ALBANY, NEW YORK

May 1, 1996

11:00 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: Senate will come to order. Ask the members to find their places, the staff to find their seats.

I would ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance.

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

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

(Whereupon, there was a moment of silence.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 30. The Senate met pursuant to adjournment. Prayer by the Reverend Peter G. Young, Blessed Sacrament Church, Bolton Landing. The Journal of Monday, April 29, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no 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.

Chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Mr. President. On page 22, I offer the following amendments on behalf of Senator Nozzolio, Calendar 257, Senate Print 5951, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 257 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Bruno, there's a couple of substitutions at the desk if we could take those.

SENATOR BRUNO: Please make the substitutions.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: On page 5, Senator Trunzo moves to discharge from the Committee on Aging Assembly Bill Number 7522A and substitute it for the identical First Report 822.

On page 9, Senator Volker moves to discharge from the Committee on Codes Assembly Bill Number 4304 and substitute it for the identical Calendar Number 856.

On page 10, Senator Cook moves to discharge from the Committee on Children and Families Assembly Bill Number 8529A and substitute it for the identical First Report Calendar 867.

On page 11, Senator Johnson moves to discharge from the Committee on Education Assembly Bill Number 6132E and substitute it for the identical First Report Calendar 875.

On page 14, Senator Present moves

to discharge from the Committee on Finance Assembly Bill Number 8844 and substitute it for the identical First Report Calendar 889.

On page 15, Senator Tully moves to discharge from the Committee on Environmental Conservation Assembly Bill Number 7505C and substitute it for the identical First Report Calendar 895; and

On page 16, Senator Nozzolio moves to discharge from the Committee on Crime Victims, Crime and Correction Assembly Bill Number 8856 and substitute it for the identical First Report Calendar 907.

ACTING PRESIDENT KUHL: The substitutions are ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President. I believe we have a privileged resolution at the desk. I would ask that the title be read. It is a resolution that I sponsored, and I would move for its adoption.

ACTING PRESIDENT KUHL: Secretary will read the privileged resolution.

THE SECRETARY: By Senator Bruno, Legislative Resolution, commemorating the 50th Anniversary of the Uniformed Fire Fighters Association to be celebrated on May 3, 1996.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is unanimously adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President. I would like to ask for an immediate meeting of the Rules Committee in Room 332.

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

Immediate meeting of the Rules Committee, Majority Conference Room, Room 332.

Senator Bruno.

SENATOR BRUNO: I believe, Mr. President, that there is another privileged resolution at the desk, by Senator Holland. I would ask that its title be read and that we move for its adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of the privileged resolution introduced by Senator Holland.

THE SECRETARY: By Senator Holland, Legislative Resolution, commemorating the 120th anniversary of the Samuel W. Johnson Steam Fire Engine Company Number 1 to be celebrated on May 4, 1996.

ACTING PRESIDENT KUHL: The question is on the resolution.

All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution as adopted.

Senator Bruno.

SENATOR BRUNO: And, Mr.

President, I believe there is another privileged resolution by Senator John DeFrancisco. I would ask that the title be read and that we move for its adoption.

ACTING PRESIDENT KUHL: Secretary will read the privileged resolution at the desk by Senator DeFrancisco.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution honoring the students of grades K through 5 of the Onondaga Road Elementary School participating in the friends of Gilly Lake Jump-a-thon for winning first place in the Elementary Division of the 49th Senate District's "Good News! Goods Kids!" Student Recognition Program.

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

SENATOR DeFRANCISCO: Thank you, Mr. President. This is the last of the three winning groups in our "Good News! Good Kids!" Project in Onondaga County in the 49th Senate District. This is the Elementary Division.

They are from the West Genesee School District, and it's the Onondaga Road Elementary School, and what they have done is a very unique project for any age group but especially for an elementary age group.

They have raised money, including $25,840 to make improvements to a park, the Town of Camillus Park, and what they have done and what they are doing now by raising money from various projects and getting pledges from various individuals, they are going to have the options of what to do with these funds, and some of the things that they are contemplating are doing such things as providing docks, pavilions, picnic tables, and biking trails for this park.

Now, this is a perfect example of the good things, the good news that we have from students that we don't normally hear about throughout the State of New York, and they are here today and I want to congratulate them, and I'd move for the unanimous adoption of this resolution for these outstanding students, these outstanding citizens in my communities.

ACTING PRESIDENT KUHL: The question is 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.

SENATOR BRUNO: Mr. President. I believe there's another privileged resolution at the desk by Senator Farley. I would ask that the title be read, and that we move its adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of the resolution by Senator Farley.

THE SECRETARY: By Senator Farley, Legislative Resolution, honoring Frank and Mary Battaglia upon the occasion of their 50th wedding anniversary.

ACTING PRESIDENT KUHL: The question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

SENATOR BRUNO: Recognize Senator Connor, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. I have a privileged resolution at the desk, and I would like to call it up and ask that it be read.

ACTING PRESIDENT KUHL: Secretary will read the privileged resolution at the desk by Senator Connor in its entirety.

THE SECRETARY: By Senator Connor, Legislative Resolution, honoring Michelle Maratto recipient of the New York State Bar Association's 1996 President's Pro Bono Service award in the Second Judicial District on May 1, 1996.

Whereas, it is the sense of this Legislative Body to honor those individuals of the State of New York whose magnanimous contributions have made a substantial impact on the quality of life in their communities; and

Whereas, attendant to such concern and fully in accord with it's long standing traditions, it is the sense of this Legislative Body to honor Michelle Maratto, recipient of the New York State Bar Association's 1996 President's Pro Bono Service Award in the Second Judicial District at a luncheon to be held at the New York State Bar Center in Albany, New York, on May 1, 1996; and

Whereas, as pro bono attorney, Michelle Maratto's commitment and humanitarian concern for her clients is inspirational;

Michelle Maratto has been a prominent member of the Brooklyn Bar Association's Volunteer Lawyers Project whose pro bono work focuses upon helping clients with terminal illnesses, including AIDS, and usually involves homes or hospital visits to provide

assistance;

Since joining the Volunteer Lawyer's Project, Michelle Maratto has handled 25 matters, donating over 150 hours to clients, accepting 13 referrals in 1995 alone, as well as spending countless additional hours mentoring new volunteers on the home and hospital panel;

Whereas, the cases handled by Michelle Maratto involve multiple trips to distant and dangerous neighborhoods and dealing with emotionally distraught clients, and the services provided by Michelle Maratto are not limited to the discrete matters referred to by the Volunteer Lawyer's Project but include tremendous involvement in dealing with all clients' problems, including landlord/tenant, divorce, wills and estate work;

Michelle Maratto's work as a mentor has had a positive impact on the ability of the Lawyer's Volunteer Project to recruit volunteers, involving not only answering substantive questions but also accompanying new volunteers on first visits and recruiting

volunteers herself; and

Whereas, this Legislative Body is greatly moved to extend its highest commendation to Michelle Maratto for her generosity of spirit and humanitarian concern; now, therefore, be it

Resolved, that this Legislative Body pause in its deliberations to honor Michelle Maratto, recipient of the New York State Bar Association's 1996 President's Pro Bono Service Award in the Second Judicial District on May 1, 1996; and be it further

Resolved, that a copy of this resolution, suitably engrossed, be transmitted to Michelle "Mickey" Maratto.

ACTING PRESIDENT KUHL: The chair recognizes Senator Connor on the resolution.

SENATOR CONNOR: Thank you, Mr. President.

I think the resolution sets forth why Michelle Maratto deserves the State Bar Association award. For myself, as her representative in this body, as a lawyer and as a member of the Brooklyn Bar Association myself,

I am indeed proud of her efforts and proud that she is being so recognized by the New York State bar association. Indeed, her efforts have been largely responsible for the success of the Volunteer Lawyer Project because, as the resolution points out, she not only undertook work on behalf of many clients herself on a pro bono basis but she has been active in recruiting and mentoring other lawyers who were willing to provide these free legal services.

And, indeed, this idea of voluntaryism, of providing service to those who are in need and can not afford to pay for it is one of the oldest American traditions and certainly one of the highest traditions and responsibilities of the bar, and I am indeed delighted, Mr. President, to introduce to this body Michelle Maratto, who is here today with her husband, John Stella, with her family, and to extend on behalf of this body our congratulations and our heartfelt thanks for her efforts as a volunteer.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the resolution?

(There was no response.)

Hearing none, the question is on the resolution.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President. I believe there is one more privileged resolution at the desk by Senator Goodman. I would ask that the title be read and that we move for its adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of the privileged resolution.

THE SECRETARY: By Senator

Goodman, legislative resolution, honoring Kitty Carlisle Hart.

ACTING PRESIDENT KUHL: Senator Goodman on the resolution.

SENATOR GOODMAN: Mr. President. This resolution evokes a combination of feelings on the part of many of us, feelings of warm appreciation and at the same time sadness because, after a tenure of 25 years working for the New York State Council on the Arts, our beloved friend Kitty Carlisle Hart has chosen to retire from that post.

Mr. President. Kitty Carlisle Hart has served this state with the greatest distinction and integrity and with complete and noble dedication, first as a member of the New York State Council appointed by Governor Nelson Rockefeller and, subsequently, as the chair of that organization appointed by Governor Hugh Carey.

She has served under six Governors, and she made it clear yesterday as we named "the Egg" in her honor, which took place

at a ceremony at "the Egg" itself, which is now known as the Kitty Carlisle Hart Performing Arts Center -- she made it clear that she has always called each of the governors for whom she has served "Darling." And she said to Governor Pataki yesterday, as he presented her with her plaque commemorating this great occasion, "Governor Darling, I appreciate this, and, by the way, may I have permission to call you my sixth Governor Darling?" -- a request which was readily granted.

As we all know, Kitty Carlisle Hart is an extraordinary personality, an individual of wit, taste and grace, for which she is justly famous, and a style that combines warmth, intelligence, responsiveness and compassion. During her tenure, the Council has become the most famous and the most professional of any state's arts council and has served as the model for every other state council as well as for the federal National Endowment for the Arts on which, as you know, I have the privilege to serve.

I can tell you that frequently, in the conduct of the affairs of the National Endowment for the Arts, reference is made to Kitty Carlisle Hart and to the New York State Council on the Arts which is truly that of our Empire State and the foremost of all of the Arts Councils, having set the pattern for government assistance to the arts through matching grants, not simply give-aways but the presentation of monies to worthy causes on the condition that they will match either two for one, one for one, or in some cases even three for one, local effort exceeding that of the federal government.

During her tenure and due to her efforts, the Council presided over an extraordinary increase in the numbers and kinds of arts organizations providing services to the people of this state. It has fully implemented the legislative intent of the Council insuring that the role of the arts and the life of our communities will continue to grow and will play an ever important part in the welfare and education experience of our citizens and in

maintaining the paramount position of this state in the nation and in the world as a cultural center and of assuring the Council's activities be directed toward encouraging and assisting rather than in any way limiting the freedom of artistic expression.

Mr. President. Kitty Carlisle Hart has been an activist chairperson visiting every part of the state, developing a personal relationship with virtually every arts organization in the state, creating and implementing policies and procedures that assure that every region of New York is well served by the Council. She's never been too busy to listen nor too tired to care and, as a result, has won the affection, friendship and devotion of all who work in the arts community.

Her rigorous schedule in discharging her duties as chairman is legion. She has taken on myriad other roles, also, as friend of performing artists, advocates, strategists, technicians, thinkers, doers. She's a conscience and a guide far exceeding the

requirements of her position.

She has fulfilled all these roles because she truly believes in the power and importance of the arts and artistic imagination; and while all of this has been going on, be it noted that she has also personally appeared on the Broadway stage where she had originally started her career many years ago, and I know it will be recalled by the members of this house most fondly that the name Kitty Carlisle Hart derives from the fact she was married to the great, one and only Moss Hart, one of Broadway's leading lights until his untimely death some years ago.

Mr. President. Kitty Carlisle Hart is truly the darling of this Legislature, and we are very sorry indeed to see her leave, but we understand, of course, that having served for a quarter of a century, she does have a desire to proceed with other interests. She will soon be seen again on the Broadway stage. It's my hope that she will appear here often. She has graciously pledged her full support to

the new Chairman of the Endowment recently appointed by the Governor, and I know that we'll have the benefit of her wisdom over many years to come.

We salute her. We love her, and we cherish her.

Thank you, Mr. President.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold on the resolution.

SENATOR GOLD: Thank you very much.

Mr. President. One of my early assignments in the Legislature was to be on the Arts Committee, which at one point we all know Senator Lombardi was very involved with, and I want to, if we're saying nice things, congratulate Senator Goodman, who has also shown great concern in that area.

I would have to agree with absolutely everything that Senator Goodman said today. If you had a dictionary and you opened the dictionary up to the word "class," you will

find Kitty Carlisle's picture there. This woman is class.

And, I will never forget the first time after her appointment when she appeared before the legislative financial committees to talk about money for the arts, and I don't think there was one member on that panel that didn't expect to hear about how wonderful it is to enjoy the classics and how wonderful it is to hear about Broadway and music and poetry, and that wasn't what she talked about. She looked at this panel of legislators who were concerned about money, and she talked the economic interest of this state, and she talked about tourism as a major business, and she knocked us all right off our feet because, if there was one argument that was attractive to that committee, she understood it.

She understood that people didn't have to know the merits of the arts. She talked about finances, and that, I think, is to a great extent one of reasons she was so successful because she understood the bottom line and what

her job was.

She is a major asset to this state, and I am delighted, as Senator Goodman indicated, that she is not walking away from us but merely changing a little bit of her responsibility.

She is a fabulous, great lady and we were lucky to have had her in that position as Chair of the Arts for as long as we did.

ACTING PRESIDENT KUHL: Senator Farley on the resolution.

SENATOR FARLEY: Thank you, Mr. President.

I rise to say thank you to Kitty Carlisle Hart, who has been an absolute treasure to this state, and, you know, she served in some very, very difficult years. I think we all remember that, back when there was a lot of financial problems, as there are still today, but she always spoke eloquently on behalf of the arts and she always delivered for the arts.

Kitty Carlisle is a lovely woman. Senator Gold, you used the word class,

but I guess I have to emphasize that also because she is such a woman of breeding and culture and class that just to be around her convinces anybody that we must support the arts.

She's a lovely person. She's done a great job for New York State. She's a friend of this Legislature. She's a friend of the entire state, and we're very, very proud of her and we're grateful for what she's done.

She has served us for many, many years, and she still is a bright and shining star, and we wish you well, Kitty, and all the best, and thank you very much for all that you've done for New York State.

