOHNSON: Senator, all I can say to you is that by us being ahead of the federal government doesn't mean we've been ahead in reforming or making this state more business friendly. We have been doing environmental overkill which has driven business and jobs out of this state without any particular benefit to the environment or to the people who reside in this state.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Johnson will yield?

ACTING PRESIDENT KUHL: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: As I recall, Senator, one of the things that you've talked about on a number of bills that we've done in this house before has been the fact that the federal government requires companies to do one thing and the DEC requires them to do another

and the inconsistency or the duplication involved with that process is one of the things that drives businesses crazy. If that's the case, why shouldn't we wait until the federal government acts first so that we can act and try to create some kind of correlation between our regulatory -- regulation of the environment and theirs.

SENATOR JOHNSON: Senator, when I began my remarks I said that we were the leaders in this chamber with the support of the other side of the aisle in many instances in advancing regulatory reform concerning the environment. Now you're telling me let us not be the leaders in reform. Let's wait and see what the feds do and ride with the tide. I don't think we should do that, Senator.

SENATOR DOLLINGER: Okay. Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I appreciate Senator Johnson's comments. I think that one of

the problems with this bill and my other colleagues have described the effect of this bill on the environment generally, but it seems to me that there is sort of a two-headed approach here. One head should be out front of the federal government; and yet, when we go out front of federal government as we have done for the last 25 years -- and I should point out, properly, with the leadership of the other members of this house who have been greatly concerned about regulating the environment, but now we find our business community saying New York is too far out front. You stepped too far out front; yet, here we are again today stepping out front again.

We're about to enact a series of regulatory reforms which may be more extensive than what the federal government does, which may be duplicative of what the federal government does, which will simply create consternation on the part of our businesses because they will again face that age old dilemma, "Who do we comply with, the EPA or the DEC? I don't quite

know what to do."

It seems to me that it would make better sense to table this measure, put it off for a period of time, wait and see what the federal government does. If they enact a broad regulatory change in their environmental rules, we could then look at these rules and make them comport with the federal rules and come up with a system that is easier for business.

I sense that the Senate Majority would like to have it both ways. They would like to be out front, but yet they would like to help business. I don't quite understand the logic of it. I'm going to be voting in the negative for the reasons expressed by my colleagues and for the reason that it seems to me we may be far out front of the federal government again and only create more confusion for our businesses.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT KUHL: Senator

Johnson.

SENATOR JOHNSON: I would like to address some of the comments, Mr. President. I know everyone wants to leave, but I don't think we should leave without hearing perhaps this side of the aisle's appraisal of what's right or wrong about this bill.

What's wrong with this bill is two lobbyists' memorandums, and it says on one, "None so deaf as those who will not hear. None so blind as those who would not see."

Now, these people haven't learned anything all the time they have been doing environmental lobbying. They are putting forth memos which people unfortunately rely upon which are inaccurate misinterpretations of the law and you are relying on those and you think that they are telling you the truth and you think you got to do something about it.

The fact is just take the Sierra Club, and they say here, "New York State's environmental enforcement capability will be compromised in several ways: Requirement of a

72-hour notice prior to commencing an enforcement action gives the targeted owner action time to destroy evidence, intimidate witnesses, limit the potential for enforcement."

It's all hogwash and poppycock. It isn't true at all.

The reason I say that is because we say in the law here, "Notwithstanding any other provision of law, and except when any criminal investigation is pending, the Commissioner shall notify the owner of any real property where such owner is not the violator of any violations of this chapter, article, and so forth, that occurred on such owner's real property within 72 hours of determining that sufficient evidence exists to commence enforcement action."

In other words, what we're saying is it's about time to let the landowner know that something bad is going on, on his property. It doesn't say you can't enforce this until 72 hours after notice. It says when you find out about this violation, you have to give

the -- within the several days, you have to notify the owner of the property. What's wrong with that? That's a common sense reform which was brought out on our hearings, that the landowners didn't even know about these violations. No one told them. If they knew it, they would have stopped it immediately, stopped the perpetrator, which is their tenant, from doing this, and they would have seen that reforms took place. As it was they found out months later that their property is contaminated and there's an action going on and they were not even informed of it.

So if this is the kind of baloney that you are reading from Sierra Club, and you think it's true, it's totally false. Just read the bill.

Another thing, Senator Leichter -- he's my friend. He's my compatriot. He's ranking member on the committee. He has been. And we're talking about a voluntary cleanup proposal and all this stuff, the lender liability, these are reforms that have to be

done. It doesn't say that if the DEC doesn't respond in 30 days they can't do anything to the violator. It says here somebody can voluntarily clean up a site of land in an industrial area to a standard sufficient for that type of operation, not to the standard of a child's playground or something else; and it doesn't say if the DEC doesn't act within 30 days you are automatically off the hook. It says you can go ahead and develop a plan if they haven't responded to you in 30 days. It doesn't say that that plan has to be accepted or approved. It doesn't say that plan doesn't have to be subject to a hearing. All those protections are still in place.

I just want to tell you don't read memos and think you're reading the bill. Don't read memos and think you know what is in this bill because you don't know it if you read these memos.

Someone has said here, several members have said -- I won't identify -- that page 10, this section here about re-examining

the regulations, identifying obsolete rules and so forth, this means that somebody can go in and overturn every environmental regulation. Not true at all.