ACTING PRESIDENT KUHL: Senator Lack on the resolution.

SENATOR LACK: Thank you, Mr. President.

I, too, rise to thank Kitty Carlisle Hart for everything that she has done for this state, but in somewhat more of a personal sense.

I can recall how I first really met her. I went to an arts function here in Albany. It was held across the street in the State Education Building.

ACTING PRESIDENT KUHL: Senator Lack, could you pardon a interruption?

(There was a pause in the proceedings.)

SENATOR LACK: Thank you, Mr. President.

So I went across the street to the State Education Building to attend a function, and as I walked in, someone said, "Oh, Ms. Hart would like to meet you; you have old friends in common," and I found out through my family we did, and she was so gracious. This was about ten years ago. I immediately became captivated with her. She invited me to sit at her table that evening. She started to explain to me, in some of the same manner in which Senator Gold spoke, about the economic significance of the arts in this state and what the arts can do not only in New York City but

throughout.

When she learned where I was from in Long Island and lived in the Town of Huntington, she spent about 15 to 20 minutes extolling the virtues of the local arts council in my town, even down to some of the smallest performance groups that existed in the town, explained to me how she had attended their performances, had met the parents in the cases where there were young kids, and how she was taken with the type of work they were doing, even knew the first names of the secretaries who worked in the Arts Council's local office.

And as I later become interested in the arts, attended performances and exhibits and went to museums in my district, I was not surprised after the first three times to walk in to a performance or to an exhibit at a museum and find not only my constituents but Kitty Carlisle Hart, who had come out on behalf of the state's Arts Council because there was either a financial interest or an artistic interest in what was going on in that exhibit or that

performance, and she wanted to be there on behalf of the state.

She has been a more than tire less worker, and as I go around the country now in my capacity as President of NCSL and people talk about the type of arts involvement we have in New York, there is no doubt that every last dime that we spend on it and every last ounce of commitment that we have put into the arts stems from the involvement of Kitty Carlisle Hart.

So, Ms. Hart, I thank you for what you have been and for what you have made the rest of us who have gotten involved with you in the arts program, and I will continue that involvement, and I thank you for opening its horizons to me.

ACTING PRESIDENT KUHL: Senator Oppenheimer on the resolution.

SENATOR OPPENHEIMER: Well, "To Tell The Truth," I have to tell the truth about Kitty Carlisle Hart. Most of us do remember back "To Tell The Truth," and some of the people probably in this chamber remember her first for

that. But to talk about her just in that capacity would be just an infinitesimally small part of her life.

She has been a lifetime champion of the arts, and I remember one of her finest hours was when there was an attack on the Arts Council because of some art, not performing art but art paintings that were coming under attack because the art had been drawn by a homosexual, and she stood up to the greatest attack I have seen on the arts, and she was magnificent. She was a wonderful champion.

Her activity has included not just the large groups that we all know about but the small groups, the aspiring artists, the young people, educating them because it is only through educating our young that we can expect our arts to continue into the -- into the future, and one of the grave situations I see occurring when I go to Lincoln Center is that so many, many people there are gray-haired and that there are not enough young people involved, and that is why I'm so concerned to bring art into

our elementary schools and our high schools because, if children are brought up with the arts, they will pursue them the rest of their lives.

I sometimes wonder if my calculus has much value to me today, but the arts that I was brought up with from early childhood have meaning for me every day of my life.

The fact that we have all mentioned her great charm, her great graciousness, her great intellect. In singling out the importance of the arts to the economy of New York City -- and the state, but principally New York City -- she has contributed mightily to our understanding of what that impact is.

And I must say she has been a great friend to me and to my husband, who is so involved at Lincoln Center.

So all I can say is thank you from the bottom of my heart and our collective hearts here in the Senate, Kitty, and lots of good luck on Broadway.

ACTING PRESIDENT KUHL: Senator

Leichter on the resolution.

SENATOR LEICHTER: Mr. President. I, too, want to join the resolution, and I assume Senator Goodman will put every member of the Senate on the resolution?

Senator, is this resolution open to all members of the Senate?

SENATOR GOODMAN: Yes. Thank you very much, Senator Leichter. I trust and hope that you will all feel you would wish to participate. It is indeed open.

SENATOR LEICHTER: Good. Thank you, Senator Goodman.

I'm not going to talk about what Kitty Carlisle has meant for the arts because that is so well known and covered by some of the previous speakers. I just want to mention just, very briefly, her unfailing, courtesy, cooperation, friendship. She really made you feel so at ease. She had that ability to communicate with you to make you feel that she was really interested in you as a person, as indeed she was. I'll always remember once being

at her house and she took me around and showed me these wonderful pictures of her and Moss Hart. This is a person who has had such a rich legacy, has been so much part of the culture of this country. We were, indeed, fortunate to have her serve as head of the State Council of the Arts, and I hope for many, many more years we will have the ability of seeing her participate in the richness of the life, the cultural life of the City and the State of New York and, indeed, of the whole nation.

Thank you.

ACTING PRESIDENT KUHL: Senator Marchi on the resolution.

SENATOR MARCHI: Mr. President. The remarks that have been elicited by Kitty Carlisle Hart are so justified and so widespread and so widely felt.

My wife, Maria Luisa, and I - she's a dear friend of our family, has been in our home many times, and we revel in her friendship, that warm humanity that characterizes her. She has a genuine love of

people, a sense compassion that she just rejects things that are mean-spirited and narrow-minded and certainly is a role model for young and old, whatever age. This is a young heart at work.

Senator Oppenheimer has mentioned the siege that she suffered on several occasions, and on each and every occasion she rose with great dignity, recognizing the fact that mortal institutions have some frailties. But the majesty of the service that she was rendering and that the Council of the Arts was rendering was worth defending and promoting and enlarging because it adds so many dimensions to our life.

I might say that most of my conversations with her, Mr. President, have been in Italian of all things and even our correspondence, and her Italian is impeccable better than almost anybody in the capital or the State of New York with minor exceptions.

But this is a great human being, and I believe that if you go out on the highways and byways -- and not only in this country, Mr.

President. She studied in Rome for many years and studied opera. I have heard her name mentioned with great admiration and esteem outside the Western Hemisphere such is the magnitude of her -- the esteem with which anyone who has ever come in contact with holds her.

So we wish her well and only on the condition that we exact the promise that she is not going to be scarce. I mean she is going to be available and with us on many, many occasions from now on.

ACTING PRESIDENT KUHL: Senator Mendez on the resolution.

SENATOR MENDEZ: Mr. President. I also want to say thank you to Kitty Carlisle Hart.

Many wonderful things have been said about her here today -- you know, for example, the kind of a lovely person that she is, her social graces, and I want to just mention to you her sensitivity to other people.

Many, many years ago -- about 12 or 14 years ago, I received a call from an

organization, from a group of Puerto Rican and Hispanic organizations. They were very distressed because they felt that they were being discriminated against in terms of funding, lack of understanding, or their expression of art.

So I called Mrs. Hart. She was so gracious. She invited all these individuals to her home. We had a meeting, and she worked very hard and resolved the problems.

One thing that has not been mentioned here is that this lovely human being, Mrs. Hart, is not only intelligent and has this tremendous amount of talent but she's also an excellent problem solver.

So we are all going to miss her. We wish her well and, once more, we all say thank you.

ACTING PRESIDENT KUHL: The question is on the resolution.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

All members are on the resolution.

Senator Skelos, that brings us to calendar.

SENATOR SKELOS: Mr. President. If we could take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 25, Calendar Number 359, by Senator Skelos, Senate Print 520A, an act to amend the Education Law, in relation to notification to parents.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 386, by Senator Lack, Senate Print 5954A, an act to amend the Tax Law, in relation to extending the authorization for imposition of a hotel and motel tax.

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 508, by Senator Stafford, Senate Print 6298A, an act to amend the Highway Law, in relation to implementing an exchange of highways between the

state and the county of Washington.

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

The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 547, by Member of the Assembly Sidikman, Assembly Print 8911, Concurrent Resolution of the Senate and Assembly, proposing an amendment to Article 6 of the Constitution.

ACTING PRESIDENT KUHL: The question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

Call the roll.

(The Secretary called the roll.)

Announce the results when tabulated.

THE SECRETARY: Ayes 51. Nays 2. Senator Gold and Maziarz recorded in the negative.

ACTING PRESIDENT KUHL: The resolution is adopted.

THE SECRETARY: Calendar Number 605, by Senator Farley, Senate Print 2992A, an act to amend the Banking Law, in relation to permissible fees in connection with open end loans.

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

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 618, by Senator Volker, Senate Print 3863A, an act to amend the Civil Practice Law and Rules, in relation to summary judgment.

SENATOR VOLKER: Star that bill, please.

ACTING PRESIDENT KUHL: The bill will be starred at the request of the sponsor.

THE SECRETARY: Calendar Number 627, by Senator Levy, Senate Print 6446, an act to amend the Transportation Law, in relation to payment of fees and other charges by credit card.

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 629, by Senator Levy, Senate Print 6532, an act to amend the Vehicle and Traffic Law, in relation to the use of radar and laser detectors.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 642, by Senator Holland, Senate Print 6241, an act to amend the Social Services Law, in relation to permanently excluding persons from

eligibility.

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 648, by Senator Sears, Senate Print 1394, an act to amend the County Law, in relation to additional enhanced emergency telephone system surcharge.

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 649, by Senator Sears, Senate Print 2711, an act to amend the County Law, in relation to additional enhanced emergency telephone system surcharge provisions.

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is -- Senator Waldon, why do you rise?

SENATOR WALDON: Excuse me, Mr. President. I was regrettably preoccupied when Calendar 642 was passed. I request unanimous consent to be recorded in the negative.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Waldon will be recorded in the negative on Calendar number 642.

The bill is passed.

THE SECRETARY: Calendar Number 652, by Senator Volker, Senate Print 5969, an act to amend the Local Finance Law, in relation to the sale of bonds and notes of the city of Buffalo.

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

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.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 653, by Senator Nozzolio, Senate Print 6179, an

act to amend the Town Law, in relation to providing for the election of a third town justice.

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 752, by Senator Hoblock, Senate Print 6256, an act to amend the Highway Law, in relation to designating a portion of the state highway system as the Disabled American Veterans Memorial Highway.

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

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the noncontroversial calendar.

SENATOR BRUNO: Mr. President. Can we return to reports of standing committees. I believe that there is a report from the Rules Committee at the desk. Can we have it read.

ACTING PRESIDENT KUHL: We will return to reports of standing committees.

The Secretary will read the report at the desk.

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

7478, by Senator Bruno, an act to amend the Tax Law, in relation to enacting the Tax Reduction and Economic Incentive Act of

1996.

Senate Print 7486, by the Senate Committee on Rules, an act to amend Chapter 261 of the Laws of 1993, relating to the Nassau County accelerated adjudication program.

ACTING PRESIDENT KUHL: Without objection, the bills are reported directly to third reading.

SENATOR BRUNO: May we accept the report.

ACTING PRESIDENT KUHL: The motion is to adopt the Rules Committee report.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Rules report is adopted.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes. Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 359.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 359.

Senator Wright, why do you rise?

SENATOR WRIGHT: Mr. President. I would request that we place a sponsor star on my bill, Senate 3186A, Calendar Number 46.

ACTING PRESIDENT KUHL: Calendar Number 46 will be starred at the request of the sponsor.

Senator Bruno.

SENATOR BRUNO: Mr. President. Can we now take up Calendar 910.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 910, by Senator Bruno, Senate Print 7478, an act to amend the Tax Law, in relation to enacting the Tax Reduction and Economic Incentive Act of 1996.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator

Bruno, an explanation of the bill has been asked for by the Acting Minority Leader Senator Stachowski.

SENATOR BRUNO: Thank you, Mr. President. Colleagues. Approximately a year ago, we were in this chamber and we were contemplating one of the biggest tax cuts ever passed in New York State, biggest tax cut, personal income taxes and business taxes, in the United States.

Governor George Pataki proposed the largest personal income tax cut, 3.9 billion over three years. That became part of the budget that we adopted in this state. At that time, when we debated this tax cut package, conversations on the floor were that we couldn't afford to cut taxes in this state. We couldn't afford to cut taxes. So we like to say, let's look at the record.

Before the tax cut went into place, over the previous 12 years during the administration that was in Albany, New York was 50th in job creation in all of the United States

-- 50th. Highest taxed per capita in all of the United States. In one short year, we have moved from 50th in job creation to 6th in job creation. Over 102,000 new jobs created in New York State last year, about 26,000 this past February. For the first time in anyone's memory, including Senator John Marchi's, Site Magazine that is used by major industries in the world to site plants has New York as one of the ten top sites -- tenth -- in places to locate your business.

So we are doing some things right. But are we and have we done enough? The answer is no. How do we know? Because, Mr. President, we are in a very competitive society. New York has to compete with all the other states and every country in the world for jobs, and jobs are the most important things that any of us in government can focus on, because if people are working, they are off welfare, they are off unemployment, they are off the streets where they commit crimes, and they are being productive. So we have to focus on

job creation.

We're competing with other states; and what do other states do?

Ohio, which is number 1 in Site Selection Magazine as a place to locate your business -- Ohio, one of the more unlikely places in the United States -- number 1. Why? They incentivize business.

Michigan, 21 tax cuts in five years. Michigan has done a turn, going from one of the worst places to be in business to one of the most desirable. Why? They recognize that you have to do things to be competitive, and they have done them.

Virginia. We weren't even in contention when Motorola and Toshiba located a plant to employ up to 5,000 people. New York wasn't even at the table. Why? Virginia had an incentive package of $165 million.

So we have got to be competitive if we are going to create jobs and continue the economic development policies that Governor George Pataki and we in this chamber have been

partners in through last year and into this year. So we have a tax cut package that we are proposing here in this chamber, and I am hopeful that everyone in this chamber will see fit to be supportive of this package to continue to stimulate the economy of New York State, because there isn't anything that we can do that is more constructive or more positive to meet the deficit that we have in this state, 5 billion, following a 5 billion. We have got to create revenue.

How do you create revenue in a state? Unlike the federal government, we can't print money. So we in the state make our money from taxes, tax revenues, personal income and business taxes.

Common sense would tell you that if we encourage business growth by being competitive to the rest of the world, businesses will locate here. They will expand here. They will pay taxes here, and they will employ people that will pay taxes here in New York State.

So this past year, we stopped the

exodus to every other state. We stopped it. While New York lost three-quarters of a million people three years ago, Texas gained a quarter of a million people. But we stopped it. We have made the turn.

This package will stimulate the economy of this state, and that's why it's critically important that we support it.

We start with -- now listen. I know you want to hear this. We start by phasing out the gross receipts tax on utilities. One of the things that you hear from businesses is that they can't grow here. They can't locate here because of the high cost of energy. We have a 20 percent gross receipts tax. Whether the utilities make money or not, the consumer pays on top of an already noncompetitive utility cost. We're going to phase that out over four years, freezing it the first year.

We want to phase out the estate tax. We want to make us in New York State conform with the Feds and the other states and repeal the gift tax that we have here in New

York State. Why? People move to Florida and to other states so that when they pass their estate, the people that -- they have worked hard and so the people that they love will receive the benefit of their labors while they were on this earth. Now, common sense tells me that we have to encourage people to stay here. Why would we want to encourage people to move to Florida to die? I can't answer that question, and I don't think anyone in this chamber can. That's in this package.

There is one tax in this state that all of us that were here have to be ashamed to have participated in and that is capital gains tax on properties over a million, the so-called Cuomo tax. Cuomo tax. Think about this and I'm asking you, Senator Skelos, and my colleagues to just use common sense.

When that tax went in 12 or 13 years ago, the revenue from properties over a million dollars were almost $800 million to the people of this state, and those revenues paid for education, for welfare, for Medicaid, for

higher ed', for roads, for bridges. What did we do with the Cuomo tax? Since it went in, the revenue to the state went from 800 million, 600 million, 300 million to a low of 83 million. It's back up to about 105 million.

Now, again, common sense would dictate that if you have done something wrong you fix it. Some people will say, Oh, that's a tax break for the wealthy. Well, it isn't a tax break for the wealthy because that revenue from 800 million to 100 million has deprived people from welfare benefits, from higher ed' supplements, secondary educational aid. That's where that 700 million has gone. Down the drain. We have to fix it. This package fixes that.

And, by the way, for those of you from New York City, listen to this. We asked and we're supported in a study that was done on the Cuomo tax. If that tax leaves, the study shows, 7.7 billion of property transfers will take place in a fairly short order, creating up to 7,000 new jobs, and the taxes from that

transfer will produce about $200 million to New York City -- $200 million to New York City that isn't there today. The hit at the state level, about 20 million. Cheap enough initially.

Petroleum business taxes. We have got to help our truckers be competitive. We have been encouraging truckers to locate in Jersey, Mass', Vermont, anywhere but New York. We have been encouraging truckers to gas up anywhere but New York. That is in this package, the petroleum business tax: 10 cents a gallon off diesel fuels, 6 cents a gallon and 3 cents a gallon off home heating. Critically important to make businesses more competitive in this state.

Now, this is one, Senator, Mr. President, that I know you have been a party to as chairing agriculture. It's a circuit breaker for farmers. It's a 20 percent credit for farmers on their property taxes. Now, that is critically important. We are an agricultural state. All of us in this chamber know that farmers have been out of business having to put

their land up for development. Why? Because they can't compete. We have got to cut taxes for farmers, one of the largest industries here in New York State.

Truckers are presently taxed on gross receipts. We have to make them competitive; and a gross receipt tax is the most onerous tax. Why? I know Senator Gold knows why because he is making notes. Why? Because it's a tax on revenue. Whether you make a profit or not, you pay a tax. That is wrong. We have to tax truckers on their bottom line. If they are profitable, they pay a tax. If they are not profitable, they don't pay a tax. We help them become profitable. Got to do that.

We have a container tax. We took one cent off of two. There's another cent. We have to remove that. That's in this package. Why do we have to remove that? Because we put that tax in in 1990, for what purpose? Senator Connor knows that that tax went on to fund the interest on the Environmental Bond Issue, and the Environmental Bond Issue didn't pass. So

what did we do with that two cents and 10 cents per gallon on beer? What did we do with it? We spent it. We put bottlers out of business is what we've done. Got to get rid of it. Just like the Environmental Bond Issue that went down, this tax has to go down. Senator Mendez agrees with that.

The alcohol beverage tax. My neighbors -- I live about 20 miles from the Vermont border, 15 miles. My neighbors go to Vermont to buy their alcoholic beverages that they drink, only on festive occasions like holidays.

SENATOR CONNOR: In moderation.

SENATOR BRUNO: In moderation. And what happens when they go to Vermont -- what happens when they go to Vermont -- think about this. Now, these are, you know, senior citizens. They make it an excursion when they go to Vermont. They go to Bennington, a beautiful little community out of New York State. So they buy their beverages for the holidays; and while they are there, they buy

clothing. They buy food, they gas up, they go into restaurants; and guess what? They do that regularly. Why do we want to encourage people to drive out of our state, when we have the most beautiful state in all of the United States? Isn't that true? There is no question about it.

There are sales taxes that we have levied on businesses that are unconscionable. How on earth we have allowed these taxes to stay on these businesses is beyond my imagination, and I am sure that we will correct it this year. There are vendors - think about this. Senator Onorato, you like hot dogs.

SENATOR ONORATO: Let me make notes.

SENATOR BRUNO: Right. If you go to a vending machine, you will pay a tax on beverages and some of what you buy in the vending machine. You pay a tax. Now, if instead of going to the vending machine you go to a counter and at the counter you buy the same

things, guess what? There is no tax. There is no tax. Now, some of us didn't realize that so we can be forgiven for allowing that situation to exist here in this state. But now we know it, we got to remove it. We got to be competitive.

There are a whole litany of taxes just like that, automatic car washers. You get your car washed, Senator Lachman. You have a nice clean car. You have to pay a tax if you go through a vending device. If you don't, you don't pay a tax. It's wrong. What's the hit to the state? Maybe 2 million. But you know what? Some of the people, again, that live all around the borders, Massachusetts, Vermont, New Jersey, do you know what they do? While they are out getting their festive beverages and shopping, they get the car washed. Makes sense.

This is the last one that I'm going to share with you, but this one I saved until last because it is really one of the biggest mistakes that we've made that we will now correct.

There are printers here in New York State who print promotional material. One of the plants is located, coincidentally, in my district, employs 1600 people. They have plants in Michigan; and guess what? If they produce certain materials here in this state that they are going to ship around the country and around the world, we tax them in a way that is like 20 times what they would pay if they produced the same material and mailed it out of Michigan or one of their other plants. Now, why do we do that? We might just as well get a bus, load the employees that are in my district on that bus, and bus them out of the state. It is crazy. It makes us noncompetitive.

So, as you are making your notes, as you are preparing to debate, as you are preparing to amend this beautiful package of job creation, think about the common sense approach of helping make businesses in this state more competitive, creating more jobs for the people who support us, who work hard, businesses that locate here.

The more tax a business pays, the more business they are doing. The more business they are doing, the more taxes they pay, and we in this chamber are public servants. We are here to serve the public. We all know that. We will perform the greatest public service by following the lead of Governor George Pataki, who put forth the biggest tax cut package in the United States last year.

We will follow that up this year by doing something that will continue to stimulate the growth in this state that we in this chamber -- most of you voted for the budget. We did it last year. You on this side of the aisle, my left, coincidentally, are partners in all of the good things that have happened in this state, so I am confident that you will continue to partner as we, Mr. President, together move this state forward.

Thank you.

SENATOR CONNOR: Mr. President.

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

SENATOR CONNOR: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Why do you rise?

SENATOR CONNOR: On the bill.

ACTING PRESIDENT KUHL: I have a list going, Senator Connor. Senator Goodman asked to speak, then you would be next.

SENATOR CONNOR: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Goodman.

SENATOR GOODMAN: Very brief, Mr. President.

Mr. President. I rise to speak in strong support of the remarks that have just been made by the Majority Leader and would like to simply point out that there are several areas of sensitivity in our tax structure which have been repeatedly brought to our attention which might be worth mentioning in this particular debate.

First of all, broadly, we should

point out that there is, I think, a consistent strand of disagreement between our sides of the aisle on the matter of tax policy, and on almost any occasion when the Republicans seek to advance cuts in taxes which will in some way benefit those of higher income brackets, the charge is made that this is a "soak the poor to give to the rich" proposal.

That, I think, may exaggerate it slightly, but there is a sense between us that there is a desire on our part to feather the nests of the most affluent and, often, at the expense of the poor. I, respectfully, reject that and point out to you that our view of this is quite different.

It is our view that in order to stimulate the economy and in particular to assure the jobs in the future will be able to be enriched rather than depleted as they have been so egregiously over the last decade, that tax policy plays a crucial part in this whole undertaking. I'm going to take one of the most controversial and sensitive parts of our package

and try to hit the nail on the head, and that's the estate tax.

Now, the estate tax applies, as we all know, to the estates of those who have accumulated wealth during their lifetime and who have some hope of passing it on to the next generation of their families, and the assertion is suggested that the estate tax is the quintessential example of how we're trying to help the well-to-do at the expense of poor.

I would point out to you that the estate tax and the strategy connected with it is possibly one of the most important things we can do to develop the entire state economy for the benefit of the less fortunate, and the reasoning is very simple. I have had innumerable calls from people who say we are about to move to Florida, and we would like you to know that the reason we're moving to Florida is that the estate tax makes it impossible for us to remain here, because Florida has rates that do not punish those who have accumulated capital during their lifetime and, as a result, we're leaving.

Now, are these people all with one foot in the grave and one foot on a banana peel? No. They are people with significant amounts of time left in their lives who would be paying income tax to the State of New York and all the other taxes which people who have some income are able to pay, and yet we're losing that entire tax base prematurely by literally driving them out of the state.

The amounts involved relative to the total state budget of $63 billion are minuscule, yet we are skimming the cream off of our tax base by having the shortsighted view that to bring the estate tax schedules into conformity with the federal is in some way making an improper gift to the affluent.

I think we can apply similar reasoning, as Senator Bruno has very lucidly done, to a number of the other taxes which we're writing up this morning. It is our belief that an enlightened tax cut policy applied to the sensitive karate chop points or nerve centers of the tax structure will unquestionably permit us

to stop the job hemorrhage which has so depleted our state.

This underlies the Governor's strategy in seeking a long-term tax relief package, and I think we've already had quite an extensive debate earlier this year in regard to one piece of this and we need not go over all of these points again. I know Senator Leichter and I had an extensive and cordial but disagreeing discussion with regard to that earlier measure, but I think the same principles apply.

We want to build a state. We want to build it on the solid concrete block of enlightened policy, and we want to send a message that when you come to New York you will not be nibbled and chiseled away as an individual capable of earning income. You will not be in an uncordial environment which has permitted New Jersey, Pennsylvania, Massachusetts, Vermont -- all of the states which abut New York have managed to suck out of New York some of the marrow from of our bones economically because they have congenial and

consistent policies which send a signal to people which says, "Come in to our state and we won't tax you to death.

So I think this is a basic point, and it's my belief that the voters in the last election did send a very specific message on that in New York State. There was a distinct dichotomy between the offerings of the two candidates for governor. The taxpayers did opt and the voters did opt for a cut in taxes and it's simply a fulfillment of that will as expressed at the polls which you see a portion of here in the debate this morning.

ACTING PRESIDENT KUHL: Senator Connor, I'm informed by the desk that you have seven amendments proposed. Just so we know, orderly, how you want to deal with this. Do you want to take them one at a time now? Because there are some other members on your side of the aisle who have indicated a willingness to speak, too.

SENATOR CONNOR: We can call up the first amendment, if you want, my amendment.

ACTING PRESIDENT KUHL: All right. We'll waive the reading of that.

SENATOR CONNOR: Waive the reading of that, and I will explain it. In my remarks, I'll address the overall tax policy issues raised by the Majority.

ACTING PRESIDENT KUHL: Fine.

SENATOR CONNOR: Let me say, Mr. President, that there is one myth that's been propagated in this state, and that's that somehow or other Democrats are against tax cuts.

Let me say right here and now the Senate Democrats are for tax relief for the middle class and working people and the businesses who employ and train them in New York State.

And, there are some features in this tax package that Senator Bruno has presented that I agree wholeheartedly with. It does, though, look very much like an exercise that I have seen virtually every year for the last 18 years; and that is, the Republican

majority brings before the house its often one house tax package.

And, for years, I didn't get it. For years, when that happened, Mr. President, I worried, "But where is the money for this?" How do we pay for this, and how does it fit into the whole budget negotiations that are going on?

Well, Mr. President, I get it. It's actually nothing more than a statement of a wish list. Perfectly legitimate statement by the Majority of who they are for, what they would do if they could do it, and that's legitimate.

And, today, Mr. President, the Senate Democrats will present ways to make this bill better and also to show who we're for and what we would do if we could do it. You will hear amendments, Mr. President, that will provide to Sally and Harry in Oswego County relief for their property taxes. That's what we stand for in contrast to the obsession with repealing the mansion taxes on people who buy and sell real estate residences over a million

dollars.

It's a matter of priorities, Mr. President. We're not against tax cuts, but we think it's important that the tax cuts be focused on the people who need the help most. Now, in general, what we hear from the Majority is what I believe is a discredited theory. I once thought it worked; and that is, provide overall tax relief, provide tax relief to businesses, and it will trickle down and provide jobs and income for average New Yorkers. It once worked.

But today the trickle-down theory, the old theory -- and it was a theory Democrats ascribed to. John Kennedy when he was President pushed a tax cut. Why? Well, he believed a rising tide lifts all boats. But we're in a different hyper-technical, hyper efficient economy today, and what we've seen is an economy where a rising tide lifts all yachts, and Sally and Harry are stuck in that leaky row boat of life and they are not being lifted. They are being laid off. They are seeing no

growth in real income.

And, indeed, I know Senator Bruno said 102,000 new jobs -- is that the number? 102,000 jobs, and we've debated before whether you look at the employer statistics or the household statistics and how it may actually be that maybe there are more people working in New York State, but they live in Pennsylvania, New Jersey, Connecticut, Vermont, and it's not a real job growth for New Yorkers.

But I pose a question for New Yorkers. You have had the tax cuts of last year, and, yes, many of us supported them after we negotiated and made a better -- better package for middle class New Yorkers. But I ask New Yorkers: Do you really feel safer in your jobs; and if this tax package passes, will you really feel that you will never be laid off? Will you really feel that suddenly your income -- you'll have real growth? You won't be stuck flipping burgers? You'll hold that job? Do you feel in Monroe County you'll keep that white collar job? There won't be any more layoffs?

If this passes, can we really tell New Yorkers that?

New Yorkers need relief today. They need relief from taxes, and they need job security and real jobs. They can't wait for some theory that used to work that says let's give tax cuts to businesses and they will grow as businesses and they will employ more people down the road. Why, Mr. President? Because we've seen businesses get more and more profitable and, once upon a time when we all studied economics, that meant more people would work; and we all knew when companies were laying off people, it meant times were tough. The company was losing money. Probably the CEO would forego part of his income. Sales weren't good. Recession was on the way.