The Governor's counsel is going to coordinate this. They're going to ask all agencies to re-examine their regulations. If there's something on there for 5 years or 10 years or 20 years which are not necessary any more or maybe never really proved to be productive or protective, suggest that they be eliminated; and there is a process for eliminating these things, a very legal process, not going to be done by any rump group in the middle of the night.

It says here each agency shall submit periodic reports identifying rules and regulations that warrant amendment or repeal or identifying obsolete rules to the Governor, the Temporary President of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate, the Minority Leader of the Assembly, Office of Regulatory Management Affairs, and on

and on and on. So we're not doing anything in the middle of the night, scrapping necessary regulation. We're saying re-examine them. Everybody will be informed about this, and we will be able to proceed in a legal and rational manner. Now what is wrong with that?

All I can tell you is I could read every section of this thing (indicating memo). I can tell you this is false information, and this is a bill which should have been adopted a year ago, as I said. It should be adopted now, and we have to get on with the process of doing responsible environmental regulation and aggressive job creation in this state if we're going to catch up with the rest of the nation and make this a place where we will have growing jobs, growing revenues, and be able to do all the wonderful things you all want to do with budgetary money. It won't be there if we don't take this monkey off the back of business and people in this state.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 33. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll, Senator Paterson?

SENATOR PATERSON: Mr. President. In this day of infamous mnemonics, I think we need an SRC on this bill.

ACTING PRESIDENT KUHL: I bet that stands for slow roll call.

Are there five Senators requesting that? I see five standing.

Call the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Babbush excused. Senator Bruno.

SENATOR BRUNO: (Indicating "Aye.")

THE SECRETARY: In the affirmative. Senator Connor.

SENATOR CONNOR: (Indicating

"Nay.")

THE SECRETARY: In the negative. Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold voting in the negative earlier today. Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman

voting in the negative earlier today.

Senator Hannon.

(There was no response.)

Senator Hoblock.

(There was no response.)

Senator Hoffmann.

SENATOR HOFFMANN: Yes.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: To explain my vote.

ACTING PRESIDENT KUHL: Senator Jones to explain her vote.

SENATOR JONES: Most every piece or many of the pieces of this bill I have already voted for and supported; however, when we put them all together today, it seems as though there's some new things that I think deserve some questions, and I did ask those questions, I might say, of a couple of corporate

people, one of whom you mentioned today. The response to me was, "We don't go chasing after one-house bills." When I asked, "How do you feel?" or, "Do you want this bill?" that was their response. "We don't go chasing after one-house bills. When it gets real, we'd like to talk about it."

So I guess that's what I'm going to say today. I'll vote no and I will be very interested in looking at whatever the final product is when it comes back.

ACTING PRESIDENT KUHL: Senator Jones in the negative.

THE SECRETARY: Senator Kruger voting in the negative earlier today.

Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: No.

THE SECRETARY: Senator Leibell voting in the negative earlier today.

Senator Leichter.

SENATOR LEICHTER: No.

THE SECRETARY: Senator Levy.

(There was no response.)

Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

(There was no response.)

Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Maziarz.

(There was no response.)

Senator Mendez.

SENATOR MENDEZ: Mr. President, to explain my vote. For years, EnCon having all the legislation to protect all the citizens of

the State of New York pertaining to quality in the environment and health of the cities, and what have you, have chosen consistently, Mr. President, to practice environmental racism.

I have seen it done in my district. All the legislation in place to protect us, they ignore it. They are very over regulated and they are very choosy as to where they protect the health and the environment of different citizens New York State.

So, therefore, Mr. President, I do vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Mendez in the affirmative?

SENATOR MENDEZ: Yes.

ACTING PRESIDENT KUHL: Senator Mendez in the affirmative.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator

Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: No.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago excused. Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

(There was no response.)

Senator Skelos.

SENATOR SKELOS: Aye.
THE SECRETARY: Senator Smith.
SENATOR SMITH: Nay.
THE SECRETARY: Senator Solomon voting in the negative earlier today.
Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator Stafford.
SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
(There was no response.)
Senator Trunzo.
SENATOR TRUNZO: Aye.
THE SECRETARY: Senator Tully.
(There was no response.)
Senator Velella.
(There was no response.)
Senator Volker.

SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
SENATOR WALDON: (Indicating negative.)
THE SECRETARY: Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT KUHL: Secretary will call the absentees.
THE SECRETARY: Senator Hannon.
(There was no response.)
Senator Hoblock.
SENATOR HOBLOCK: Yes.
THE SECRETARY: Senator Levy.
(There was no response.)
Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Aye.
THE SECRETARY: Senator Stavisky.
(There was no response.)
Senator Seward.
SENATOR SEWARD: Yes.

THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Levy.
SENATOR LEVY: No.
ACTING PRESIDENT KUHL: Announce the results.
THE SECRETARY: Ayes 32, nays 25.
ACTING PRESIDENT KUHL: The bill is passed.
Senator Skelos.
SENATOR SKELOS: Is there any housekeeping at the desk?
(There was no response.)
If not, Mr. President, I move - there being no further business, I move we adjourn until tomorrow, Thursday, March 30, 1995, at 11:00 a.m. sharp.
ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Thursday, March 30, at 11:00 a.m.
(Whereupon, at 6:01 p.m., the Senate adjourned.)