That's not where we are today. Now we see profits go, CEO compensation go through the ceiling, and the average worker laid off. Now when you hear about 10,000 layoffs, people rush to buy the stock. It must be a good year.

Well, that doesn't serve the working men and women and the middle class men and women in this state, and that's why this discredited theory -- which I would have ascribed to ten years ago, that giving these corporations tax breaks will somehow or other benefit average New Yorkers.

And it's not the fault of the Majority. It's not the fault of their economic theorists. It's the economy we're in today. We have to wake up. The world has changed and the amendments we're offering address that very problem because it may take longer and it may never happen that this trickle down when you do away with taxes on business will somehow benefit the workers.

Because, I ask you, we have seen a radical, extremist Republican majority in Washington refuse to reach out and tax billionaire Americans who park themselves in the Cayman Islands to avoid all taxes, estate taxes and other taxes. Why? Why protect them?

You know, I am not from the old

leveling theory of break up all the accumulated wealth and somehow distribute it, but I ask this, Mr. President. Where are the entrepreneurs? Where are the people who accumulate wealth and still call it capital and, by capital, meaning they will invest it in businesses that grow and employ people? We don't see that now.

They take all that wealth and they put it in their pocket and they keep it in their pocket. They put it in passive -- passive investments that create no jobs, and then they lay off more people so they can have more passive investment money coming into their pocket.

I am perfectly willing to give incentives to true entrepreneurs, to businesses that are willing to grow and employ New Yorkers. That's why, Mr. President, the first amendment I have called up, which will cost nothing from the Governor's budget, is taken from a proposal the Senate Democrats put forward called ESCRA, the Employment Security and

Corporate Responsibility Act, which has many features, including a raise in the minimum wage which hopefully we will deal with later this year.

But one of the features in there is a tax credit for corporations. Yes, Democrats want a tax credit for corporations, for corporations that retrain their workers in the new technologies and put them to work rather than laying them off and move off somewhere else looking for the properly trained people. And do you know what? We put that out and labor unions said this is very interesting; we can support this. And business, business came forward and said, you know, we kind of like this. We will take a look at that; we can support this.

So let's make this tax proposal better. Now, I say it won't cost anything because we have earmarked -- the Governor in his budget has a pot full of money, $50 million, unassigned, really, but to go to the Empire State Development Corporation for job development, and we say let's use our

legislative prerogative and tell them exactly how to use that. Use it for tax credits for businesses that really train or retrain and employ New Yorkers, not for big give-aways for companies to come in and make big promises, "Oh, we're going to have 600 jobs here," and two or three years later the town and the county is holding the bag when they pull up stakes and leave and lay off the 100 -- not 600 -- the 100 people they managed to employ for two or three years. We've all heard it.

Haven't all your IDAs and your job development schemes and your counties and your towns been ripped off that way? We're for the companies that promise and deliver jobs, and we want to help those companies, and that's what this economy is about, and that's what the average New Yorker wants.

Mr. President. This amendment would spend that money. It's already in the budget for those tax credits for those businesses, those responsible businesses who in my mind and in the mind of my colleagues

represent the kind of opportunity and entrepreneurial spirit that we Democrats have always supported even in the dark days of the '60s and early '70s, when Republican majorities in both houses and a Republican Governor drove New York's taxes through the ceiling.

I recognize it's a new Republican Party now, undoing the wrongs of the past, you know. I remember Senator Bruno -- I remember him standing alone on that side against taxes, but I also remember in 1990 all the Democrats on this side of the aisle standing with Senator Bruno against many of these petty taxes that were put in then.

So I tell you, Mr. President, it's a new Democratic Senate here. We're for tax cuts. We just want better tax cuts because we're concerned about that homeowner Upstate. We're concerned about that middle class taxpayer who is earning less. We're concerned about the people who are afraid for their jobs -- blue collar and white collar, afraid for their jobs. We want to reassure them, and we want to focus

not on business as a whole, not on people that already got it so they can have more and not invest it or put it in passive investments. We're concerned about the companies that really deliver the goods, that really employ New Yorkers, that want to grow and make money, and make money and share it by growing and growing and employing more and more New Yorkers.

That's why we proposed these amendments, and each one of these amendments - and I have talked about the first one, Mr. President -- will focus the tax relief that the Majority wants to give much more focused, not on special interests, not on the beverage industry or not on some in particular but on middle class and working people in New York State and those who wish they could work, those who want jobs, those who had jobs and lost them, those who had good paying jobs and now have underpaying jobs or part-time jobs or no-benefit jobs.

These are the people we want to provide tax relief to and to the companies that employ them. Very, very important. We're for

business. Business creates jobs. We understand that business creates jobs. We want to focus on businesses that create jobs not on giving relief to people who have accumulated enormous wealth and are so comfortable they dropped out of the old entrepreneurial spirit. They don't invest. They don't take chances. They don't take chances to grow this new economy.

And we say the old trickle-down theory won't work because of that phenomenon, because companies lay off tens of thousands of people and their profits go up. So we have to have a new approach to how we help the right kind of businesses to employ New Yorkers.

So, Mr. President, in general, I say we're with you on tax cuts, but let's pay attention to who gets the benefit. Let's make sure, not because of some theory that says somehow or other a couple of years from now it will land in their pockets. Let's make sure now, the year after we do the tax cut that working New Yorkers, that middle class New Yorkers, that our families, our homeowners -

not our large real estate holders, not our mansion owners -- our homeowners get that benefit now so they have hope for the future in New York.

So these amendments, I think you will see as the sponsors explain them, as I have explained the first one, will have that focus. It's not that we disagree about tax cuts. Believe me, we don't disagree. It's who is going to benefit. Who gets the money, and that's what it's about, Mr. President.

I urge the adoption of my amendment to provide those tax credits to corporations that employ New Yorkers, that do it now. I know Senator Bruno hopes it will happen because of economics. We're saying reward those companies now.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment by Senator Connor?

Senator Bruno.

SENATOR BRUNO: Mr. President. I would just stand and congratulate Senator Connor

on his foresight and, I think, an excellent proposal and something that I think we in the majority here would certainly embrace in the proper format, and we will discuss that with you as we go forward. But as these amendments are presented here in the lateness of the hour, I would recommend that we pass the tax package that is on the floor, and then we will work with you and the Speaker to see if we can't enhance because, Senator Connor, we agree.

We are in agreement, and I have never seen a tax cut that I don't like.

ACTING PRESIDENT KUHL: The question is on the amendment.

SENATOR CONNOR: Party vote in the affirmative.

SENATOR BRUNO: Party vote in the negative.

ACTING PRESIDENT KUHL: Secretary will call the roll.

(The Secretary called the roll.)

Record the party line vote.

THE SECRETARY: Ayes 20. Nays

35.

ACTING PRESIDENT KUHL: The amendment is lost.

Secretary will read the last section.

THE SECRETARY: Section 82, this act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: I have an amendment to the bill, as well.

SENATOR CONNOR: Mr. President. I presented the first amendment. Other members have the other amendments.

ACTING PRESIDENT KUHL: Lest you be confused, gentlemen, there are a couple of members who have another place to go. We are going to take a selective roll call vote. Then we will be right back to you. We'll never slight either of you.

Call the roll.

Senator Skelos, how do you vote?

SENATOR SKELOS: Aye.

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

SENATOR RATH: Aye.

ACTING PRESIDENT KUHL: The roll call is withdrawn. We're back on the -

Senator Mendez, why do you rise?

SENATOR MENDEZ: Mr. President. I would like to have unanimous consent to be recorded in the negative on Calendar Number 642.

ACTING PRESIDENT KUHL: Senator Mendez, I would like to do that after we complete this, if that's okay.

SENATOR MENDEZ: All right.

ACTING PRESIDENT KUHL: Because we're on debate on the bill.

Senator Dollinger, I had Senator Gold as next as presenting his amendment.

SENATOR GOLD: No, Senator Dollinger is ahead of me.

ACTING PRESIDENT KUHL: All right. Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: My thanks to

Senator Gold and my thanks to the President. I ask that my amendment be put before the house. I waive its reading and ask to be heard on the amendment, Mr. President.

ACTING PRESIDENT KUHL: The amendment is before the house, Senator Dollinger. The reading of it is waived, and you have the floor to explain it.

SENATOR DOLLINGER: Thank you, Mr. President. I will be brief.

Consistent with what Senator Connor said about targeting tax relief, this amendment targets tax relief for businesses. This is part of the Democratic attempt to target a reduction in the gross receipts tax for those companies that are most likely to leave this state because of high taxes, the same kind of business customers that Senator Bruno talked about.

Under the Majority proposal, they would freeze the gross receipts tax for two years and then gradually phase it out. We can't wait that long for tax relief. Why should the

businesses who came to Senator Seward's hearing at the Energy Committee and Telecommunication and begged us to reduce the gross receipts tax -- said this tax is far too onerous. It was devastating to the development of new technology in this state so that New York State could continue to be a leader in telecommunications deregulation and in electrical power deregulation. One of ways to do that was to reduce the gross receipts tax.

The people who were complaining were business customers and manufacturers, the entities that have to pay a substantial surcharge on their electrical bills to cover gross receipts tax.

This amendment would do four things. First of all, it would create a manufacturers' exemption for the gross receipts tax -- you know, manufacturers like Eastman Kodak Company, like IBM, like Grumman, like General Electric, you name it, the big employers we try to bring to this state, the people who create value, who create jobs. This would

create an exemption for them so that they would not be subject to the gross receipts tax. It's what business wanted. It's what the Business Council asked for. It's a tax specifically designed to reduce the cost to manufacturers. That's its first facet.

Secondly, it would reduce 25 percent the telecommunication portion of the tax on business customers, so that gross receipts tax on telephones used by business customers would go down 25 percent. Ask any one of those business that Senator Bruno has lauded as being critically important to this state what they want. All of them would say reduce my gross receipts tax. I don't have to pay as much for my telephone usage.

The third thing it would do, it would give an incentive in this state to continue to be a leader in the nation in the development of high-speed electronic communications because it would create an additional exemption for those telephone lines used in high speed data transmission, tele

conferencing, high speed Internet access for businesses and individuals. You want New York State to be the leader in the next round of telecommunications technology? This is your chance, gentlemen. Here's your chance. Take the gross receipts tax off these kinds of wires that we ought to be encouraging the development of in this state rather than discouraging.

Lastly, this amendment has good news for the water companies. They now pay $2 million in gross receipts tax. Abolished under this bill. Gone. History. In addition, it lowers water bills. In addition, it removes it entirely from the trucking industry. Senator Bruno's proposal says we're going to save some money for the trucking industry. We got to do something good for it. Here it is. Save them $17 million, not sometime in the future, not five years in the future. We can do it now.

Let the Senate go on record now. Reduce it for -- eliminate it for water companies, give our trucking companies a break, develop high speed technology in the

telecommunications industry, give our business customers a 25 percent reduction in their gross receipts tax and, lastly, give our manufacturers, the people who provide the quality jobs, the high paying jobs that we all want, give them an exemption from the gross receipts tax.

Here's your chance. Do you really want to cut taxes? Do you want to do it now? You want to give our businesses some relief? You want to live up to what we now share? When Senator Bruno says we want to cut taxes for business, Senator Connor says we want to cut taxes for business, here's your chance.

Vote yes on this amendment, and it will happen.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

(There was no response.)

Hearing none, the question is on this amendment.

SENATOR CONNOR: Party vote in

affirmative.

ACTING PRESIDENT KUHL: Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the party line vote.

SENATOR BRUNO: Party vote in the negative.

THE SECRETARY: Ayes 21, nays 35.

ACTING PRESIDENT KUHL: The amendment is defeated.

The Chair recognizes Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

I have an amendment. I'd waive its reading and ask permission to explain it.

ACTING PRESIDENT KUHL: The reading of the amendment is waived. The floor is yours to explain the amendment.

SENATOR GOLD: I understand that as you used to say, it's a tough crowd. So

knowing I couldn't do it all myself, I want you to know, Senator Bruno, I have Spiderman and the Hulk and a few other superheroes. Maybe that'll help. I don't know. Yeah, it's a great tie. It's my son Adam's, Adam Gold, my son Adam.

Senator Bruno, first of all, you made a comment that you admired and respected and congratulated our Leader and then made all of us feel very good. You said that because of the lateness of the hour -- that was your words -- that you'd like to go with your package and get it over with. I would just like to remind you, you are the one who runs the Senate and we have legislative days. You could have this bill reprinted. We could have this on the table next week, and I don't think the lateness of the hour would prevent that.

What I do believe, though, is that obviously this conversation is a wish list as has been pointed out because we really have no budget, and I say to myself, Is Joe Bruno saying that we take the Pataki budget and cut 80 million from that and that's what we're giving

the voters? That why we haven't seen a budget this year? I don't know. I know last year you put out a budget and you challenged the Assembly to put out a budget. This year, your side of the aisle, for a good reason, is running away from the Pataki budget, and I think I almost respect you for doing that.

Senator Goodman made a comment that there's a difference of tax philosophy between your side of the aisle and ours, and I would, in all fairness to Senator Goodman, have to agree with him. Your side of the aisle votes for five billion in taxes and then tells the public you didn't do it. At least when we do something, we own up to it and we're not ashamed of it, but if you take your votes, Senator Bruno, and not necessarily you but certainly the gentleman you're talking to and other members on your side, if you take your votes over the last four, five, six years and indeed since I have been a member, you're the Majority who voted in all of these taxes. So you go through the ritual of offering tax cuts that's on a day when

we don't do the budget and then on the day we do the budget, you vote the tax cuts in, and you're smart enough to know that the press can't put two days together, so you get away with it.

With regard to my amendment, my amendment deals with a circuit breaker to protect people on the issue of local taxes, and I think it's interesting that in discussing your package, Senator Bruno, you indicated that New York was 50th in jobs. You talked about everything except local taxes, and I don't blame you because it's got to be a major embarrassment for you.

It's a major embarrassment for you because New York is the first in the nation on local taxes, and if it's up to Governor Pataki this year, I don't know whether you can get better than first, but I guess he'll secure our place in history as first forever because, for example, as you go around the state and take a look at the Pataki budget and the impact it will have on local taxes, it's overwhelming.

In Delaware County right now

where from '88 to '94, the increase was 6.5 percent, if you work in the Pataki budget this year, it will go to 11.6. It's going to double the local tax impact in Delaware County.

Herkimer County which has been raised by 6.5 percent in the same time is going to go over ten percent if you go with the Pataki budget.

Tompkins County where I spent a lovely six years has increased 8.1 percent. It's going to go over 10 percent, almost to 11 percent.

Let me see, Gus. Do I see you around in here? Let me see. What's a good county for you in here? Well, I'll be glad to show you the list, but all over the place, in Cayuga County, 5 percent up to 10.3 percent. That's what the Pataki budget will do to local taxes, and interestingly enough, part of the main bill here talks about cutting the gross receipts tax on utilities. The Pataki budget opens up the option of local governments to increase it.

The whole block grant program is a scam to hide the fact that we are pushing costs down to the localities. That's what it is. It's one of the biggest scams that's ever been attempted to be perpetrated on the state, and I'll never forget that budget hearing when a local upstate welfare official testifying before the Senate and Assembly joint committee sat right up against that microphone and looked at us and said, And we think the concept of block grants is terrific, giving us that local discretion, and then he moved a foot or two away from the microphone and said, As long as you give us enough money. He didn't want that part on the record but he wanted us to hear it. Of course, if you give us enough money, and that's the whole idea of the block grant program, to not give the amount of money, and what's the locality going to do about it? Since we have given the mandates, they're going to increase property taxes.

My amendment is going to take that circuit breaker and instead of limiting it

to households under 18,000, to raise that threshold to 100,000 because that now becomes some kind of reality throughout this state.

Your plan not only makes sure you take care of the very, very highest, but you ignore that middle income group who is struggling.

As a matter of fact, one of the -- one of the most tragic pieces of testimony I have ever heard at any hearing I've ever attended in my quarter of a century in this house was in New Paltz, Senator Stavisky was bright enough to set up hearings around the state so that students and others could talk about the impact of the Governor's budget on the college population, and the chancellor testified that as a result of last year's increases in tuition at SUNY, 10,000 students dropped out. Now, that's a tragedy without hearing anything else, but what was even worse is that 8500 of those students were part-time students.

Now, think about that. Think about that. Part-time students, Senator Bruno,

not bums, not welfare cheats, not this, that, not millionaires' kids. These are young people, some of them, by the way, not so young, some of them middle-aged people who are able to go back to school but, Senator, this is the cream of this state, people who say, I need an education and I'm going to work part of the day and I'm going to go to school part of the day. I'm going to raise my family part of the day and I'm going to improve my life. 8500 of those people were knocked out of their college education right in the middle because of the Pataki program of last year and the increase. Horrifying testimony.

What we are doing in my amendment is we are putting in that circuit breaker. We increase the value of the credit for seniors and middle income taxpayers six-fold. We provide a credit for residential and agricultural uses, Senator Kuhl. We increase the property value which is eligible from 85,000 to 250,000, full value. We provide for report to the Legislature from the Tax Department on the impact of this

enhanced program.

Now, the bottom line is that I ascribe to the philosophies as set forth by my Conference and it's espoused by Senator Connor. I think that you have to change as things change and education changes. You wonder when you listen to some of the philosophies why are we taking education away from our children? Why are we doing these things? Because we are envisioning the Jetsons tomorrow where all you have to know is to go in to work and push a blue button or a red button and put your feet up and get a paycheck because machines are going to do it? I don't think so.

I think that the issue of honesty is one which it's about time we came to grips with, and if your party put in these taxes, I'm delighted that at least Senator Bruno will stand up and say, "Look, we did some mistakes. I'm willing to try to help to change some of those mistakes."

Senator Bruno, in my years in the Senate, I think it's the first time I ever heard

a Republican at least admit that he was part of a tax program. I know that under the secrecy provisions of the Senate, every time there's a vote on taxes, you burn the roll calls because you don't want to have to admit you did it.

But this circuit breaker is important. If the taxing philosophy of the Republican Party is such that you're going to force increases again and again on local taxpayers, then you've got to have a circuit breaker and at least protect the categories of people that I have mentioned. You've got to protect the seniors. You've got to protect middle income people. You've got to let them educate their children, and you've got to let them be in a position where they can afford to keep their homes.

That's what the amendment does.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

(There was no response.)

Hearing none, the question is on

the amendment.

SENATOR PATERSON: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

Party vote in the negative by the Democrats -- excuse me -- in the positive.

Senator Bruno.

SENATOR BRUNO: Party vote in the negative.

ACTING PRESIDENT KUHL: Record the party line votes.

THE SECRETARY: Ayes 21, nays 35.

ACTING PRESIDENT KUHL: The amendment is defeated.

ACTING PRESIDENT KUHL: Senator Stavisky, you had an amendment?

SENATOR STAVISKY: Yes, I do. I believe the amendment is at the desk.

ACTING PRESIDENT KUHL: It is.

SENATOR STAVISKY: I'd ask to waive the reading, and I will explain.

ACTING PRESIDENT KUHL: The amendment is before the house. The reading is waived. Senator Stavisky is recognized for the purpose of explaining his amendment.

SENATOR STAVISKY: I have been enormously impressed by the air of good feelings in which Senator Bruno praised Senator Connor and Senator Connor responded, and I want you to know that this expression of mutual interest and a desire to solve problems for the benefit of all of the residents of the state is a lesson that should not be lost, and we should build upon that sense of good feeling and cooperation.

Accordingly, I learned a very valuable lesson from some Republican members of the state Senate who had the good sense to offer legislation that would accomplish the following result: That would create a personal income tax deduction for college tuition.

Unfortunately, the New York Tax Reform and Reduction Act of 1987 resulted in the expiration of a tuition deduction in 1989. Although the 1987 Act increased the standard

deduction and reduced tax rates, the loss of the tuition deduction was particularly heart felt by families who have more than one dependent in college at the same time. The reinstatement of this tuition deduction will provide taxpayers of the state with a reinstatement of the tuition deduction and additional financial relief needed to pursue quality education for their dependents and ultimately lead to a more productive work force.

I am reading not from a Democratic propaganda piece. I am reading from a memorandum of support given to a Senate bill sponsored by Senator Owen Johnson who was magnificent in the Higher Education Committee meeting today. He and I arrived at the same conclusions with regard to what was a questionable bill, and I was delighted that Senator Johnson had the independence and integrity to question that piece of legislation and to seek improvements, and so I have learned that we should be listening to each other, and I am asking that this piece of legislation, which

allows a tax -- a tuition deduction in behalf of dependents attending full time at an institution of higher learning in the state the opportunity to have a maximum deduction of either $1,000 or one half of the tuition less any tuition assistance received, and I think that that's a marvelous concept, and I commend the Republican members of the Senate for having the good sense and judgment to introduce such a worthwhile piece of legislation.

Look, if you can convince Leonard Stavisky who is not a Republican that you have a very interesting and worthwhile piece of legislation, I am willing to support it, and I ask Senator Johnson, of course, as the prime sponsor of this bill and Senator DeFrancisco and Senator Farley and Senator Holland and Senator LaValle and Senator Levy and Senator Marchi and Senator Padavan and Senator Present and Senator Rath and Senator Seward and Senator Skelos and Senator Trunzo and Senator Velella and Senator Volker, you did the right thing, and I'm joining with you and I'm introducing as an amendment to

the bill before us the legislation that you put forth, and I'm certain that you did it in good faith.

So you've convinced me, and I think you've convinced perhaps a number of the members on this side, and I would like you to stand up for the legislation that you proposed and join us. We'll have more than enough votes to make this the law of the state of New York, certainly by action of the Senate, if you re-establish, reconfirm your good sense in sponsoring this legislation.

And so, Mr. President, I move this amendment to the bill that is before us and urge every one of the Senate sponsors of this bill, the Johnson, et al bill, to stand up and be counted and to vote for reconfirmation of their commitment to affordable higher education for their children and sometimes for themselves and sometimes even for their parents. It's never too late to learn.

Senior citizens are going back to college, and if someone is willing to make that

commitment, I think that we should help the taxpayers bear some of the benefits of the Johnson bill which I am fully prepared to support, and I urge every Democrat to follow the lead of our Republican colleagues in supporting this as an amendment to the present bill.

I move the amendment.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

(There was no response.)

Hearing none, the Secretary will call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the affirmative.

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

THE SECRETARY: Ayes 21, nays 35.

ACTING PRESIDENT KUHL: The amendment is defeated.

The Chair recognizes Senator

Stachowski.

SENATOR STACHOWSKI: Mr. President, I have an amendment at the desk, I believe, and I would like to waive its reading and explain the amendment.

ACTING PRESIDENT KUHL: The amendment is at the desk, Senator Stachowski. The reading of it is waived, and you're provided with the opportunity to explain the amendment.

SENATOR STACHOWSKI: Basically what this amendment would do would -- it would amend the Tax Law to provide that educational assistance of -- granted to an employee by an employer so they could get a higher education would be excluded from the New York State taxes. I think that this is an important piece of legislation in today's marketplace where people are unsure of their jobs and when they have the opportunity to get a higher education and the employer is willing to give them the money, that this would be a great place for us to make a stand and maybe say, We're not going to tax this benefit that the employers are nice

enough to grant to their employees.

I think it's a very important amendment. I think that not having written this myself and not having thought up this myself, I should give credit to the people that did, and so that I would point out to everybody that just this past year, this was the Nozzolio-Alesi bill, and I know that these are two great people that had foresight when they thought of this exception, and they knew that this was the right thing to do, exclude these taxes, exclude this amount of money from New York State taxes, and seeing that this was the right time to move this bill, I only follow their lead and move this as an amendment and, Mr. President, I would like to move the amendment.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

(There was no response.)

The Secretary will call the roll on the amendment.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the party line votes.

THE SECRETARY: Ayes 21, nays 35.

ACTING PRESIDENT KUHL: The amendment is defeated.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: I don't think you're giving some of the members on the other side a chance to get their hands up on exceptions. I think you're going too fast.

ACTING PRESIDENT KUHL: That's probably intentional (laughter).

SENATOR GOLD: Oh, okay. Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer for an amendment.

SENATOR OPPENHEIMER: It's always a pleasure when you're here at the Chair, Senator Kuhl.

Well, this amendment underlies -

underlines.

ACTING PRESIDENT KUHL: Excuse me, Senator. Are you offering up the amendment at this time at the desk?

SENATOR OPPENHEIMER: Yes, I'm so sorry. Is the amendment at the desk and, if so, I would waive its reading.

ACTING PRESIDENT KUHL: The amendment is before the house. We'll waive the reading of it and provide Senator Oppenheimer the opportunity to explain the amendment.

SENATOR OPPENHEIMER: Thank you, Senator Kuhl.

This amendment underlines what many of you now know is one of my primary concerns, and it underscores my concern for New York women and at the same time, for the economy of New York.

Child care is, in my opinion, a major state purpose, yet our state is only providing for about 30 percent of the need for child care in our state, and I can tell you that parents are very stressed out about this, and it

very negatively impacts the quality of their lives not to know that their children are well cared for while they are in the work force.

Now, currently New York State does support child care in the form of grants to not-for-profits serving DSS youngsters, but we have to turn our concerns to other centers, profit-making centers, and so I offer this amendment which has the good name of Senator Goodman on it as he was the original sponsor of this, and it would apply to centers which are created inside of corporate headquarters or with several corporations working together to provide a child care center.

In these centers would be at least 50 percent -- actually, no, more than 50 percent employees' children. The other 50 percent would be open to the neighborhood children, to the parents who live nearby, require child care because they work but don't work for these specific employees or particular employer.

I can tell you this will retain a

lot of top talented women in our work force, and this is something that is prized in our society. We have some of the best educated members of the work force anywhere in the United States, and some of these women are dynamite but they are strapped for child care, and that's where this -- this particular bill -- amendment would serve so well not only the women but the economy of our state.

I can tell you that in Westchester County, this is already popular. We have several corporations that have created child care centers. Indeed, last week as you may know, was the Week of the Child in New York State, and I paid visits to several of my child care centers which are located in corporations, and there are some amazing programs going, but I would like to see this offered around the state, not just in limited areas where there is an acceptance of the importance of child care to our economy, to our women and, indeed, to our families.

So this amendment would provide a

credit against the corporate franchise tax for 50 percent of the costs of planning, development, construction, renovation, alteration or improvement of real property or personal property which is used as a child care facility. It would amount to $150,000 per facility and to encourage private giving, there's also a credit of $150,000 per taxpayer.

This is a wonderful incentive, and we believe it will result in the construction and creation of additional day care centers in New York State's companies.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

(There was no response.)

Hearing none, the Secretary will call the roll on the amendment.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the affirmative.

SENATOR BRUNO: Party vote in the

negative.

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

THE SECRETARY: Ayes 21, nays 36.

ACTING PRESIDENT KUHL: The amendment is defeated.

Senator Onorato.

SENATOR ONORATO: Mr. President, I have an amendment at the desk. I waive the reading and ask for the opportunity to briefly explain it.

ACTING PRESIDENT KUHL: There is an amendment at the desk, Senator Onorato. The reading of the amendment is waived, and you are provided at this time with an opportunity to explain the amendment.

SENATOR ONORATO: Mr. President, this is a very, very short amendment, and I didn't have the opportunity -- had I known earlier that the tax bills were going to be presented today, I would have asked for an opportunity to present it in the Finance Committee, and I'm sure that it was an oversight

on your part, an innocent one, I'm sure. I am taking this opportunity to have you rectify it now.

My amendment would simply give a tax credit to small businesses that would provide health benefits to their employees. We know how very, very important it is to provide health benefits, and we know how expensive and difficult it is for our small businesses in our state to provide those benefits. It would certainly be extremely beneficial to the entire state, millions of working people who cannot afford to pay for their health benefits, and it would be a tax savings to the state of New York by having people have health insurance whereby not necessitating them going onto a Medicaid roll, and this would encourage more employees to provide this benefit. The soaring costs of health insurance have prevented many New York small businesses from offering such plans to their employees.

Now, this bill would help alleviate the financial burden of providing

health insurance coverage to employees of small business, relieving some of the strain imposed on profit margins by rising health insurance costs and consequently help to reduce the number of working insured in this state.

Ladies and gentlemen, I urge the unanimous adoption of this amendment.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

(There was no response.)

Hearing none, the Secretary will call the roll.

(The Secretary called the roll.)

Own.

SENATOR PATERSON: Party vote in the affirmative.

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

THE SECRETARY: Ayes 21, nays 36.

ACTING PRESIDENT KUHL: The amendment is defeated.

Senator Leichter, you had indicated a willing -- a desire, I should say, to speak on the bill. You're next on the list.

SENATOR LEICHTER: Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger?

SENATOR DOLLINGER: Is this on the bill itself?

ACTING PRESIDENT KUHL: Yes. We're now on the bill.

SENATOR DOLLINGER: Could I be - just talk as well?

ACTING PRESIDENT KUHL: We'll add you to the list.

The Chair recognizes Senator Leichter on the bill.

SENATOR LEICHTER: Mr. President, on the bill. I think the first thing that we have to do is really deal with this obscure and strange economic analysis that Senator Bruno presented us with. I hate to dispel the illusion and the myth that the Senator and the Republicans live under, but it's time to look at

the figures. Let's look at the facts.

We're really given what I call the big nonsense by the Republicans on the tax cuts. The fact is that the job growth in 1995 in the state of New York was slower than it was in 1994, the last year of the Cuomo administration. The fact also is that at the end of 1995, there were 174,000 fewer New Yorkers working.

Let's take a look at the unemployment statistics. The unemployment statistics are -- show that -- and I just want to get the exact figures, if you'll bear with me a moment. The latest unemployment figures in New York released last week by the state Labor Department shows that unemployment increased in March to 6.9 percent from 6.6 percent in February. At 6.9 percent, the state's March 1996 unemployment rate is higher than the unemployment rate a year ago and it's higher than the unemployment rate of 5.7 when Governor Cuomo left office. It's also almost a full one percent higher than the national unemployment

rate. So I think we've got to dispel this illusion, this myth, that the Pataki tax cuts have generated great economic activity in the state of New York.

I will say that the Republicans have done very well in selling a tax cut to the voters, selling it on the basis, This is what's necessary to stimulate the state's economy, but at all the figures you look at, you see there has been no economic stimulus. Fortunately, in this area, we have facts and figures. We know how many people work. We know what the unemployment is, but there's another set of figures which shows the tax cuts as such -- and Senator Bruno has said he never met a tax cut he didn't like, and that's absolutely correct, Senator Bruno. It may be the only thing you said that was correct, but the point -- but the point is that some tax cuts are not helpful to most New Yorkers. Some tax cuts, indeed, help a very small portion of the public. Some tax cuts may help your rich friends, but they don't help the public, and that's why I think these figures

are so important.

About a month ago, I attended a joint meeting of the Finance Committees plus the Budget Director where various economic experts were asked to give their projections of job growth in the state of New York in the coming year -- this year, actually, 1996 and years in the future -- and the interesting thing is that every one of the analysts predicted that New York State would have a slower rate of growth in job creation than the rest of the nation. In fact, Senator Bruno's representative showed - came, and I believe that the Senate projection is that we would have a job growth of .5 percent less -- less than the national average. I think the Director of the Budget predicted a job growth of about .7 percent less than the predicted national average. The economic experts predicted a job growth that was even smaller. So it's clear that the Pataki tax cuts have done nothing in helping economic growth in this state, and that has to be looked at and considered when you see this tax package.

Again, not all taxes benefit New York State. Some -- I'm sorry -- all tax cuts benefit New York State. It may also be that not all taxes benefit New York State, and certainly there are taxes that have not benefited the state. There are regressive taxes. The gross receipts tax is a regressive tax. It should be eliminated. I put in a bill to eliminate it and there are other taxes, and among the Republican proposals, there's no question, there are taxes that are a deterrent to growth. There are taxes that are unfair.

Now, why can't we just eliminate all these taxes? Well, we've got a problem that the state also needs revenue in order to provide services. If you take a look at what has happened as a result of the policies that have been pursued by the Pataki administration, more and more of the service burden has been thrown on the locality, and we have seen a significant increase in the real estate tax. So when we say New York State is number one among all the states in taxes per capita, that is primarily

due to the -- the local taxes.

As far as state taxes are concerned, we're about fifteenth or seventeenth. Now, maybe the Senate and the Assembly can look good in shifting the burden on the localities in saying, We cut taxes, but then the taxes are raised on the local level. Maybe somebody else would get blamed for it. We as state legislators will not get blamed, but we certainly haven't helped the taxpayers and that's, of course, exactly what has happened, particularly in the last year, as you've seen a significant increase in the real estate tax.

In fact, over the last ten years -- and some of this trend certainly started under the last Governor -- we have seen the real estate tax grow at a much greater rate than the income tax, and I think all of you hear from your constituents about how high the real estate tax is. Since I represent an urban area, I don't hear it quite to the same extent, but if you look at the figures, you know that's the case.

So the question is one of our responsibility to raise proper revenue so that we can provide services and not shift burdens on the localities.

What the Pataki tax cut really did was it was an income shift. It really benefited five, ten percent of the population and working people, people of moderate income, middle income people receive very little benefit. In fact, 40 percent of the total benefit of the Pataki tax cut of $6.8 billion is going to go to five percent of the population.

Now, in the present tax proposal -- tax cut proposal that we have, there is similarly included items that I would just call a tax shift. I said, yes, there were some items like the gross receipts tax and some of the other taxes which we should eliminate, and we should do that when we can when we know that we have sufficient revenue, or we ought to get rid of those taxes by seeing bad parts of the Pataki income tax cuts not going into effect. That was my proposal, that we not implement the Pataki

tax cut for people who make more than 100,000 and use that revenue to avoid devastating cuts. You may want to modify that in some respects, and if you bring in more income, then maybe you could do some of these tax cuts which would be in the interest, but I also want to point out that there's some tax cuts proposed here like the estate tax that may benefit Roy Goodman's constituents. It doesn't benefit most of the people in this state. The mansion tax which Senator Bruno called the Cuomo tax is one that has brought in a significant amount of revenue.

Senator Bruno says, But look how that revenue declined. Well, it declined at a time when the real estate market was at a recession or depression out of which it hasn't come fully yet and actually the receipts of that tax are now increasing. If you eliminate that tax, really, you're benefiting the wealthy and you're not benefiting most of the people of the state of New York.

The problem that I have with this tax package is that we don't have the revenue to

do it. It would cost $80 million this year, thereby worsening our deficit and over the years when fully implemented, it would lose us $1 billion in revenue, and as we have been here in the last few years battling and struggling with the budget, the reason is deficits that have been driven by tax cuts that were enacted by the Legislature or signed by the Governor that we just did not have the revenue to do, and I believe the very same thing would occur if we do this particular Republican proposed bill, this tax cut, which is sort of an ad hoc proposal. It's not in the context of an overall financial plan where we say, These are the obligations that we have for the people of New York. These are the services we must provide. These are the burdens that we want to lift from the localities and figuring that out, we need so much revenue, and you can either afford certain tax cuts or you may want to increase certain taxes and cut other taxes. That would be a sensible, rational way to proceed. The way you're proceeding, you think is a good, political way to proceed.

Well, I submit to you that I think the voters are a lot smarter than that. I think they're going to see that, first of all, it's a charade and secondly, they will see that you're just putting more of the burden, more of the cost of providing services on localities, and if you act in this way and push this bill without knowing that you have sufficient revenue to deal with the needs of the people of the state of New York, you're just going to further drive up the real estate tax.

So, Mr. President, let me say while, you know, we like to have it be Christmas every day and give gifts to the public and say, Oh, we cut your taxes; we cut your taxes, the fact is it would be an irresponsible act for us to take at this time, and I will be voting in the negative.

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

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, I

rise in support of this measure and in so doing, praise the efforts of our Majority Leader, Senator Joe Bruno, for bringing this important measure before us today and more importantly, for his recognition that this is exactly the medicine that the citizens of this state need to help bring the economic health of our state back to good health.

Today is May 1st, Mr. President, a day that begins the springtime. It begins a new month but also connotes what has been known across the country as National Tax Freedom Day. That is a day when citizens across the country celebrate the fact that after four months of working hard, they finally have their state and local taxes completed and paid for.

New Yorkers, unfortunately, don't have the opportunity to celebrate Tax Freedom Day in the beginning of the month. Our citizens must work another 30 days at least before we have our combined state, federal and local taxes paid for.

That is why this measure is so

important. Tax cuts mean less burden for our citizens. They mean jobs for New Yorkers. These taxes that have been placed by prior administrations and prior Legislatures have stunted the growth of economic enterprise in this state. Taking these taxes off our backs provides the citizens the type of security they need to know that the trend begun here in this chamber and supported by Governor Pataki of reducing the burden on our citizens is continuing.

Last year, I rose in support of the tax cuts that we pushed very hard for, that those tax cuts in the debate were something as the debate today contested by someone on the other side of the aisle. At that time, I read a letter from president and chief executive officer of Kodak, George Fisher, who indicated that his economic decisions and the economic decisions of business are based on trends. They must renew trends, analyze trends and decide whether the trend was in a good direction or in a bad direction.

Well, the trend in this state has been in a bad direction for too long, but we have reversed that trend with actions taken last year and are building upon that trend of cutting taxes this year in New York. It was just 13, 14 months ago that we begun that tax cutting effort. Since that time, we've seen executives like George Fisher see good trends in New York and decide to keep business and enterprise in New York State.

Last year after we initiated our tax cut, Kodak decided to invest over $300 million in New York State, an investment that couldn't be made in any state or in any nation of the world because the trend was in the right direction in New York. That factor led the executives and directors of Kodak to make the decision to invest in New York State.

We need to send the right signal to business across New York that we will continue the trend of cutting taxes. Kodak, IBM, in my own district, Gould's Pumps have all been seduced by other states to come to do their

business and take our jobs to North Carolina, Virginia or the Sun Belt. We have stopped that trend. Governor Pataki has worked tirelessly in keeping those jobs here in New York State. We must continue to build upon that action.

Utility cuts, tax cuts, real estate tax cuts, estate tax cuts, petroleum business tax cuts, agricultural tax cuts, trucker tax cuts, small business tax cuts and sales tax cuts are what we are debating today. Taken together, those tax cuts mean economic revival in New York.

We must build upon that revival. We must support what the Governor is trying to do, and this is the right signal, setting the right trend to our businesses across New York, and that is why, Mr. President, it has my full support and, again, I praise Senator Bruno for bringing it to the floor this afternoon.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Farley on the bill -- Senator Bruno.

SENATOR BRUNO: Mr. President, we

have two members, I believe, that have to be elsewhere very shortly. So could we suspend the debate and allow them to vote?

Senator Leibell, Senator Oppenheimer.

ACTING PRESIDENT KUHL: The Secretary will call the roll -- read the last section. Excuse me.

THE SECRETARY: Section 82.

SENATOR BRUNO: Senator Leichter.

THE SECRETARY: This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR LEIBELL: I vote aye.

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

SENATOR OPPENHEIMER: Aye.

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

SENATOR LEICHTER: Nay.

ACTING PRESIDENT KUHL: The roll call is withdrawn. We're back on debate on the bill.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

You know, I'm going to rise to applaud the Minority. You know, I've served here for a long time, and you guys are starting to sound more like Republicans than anything I've heard in a long time, except for the friend of the American banker, my dear friend Senator Leichter. You did not join in any of those tax cut amendments. Senator Connor, you've got to work on him, but I do applaud you.

I know it hurt an awful lot of us over here not to vote for those amendments because I thought they were -- they had a lot of merit in them, but let me just say a couple things about Senator Bruno's bill which I think is very worthwhile.

I can recall Senator Pataki came to Schenectady when he was running for Governor, he says, "One of the reasons I'm running for Governor is that I don't want to have to visit my children in North Carolina." That says a lot, and you know what? A lot of these taxes are onerous and as my colleagues have said, it drives business out of this state, and that's tragic, but let me just talk about one little facet of this bill which I was interested in.

I happened to have in my district a very large truck stop along -- for those of you that travel west, you may have seen a truck on top of a tank that they made him take down and that sort of thing, but in Fultonville, there's a number of truck stops that tried to sell diesel fuel and a few other things, and guess what? Because we are so non-competitive with the diesel fuel tax, these truckers don't buy any fuel in our state. They fill up in Ohio or in Connecticut, wherever they're going to so that they get through New York State without buying any diesel fuel.

This particular legislation that you've got, Senator Bruno, amounts to about a six percent saving on this tax. Guess what? I'm confident -- I'm confident that we're going to get more revenue as a result of this tax cut. We did it with the airlines and the airports last year. It made a significant difference. You could speak to Senator Present. You could speak to Senator Libous or any Senator -- Stachowski -- that is near the border and ask how they go out of state to buy their fuel and how they avoid New York State in buying their fuel, and incidentally, we're holding captive our trucking companies, and so forth, that have to live and work in this state.

I'm confident that with this we can really make a difference and improve revenues, and I think that's very, very important as we're looking for all kinds of revenues to do the good things that everybody in this chamber wants to do.

So this is -- I heard it said "Where are we going to find the money?" I

think we're going to find some money by stimulating the economy and stimulating business, and I mean that very sincerely, and I would be willing to bet a lunch to somebody that should we take off the tax -- or some of this tax on diesel fuel, that the trucking - truckers passing through this state, just let us be with -- competitive with Pennsylvania, with Ohio or some of our bordering states, and I'm confident they would be willing to stop here instead of buying a cup of coffee, to buy a few hundred gallons of diesel fuel.

I'd just bring that up as one point. There's a lot of facets to this bill. It's a good piece of legislation. It is a message. It is a message, and I think that all the amendments that the other side brought up is an example that our message is getting through, not only to you people but to the people of the state of New York, and I think you're going to see us turn this state around, and we're going to -- and, Senator Connor, I applaud you for joining in this tax cut movement. I think it's

important. It's one we've got to continue, and if we keep it up, maybe we can even convince Senator Leichter and a few others to join in the tax cuts and move this state forward.

I'm going to vote aye and thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator DeFrancisco -- excuse me - Senator Dollinger. Senator Dollinger was next on the list.

SENATOR DOLLINGER: Thank you, Mr. President. On this bill.

I appreciate Senator Farley's accolade, but I guess I'm called back to an old time story that I once heard about this bill, and it seems it me today that we're under that big top, that big top in which a little old-time religion comes to bear, and how does the old time religion story start off? It always starts off with somebody standing up and saying, "I have been a sinner. I've sinned. I've sinned. I've sinned in the past," and sure enough, I guess that's what I've heard today, is that

Senator Farley, Senator Bruno and the Republican Majority in this house, how did those taxes get there? I don't know, Senator Connor. You've been here for a long time. Senator Gold has been here for a long time. I don't know how all these terrible, terrible -- and they are terrible because every tax is terrible -- how did those terrible taxes get here?

It seems to me the answer is very simple. There's been -- well, let me -- Senator Gold, you already spoke on the bill, but I'll ask you rhetorically. How did they pass the New York State Senate? It seems to me there's only one way it could have happened, and that is that the Majority on the other side of the aisle decided that these taxes were in the best interests of the state of New York. That's their public policy job is to vote yes or no and figure out what the best interest of the state is and then vote accordingly, and sure enough, all of these very sinful taxes, all of these things that we're now so sorry for are all here because the other side of the aisle put them

here, and so the revival starts with someone saying, "I've sinned. I've sinned. I've sinned. I want to be forgiven," and that's the message today, is that the sinners now want to go back and change all the sins and seek repentance for all their sins, so that all these terrible things -- repeal -- they'll repeal their sins and they'll atone for their sins, but it seems to me that the notion is that under this big tent, that somehow all the sinners have to be forgiven.

Well, I would suggest if we look around that the way the Democrats have fashioned forgiveness today is a better form of forgiveness. I'm really sorry Senator Nozzolio left because he talked about the biggest employer in upstate New York, Eastman Kodak Company, and I dare say -- I haven't run this out for Eastman Kodak Company, but I dare say one thing. The proposal from the Majority to reduce taxes in this tax package will have a substantially smaller impact on Eastman Kodak Company than the tax package put together by the

Democrats. Why?

Look through the taxes that the Majority proposal wants to reduce. The gross receipts tax. Great idea. It will affect Eastman Kodak Company, but the power side won't affect Eastman Kodak Company. They generate their own power. They don't pay gross receipts taxes because they generate their own. The real estate gains tax, minimal effect, probably no effect on Eastman Kodak Company at all. The estate tax, that won't affect Eastman Kodak Company. It won't reduce Eastman Kodak Company's taxes. The petroleum business tax, might be some minor influence on Eastman Kodak Company, the largest employer in this state, the company that I want to have stay in this state since it employs almost 19,000 in my district. A great idea to keep them there. Reducing petroleum business tax won't really affect that. May be a minor effect. What about the agricultural circuit breaker? It won't help Eastman Kodak Company. What about the corporate utility tax? It won't help Eastman Kodak

Company. The small business capitalization credit, it won't help Eastman Kodak Company. The container taxes won't help Eastman Kodak Company. The alcoholic beverage tax won't help Eastman Kodak Company. The sales tax won't help Eastman Kodak Company, but you know what will help Eastman Kodak Company?

Senator Connor, the amendment that you proposed that will provide tax credits for retraining, Eastman Kodak Company is constantly retraining thousands of employees in the Rochester community. They would immediately begin to draw down that tax credit, immediate tax credit and relief for Eastman Kodak Company. George Fisher would want it.

What about the tax credit for the reduction in utility taxes that we proposed, that I proposed? They're the manufacturer. They'd get the benefit of the telecommunications reduction right off the bat.

What about the tax circuit breaker for real property taxes? Don't kid yourself. If we dropped the taxes for Eastman

Kodak Company in their state taxes, they'd pay more real estate taxes. The circuit breaker would reduce their real estate property tax burden. They're the biggest real property taxpayer in Monroe County. They deserve a break.

What about the child care credit for employee -- for employees? People at Eastman Kodak Company could put that to work right away.

So when you ask me, how do we provide tax credits for Joe and Alice sitting in Rochester, New York, a middle class family; how do we take those income tax reductions for them? We use a tax philosophy on this side of the aisle that helps two people. It helps the business by reducing their taxes, and it helps the individual by obtaining retraining, by obtaining child care, by obtaining things that they need to be more productive workers. You want to help Eastman Kodak Company, don't vote for this plan. Vote for the amendments that you had a chance to vote for an hour ago.

Lastly, this event reminds me of a scene from a cartoon film that I watched as a little kid. Remember the scene in Dumbo when Dumbo is up on the top of the tower, and he's told by the little commander in his hat to jump off the scaffold and he's going to land in the big tub of water? Well, it seems to me what you have is you have the elephant up there responsible for all of these taxes, and you have Senator Bruno in his cap saying "Jump, Dumbo, jump", and Dumbo jumps and he starts falling fast, and Senator Bruno, the rest of your colleagues are over there, "Okay, guys. Flap those ears, Dumbo. Don't crash, Dumbo. Keep flapping. Start flying", and sure enough just as he's about to hit the ground, just as the tax impact of all of those taxes imposed by Republicans are about to come to roost in this state and cost us jobs and cost us opportunity, Senator Bruno is able to convince Dumbo to spread his little ears, and sure enough he goes flying around the Senate, and everyone in this state says, "What a fantasy. Dumbo is flying.

The Republicans are flying around the room claiming that they're out to cut taxes which are there because they put them there in the first place."

It's all fantasy. It's all theatre, and it seems to me that's what this is all about. When we get to a budget, we'll then evaluate whether Dumbo is really flying or not. We'll then find out whether the taxes are repealed or whether they're kept there by the Majority in this house.

It seems to me Senator Bruno said that there's something wrong with this format. I don't want to deal with these taxes in this format. I'll tell you what. There's something wrong with this picture. It's that old-time religion of trickle down economics that has frankly become flush down economics where we flush our problems on to other levels of government or we penalize the poor. We penalize the misfortunate by taking away programs that they need. It's all fantasy. It's all wonderful theatre, but when you step back and

you stop looking at the cartoon show, you realize that we've got a real problem, a real budget and a real state we have to run.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: You know, some of the people in this chamber can tell stories and tell about cartoon characters and be cute to the nth degree, but I think what we have here is a very serious issue.

The serious issue is whether there are going to be any jobs and whether there's going to be any opportunity for the next generation in the state of New York. For there to be opportunity, no matter what happened in the past which obviously was wrong because we're in a bad economic climate right now, has to be changed, and whoever was responsible for that, so be it. The fact of the matter is we have to take some bold steps so that my children and your children and the generations to come are going to have opportunity, the same opportunity that we had in this state.

Last year, we were criticized by many who wanted to spend the money rather than give it back to the taxpayers in the way of income tax, that it won't work. The world was going to come to an end. Well, the world didn't come to an end. We actually ended this year with a surplus.

These tax proposals here to cut further taxes cut across the board. Utility taxes, real estate tax cuts, sales tax cuts. The theory is send a message that we are changing the economic rules in the state of New York so it's good to stay here, and it's good to get jobs created here, and it's a good situation for the future generations. That's what this is all about, and it's extremely important that we all support this.

I know there have been other proposals made today, many of which are proposals made off of bills that were sponsored by members of this side of the house. They all have merit. They all have merit, but today we have these proposals before us. We should all

support it. We should not criticize for who created the problem. We should all join in the solution, and this is part of the solution. We have to pass these tax cuts. We owe it to our children and the children of their children.

ACTING PRESIDENT KUHL: Senator Libous on the bill.

SENATOR LIBOUS: Thank you, Mr. President.

I want to rise and support Senator Bruno's efforts in moving this state forward, because that's what I believe is the responsibility of this house and the membership of this house, and I'm always amused when I hear my colleagues on the other side of the aisle talk about the past, and that's the problem with this state, ladies and gentlemen. You have to leave the past and move forward. You can't dwell on what happened yesterday. There's an expression we use upstate that says once the bell is rung, you can't unring the bell. So you have to move forward, and it's obvious that the business climate in this state is broken, and if

it's broken, you have to fix it, and that's what this legislation is intended to do, is to fix the business climate of this state.

Now, I'm sure that each one of you -- and I would never challenge or question each one's responsibility as an elected official in the time that you spend with your constituents, but I'll share some stories that -- the time I've spent with my constituents.

You know, I live in the Southern Tier which is a border community. We border the state of Pennsylvania, and I have spent an awful lot of time the last couple of years going to businesses in all sizes, businesses that employee 2,000 people or businesses that employ three people, and as I knock on their door and I talk to them about New York State and what can I do to help you as a representative in the New York State Senate, without question, every one of them says, "Get the government off my back. Lower my taxes", and it's not just one tax - and, you know, you talk about different types of taxes. They just want to see some movement

because they tell us for the last 20 years, there's been no movement.

You talk about the truckers and people filling up with fuel and doing different things. We live on the boarder. They go to Pennsylvania. I have gas station owners coming to me telling me that people are filling up on the other side of the border, people who live in New York State because it's cheaper, because the taxes are cheaper.

I have business people telling me that we can't continue. We have to go to New York -- we have to go to Pennsylvania from New York State. I have a number of companies that are going to move 20 miles away just to cross the border because the tax structure hasn't changed.

And, you know, last year we passed for the first time an income tax cut, and many people said that, you know, that income tax cut is just going to cost more money and you're going to have deficits, and you're not going to be able to fund all these wonderful programs

that people want.

Let me tell you a little story. A company called Hadco expanded in our community. They expanded 40 -- 400 new jobs, and I met with the president of that company, and it was between New York State and New Hampshire, and he said there's two reasons why we chose New York State. Reason number one was the fact that you folks have a great work force here in the Southern Tier and, unfortunately, we had a great work force because most of our companies like IBM and others had down-sized because they left the state. So we had a tremendous work force, but he said the second reason that we decided to come here is because for the first time you're addressing your tax problem and that for the first time, New York State voted to reduce the personal income tax. He says, Because you see, my workers in New Hampshire go home with nine percent more of their paycheck in their pocket before they even come to work. That's very important. That's why we chose New York State.

You know, that personal income tax just alone in my community this year will put over $18 million back into the community. So, you see, you can talk about what happened in the past, and if you want to live in the past - and you can talk about elephants -- I happen to like elephants. I have a tie with elephants on today -- I'd be willing to jump -- to jump with my Leader today because he's jumping into the future. He wants to change the direction of this state. He wants businesses to prosper and to stay in this state. He wants businesses not to leave. He wants them to grow, and when businesses grow, they pay taxes, and there are people who are working to pay taxes, and then through those tax dollars, we could supply even more programs. So you see when your economy grows, the programs will grow, and that's what this tax cut bill does.

So I ask my colleagues on the other side of the aisle to join us, and maybe if you don't believe us, I'll ask you to do one thing. Go home -- and I don't care where you

live. I don't care if it's Manhattan or upstate New York -- spend the next week and talk to business owners. Look them in the eye. Don't believe us. Look them in the eye, and you ask them -- you ask them what they think today about the present situation of the tax structure in New York State and what should you do as a legislator, and they'll tell you. They'll tell you to support this piece of legislation.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Maziarz.

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

Just very briefly. I want to rise also in support of this package. Earlier, Senator Nozzolio and Senator Dollinger commented on Kodak generating their own power. The reason that firms, large firms like Kodak, generate their own power in this state and firms like Delco/Harrison Thermal Systems, General Motors employ over about 7,000 people in Niagara County who also generate its own power and Mike Burns, the chairman of -- or the chief executive

officer of Harrison/Delco Thermal Systems told me that Harrison had to build its own generating -- power generating station in New York State because they could no longer afford to pay the gross receipts tax for power. 30 percent of their power bill was taxes that had absolutely nothing do with the delivery of power to their particular plant.

I think that this is a good bill. I have a small firm, not in my district, Exolon Corporation employs 130 people, and they are going to be moving out of New York State, moving directly across the border into the Province of Ontario because of the cost of power within the state of New York.

Senator Bruno, this is absolutely the right direction to take this state in, and I congratulate you and Governor Pataki. I think the most onerous tax that we have on -- both on commercial and residential entities in this state is the gross receipts tax.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Connor to close for the Minority.

SENATOR CONNOR: Thank you, Mr. President.

You know, I'm glad I was here when Senator Libous spoke. I couldn't believe my ears. He wants corporations to make more profits so they can pay more taxes and employ people who pay taxes so we can have more government programs. If that isn't the old thinking, Mr. President, I don't know what is.

Let me tell you where the new Democrats are. We're not for government programs. We don't want more programs. We want government to recognize basic values of New Yorkers and Americans and put our money behind those values, provide opportunity for our children. That means education. Provide job security for our workers. That means job training, retraining, tax credits to businesses to retrain workers. Meet our responsibilities to provide for the elderly, the retired and those who absolutely can't work. Encourage our

citizens' own responsibilities by providing jobs, jobs, jobs so we don't have any welfare. We have people working and we don't have people underemployed. We have people with good paying jobs with benefits and meet our responsibilities to uphold the tradition in New York to have an accountable, responsible, fiscally prudent government.

To think that this is all about somehow pumping up -- pumping up the economy, priming the pump so more money can come flooding out and we can have more programs as Senator Libous put it? That's just not what it's about. We should only have what we need to meet the basic values we ought to stand up for, of opportunity, jobs and responsibility toward the elderly.

Now, Mr. President, the Majority, with some kind words, has unanimously seen fit to reject the tax proposals put forth by Minority members and, as Senator Dollinger pointed out, they would be better for some of the largest businesses in our state, but we put

them forth because the object -- the object here is not just to get money to businesses. The object is to help businesses so that the middle class and working people in the state of New York are the beneficiaries, beneficiaries because they have the job skills and they have the jobs to do the job. That's the object.

The object is not as Senator Libous said, so we can have down the road more income for government programs. That's the Rockefeller years thinking, the Republican years of raise taxes, raise taxes, and I know most of you have gotten religion and gotten away from that. It's a new Republican Party over there, but I want to also say that while that's not the object, the object just isn't to make the rich richer for the sake of making the rich richer; the object is to provide the most immediate priority tax relief to those businesses that will employ our middle class and working people, because you ask the working people in New York State. You ask your constituents. Do you feel safer in your job? Are you really making more

money; and the answer is going to be no. Real income is down. Every statistic shows that. Part-time jobs are not the goal here. Part-time jobs with no benefits are not the goal here. So our tax proposals -- and many of the proposals in your bill, quite acceptable. They uphold the values we stand for. Some don't. That brought up the question, do I, the Democratic Leader, do my colleagues -- my colleagues, some will and some won't vote for this -- how do I vote for this?

Well, let me tell you what I do and don't like about your bill. You talked about the utility tax, gradually bring down the gross receipts tax. Not a bad idea. I can certainly live with that and it benefits New Yorkers, but not as good an idea as Senator Dollinger's proposal, to eliminate it for manufacturers. Why is our idea better? Because it more directly makes that connection with creating jobs. We need manufacturing jobs in this state. We don't need more fast food restaurant, part-time, no benefit jobs. That's

not a success.

The real estate gains tax, the mansion tax. I have no problem some day with doing away with that. I really don't. No problem with that down the road, but I really object to this when, as a priority we won't accept the kind of property tax circuit breaker that benefits the average New York family in their home. Our priorities are just different.

There's a difference between the two parties here, Mr. President. The Republican Party in this house wants to do away with the mansion tax. The Democrats want to protect the average New Yorker's property taxes when they're home. That is a philosophical difference. I don't like that feature of this bill, not until we do the other.

The estate tax. Similarly, any proposal from the Republican Party about estate taxes, frankly, arouses my suspicious after I saw those extremist Republicans in control of the Congress refuse to go after the tax money of those billionaire -- billionaire Americans who

moved offshore and contribute nothing. Why protect them? What do they do for our people?

The petroleum business tax, I think that's a good proposal. Agricultural circuit breaker, this probably -- the agricultural circuit breaker probably tips the scale for me because I'm for it. I think it's a good program. It's one all Democrats are certainly for. We are an agricultural state, and that's a priority industry. When all the other industries fled, we still have agriculture, not as big as it used to be, regrettably, not as many farms as we used to have, but it's an important industry, and this tips the scale for me because while I don't like some features of your bill, since that's in there, I'm going to vote for this bill. I wish we would have done the circuit breaker for the average homeowner too.

I don't understand the container and beer tax repeal. It's not a bad idea, but not my priority, not our priority. Something we would like to do, but I would put that about

number fifteenth on the list. I'd certainly put the average homeowner in New York State ahead of that beer and beverage container industry. I'd certainly put job retraining tax credits for our corporations that employ New Yorkers ahead of that, and I understand the border problem with taxes, but why focus on the alcoholic beverage tax? We have a problem all over our borders. I represented part of Staten Island for years. Heck, everybody there, the merchants were getting killed. Everybody was shopping in New Jersey and years ago, I remember speaking to the Chamber of Commerce in Hoosick Falls, Senator Bruno, many years ago and their number one complaint was sales taxes, you know?

Why aren't we dealing with things like sales taxes on clothing and other things before -- before we worry about the alcoholic beverage tax or, with all due respect, Senator Bruno, an employer in your district that pays - and I admit, some macabre, weirdo tax on promotional materials that probably never should have been there before. I don't know when that

came in. Was that probably one of those 1990 taxes that Senator Bruno and all the Democrats voted against, while the rest of the Republicans voted for it. I agree it shouldn't be there, but I think before we take care of that employer, that one business, we ought to focus on some of the other people that absolutely need relief.

And so, Mr. President, on balance, particularly because of the agricultural circuit tax breaker, because of some of the other things in this bill that are good -- it may not go far enough, but they're good -- and despite the fact -- and let me say, particularly because today is an exercise -- is an exercise in political discourse, it is the revealing of priorities by both parties, it is the statement of whom we're for by both parties and it's nothing for. This is not part of the real budget. Make no mistake about it. It's not part of the real budget. If, as a part of a final budget, we were to be -- I were to be confronted with a tax bill like this that

ignored the kind of priorities the Democrats have set forth in our amendments, I would then vote against it, but today being a good feeling what's your tax policy rhetoric day, I'll join in what I heard, I guess from Senator Bruno. He never met a tax cut he didn't like, and I'll vote for this, but only because of those couple things like the agricultural circuit breaker that I think are very, very essential to a significant portion of New Yorkers, but in the final analysis, unless we -- if there were to be a -- tax cut provisions, unless it addressed that property tax, that property tax burden that are falling on our middle class and working families and unless it addressed in a real significant, direct way, employment, such as tax credits for job retraining, then I wouldn't vote for the final product.

ACTING PRESIDENT KUHL: Senator Bruno to close for the Majority.

SENATOR BRUNO: Thank you, Mr. President.

I want to congratulate Senator

Connor in his wisdom for having indicated that he will support this package. I also want to thank the Minority in this house for this debate and for the amendments that they brought forward. Many of them are very constructive, very worthwhile, and they are tax cuts. They are incentives to create jobs, and they will be part of the negotiations that take place as we go forward to do a budget.

I'm a little bit disappointed that you didn't have the same fervor during the Cuomo years for tax cuts. I'm a little disappointed in that, because during those 12 years, this state -- the Empire State saw an exodus of jobs and it's a fact -- and I don't say this in any political way. It is a fact this state saw 35 to 40 percent of the jobs lost in the country come from New York during the Cuomo years. Better late than never.

So we are here together going forward, doing some good work for the people of this state. Many of the proposals that you brought forth today are, as you know, proposals

that Republican members have in bill form, and I don't think it's any coincidence that you took those proposals and put them in with your amendments, and that's just good judgment and good thinking.

So, again, I applaud you for that. I will recommend that you just stay loose and stay flexible because next week you will have another opportunity to vote in favor of some of the very things that you're talking about that will be in our property tax cut package, coupled with school aid, to keep the lid on property taxes. That will make you happy and this conference happy and, most important, the people of this state happy.

We keep hearing, Mr. President, a reference to the mansion tax that we in this state call the Cuomo tax. Senator Connor, call it whatever you want, but that's one that you took issue with. I will ask you to study - just review the study that's done by the Wharton Group -- Financial Group and Cornell that indicates when that tax is rescinded -- and it

will be -- it will drive $200 million of new revenue into New York City and create 7,000 jobs, not for wealthy people but for laboring people.

Senator Connor, your colleagues, look at that one in particular. Don't take issue with it. Don't call it a mansion tax. Call it an economic development package because that's what it is. It never should have been there. We've got to get it off. You need - you need the 200 million in revenue to help the people in your district and in New York City.

So if you support any of these proposals, support that one because you help your own constituents more than you help the people in upstate New York. In my district, I don't know of a property that's worth over $1 million, a commercial property in Troy or in Saratoga. So it doesn't help me, but it helps the people of this state, and that's why it's there.

Mr. President, I'm going to conclude my remarks. This has been very

healthy. I think we've had a bipartisan effort here to talk about what's best for the people of this state. I think that is just good government.

I'm going to conclude by reminding people that we discussed and debated tax cuts last year, and the question was would they become part of a final budget, or was it just rhetoric? It wasn't rhetoric. It became part of the budget.

This year, tax cuts will be part of a final budget. Why? Because you can talk about trickle down. I talk about building up. Tax cuts build up. They don't trickle down. They build up. The $1 billion tax cut that took place last year -- and listen to this - increased the revenues to this state by $600 million. That's what Senator Libous is talking about. That 600 million in increased revenue is going to pay to restore school aid in New York City, upstate, on the Island, keep the lid on property taxes. It's going to restore some of the Medicaid cuts that are painful. It's going

to restore some of the cuts in higher ed'.

How do we get this money? By increasing the revenues in this state. How do we increase the revenues? By making this state more competitive with tax cuts. The biggest tax cuts in all of the United States last year were in New York. 22 percent of all the income tax cuts in the United States were in New York. 42 percent of all the business tax cuts in the United States were in New York. As a consequence, with the leadership of Governor George Pataki picking up from the previous administration, this state is moving forward.

So thank you for joining us in this effort. Thank you for your kind remarks. Thank you on behalf of the people of this state for helping to continue to stimulate the economy and create jobs. All of us benefit.

Thank you, Mr. President.

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

THE SECRETARY: Section 82. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Abate to explain her vote.

SENATOR ABATE: Yes. I think this was a very fruitful debate, and I believe it's a beginning debate, and I will be voting against this because I still believe this is an exercise, and that until we have an opportunity to look at the revenue side as well as the spending side, I am not prepared to vote for an additional tax cut package.

I would also be more inclined to vote for a -- business tax cuts, and I understand and I think we all agree that some of the tax cuts stymie the economy, do not stimulate growth. There are tax cuts that maybe when they originated years ago made sense and they no longer make sense today, but I would be looking at a tax cut plan that represented some of my priorities and not -- the package today does not represent them.

I would be looking for and others of my colleagues have said a gross receipts tax cut, a tax credit for child care, small businesses, very important for job creation and job retention. I think tax credits should be tied. Businesses -- we want to create incentives so more businesses stay and are created in New York State. We want to see something that actually has a positive impact on our economy, and lastly, a circuit breaker tax cut to reduce the property taxes throughout New York State.

When we can look at that in terms of the revenue and spending side and include what I consider should be some of the priorities to New York State, I might then be more amenable to voting for a tax cut package for business.

Under these circumstances today, I must vote no.

ACTING PRESIDENT KUHL: Senator Abate will be recorded in the negative.

Senator Waldon to explain his vote.

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

Some of you know that I grew up in Brooklyn, and those who used to go around Fulton street, Flatbush Extension used to see the three-card monte people working, and no matter what you did -- and at that time my vision was sometimes called 20/10 it was so good. No matter what you did, those guys were so fast that, if you bet your money, you'd lose it. They were great, but they were not as great as some of the things I've seen here in Albany. We have quintessential flimflam artists practicing their art in Albany, and let me tell you what I mean.

We have a bill that says this will cut taxes. I'm dutybound by the 300,000 people in the 10th Senatorial District to be amenable to their needs to see that their taxes are reduced, but when I looked quickly between the lines of this proposal, I did not see that they would get the kind of relief promised by the rhetoric on the floor.

There are no mansions in St. Albans. There are no mansions in Far Rockaway. There are no mansions in Cambria Heights or Queens Village or Rosedale or Laurelton, Springfield Gardens or in Rochdale Village which is a huge Mitchell-Lama. There are no mansions. There are no millionaires that I can account for, to my knowledge, who actually live in the district. Some people are doing well. A lot are professionals, but this tax bill will not benefit those people who I represent. We are creating, in my belief, similar to what our former governor said in San Francisco when I attended the Democratic National Convention, we're creating those who are up on the hill and those who are in the valley with the policies that we're instituting here in this legislative body, the Senate of the state of New York, and because of the inequity of what we're doing, because of the unfairness, because we are taking care of those who are best able to take care of themselves and not take care of those least able to take care of themselves, this particular

proposal, I cannot support it. We cannot feed the rich with the poor.

I vote in the no.

ACTING PRESIDENT KUHL: Senator Waldon will be recorded in the negative.

Senator Marchi to explain his vote.

SENATOR MARCHI: Mr. President, I think it's certainly appropriate that we notice what Senator Bruno has done here today. I have not seen in many, many years, I would say decades, a debate of this nature where every single person who spoke to this measure spoke to it in terms that were affirmative, positive, constructive, and when the vote was taken, it ushered in, I think, the premises that have been -- that was created last year and continues the upward movement of this state.

What Senator Waldon has said is not a discordant note under ancient Jewish law. A unanimous verdict was never considered unless there was one dissent, because there was always the fear that maybe something had been missed.

The fact that he spoke of other concerns is a balancing factor, a seasoning flavor that you have imparted, Senator, but it is something that we can all observe, I think with a great deal of satisfaction because the -- if the statistical prologue is accurate, it promises further growth and development so that the concerns that you express so eloquently, Senator Waldon, will be reflected, and that is the spirit that characterizes this Senate today.

I vote aye.

ACTING PRESIDENT KUHL: Senator Marchi will be recorded in the affirmative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 910 are Senators Abate, Babbush, Leichter, Montgomery, Santiago, Seabrook, Smith, Stavisky and Waldon. Ayes 51 -- also Senator Markowitz. Ayes 50, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Mendez, you wanted to request permission to be recorded in the

negative on a bill before.

SENATOR MENDEZ: 642.

ACTING PRESIDENT KUHL: 642.

SENATOR MENDEZ: Thank you.

ACTING PRESIDENT KUHL: Without objection.

(There was no response.)

Hearing no objection, Senator Mendez will be recorded in the negative on Calendar Number 642.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 909.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 909, by the Senate Committee on Rules, Senate Print Number 7486, an act to amend Chapter 261 of the Laws of 1993, relating to the Nassau County Accelerated Adjudication Program.

ACTING PRESIDENT KUHL: There is a message of necessity at the desk. The motion

is to accept the message of necessity. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR LARKIN: Can we take up Calendar Number 247 now, please.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 257.

THE SECRETARY: Calendar Number 257, by Senator Nozzolio, Senate Print 5951-A, an act to amend the Penal Law, the Criminal

Procedure Law and the Correction Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR LARKIN: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is a message at the desk. The motion is to accept the message of necessity on Calendar Number 257. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

Senator Nozzolio, an explanation has been asked for of Calendar Number 257 by the Acting Minority Leader, Senator Paterson.

SENATOR NOZZOLIO: Thank you, Mr. President.

My colleagues, I rise with great happiness that this measure has come this far. It's a bill that will enhance the establishment of enhanced Class E felony status for those

inmates who participate in a very heinous practice of using their bodily fluids as weapons.

It's a historic day for those correction officers, parole officers and correction employees in the state. It's been a long, hard fight. For eight years, I have been proposing this legislation, proposing it first at the behest of a constituent who came to me after she as a nurse in a correctional facility received -- was a recipient of this very, very dangerous and heinous behavior, but we're here today to make this crime just that, a Class E felony. Without the support of Governor Pataki, this certainly would not have happened. Paul Schectman is chairman who is commissioner of the Department of -- the Division of Criminal Justice Services helped us push this measure along.

What this bill does is tell the inmates of this state that if they are going to use their bodily fluids as weapons, if they are going to participate in what has heretofore been

a degrading behavior after the passage of this legislation will become a felony.

It is difficult to work in our correctional facilities under the best of times, but under this extremely growing - unfortunately, in the last three years alone, there were over 600 documented cases of inmates herding their human waste and other bodily fluids on correctional employees.

My heartfelt thanks to those who work in our correctional facilities and particularly thank those representatives, the men and women of Council 82 who have worked with us from the outset to raise the public awareness of this issue in assisting us in the drafting of this monumental legislation.

It's absolutely deplorable when men and women risk their lives every day to protect the public from dangerous criminals and have to endure this abuse with virtually no legal protection. This action today provides the legal protection necessary, and I want to thank Council 82 for helping us, along with

Governor Pataki and Commissioner Schectman in moving this legislation along.

Personally, I would also like to thank Senator Abate, our ranking member of the Crime and Corrections Committee, who personally has supported this measure and has been involved as an advisor to me on correctional issues because of her experience in those matters.

Inside a correctional facility is one of the most dangerous, rigorous and trying places to work anywhere. I want to thank all of those who were involved to make this legislation possible, to make that workplace a safer place to work for New Yorkers.

Thank you, Mr. President.

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

THE SECRETARY: Section 5. This act shall take effect in 30 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Mr. President, I believe we have four privileged resolutions at the desk. Would you have the titles read and let's move their adoption.

ACTING PRESIDENT KUHL: The Secretary will read the titles to the four privileged resolutions at the desk.

THE SECRETARY: By Senator Alesi, Legislative Resolution commending Raymond Emma, retiring president upon the occasion of his designation for special honor at a testimonial banquet of the Monroe Volunteer Firemen's Association, Incorporated, May 4, 1996.

By Senator Alesi, Legislative Resolution, commemorating the ground breaking ceremony of the Fairport Baptist Homes Campus renovation and new construction project from hallways to households, Sunday, May 5, 1996.

By Senator Connor, Legislative Resolution commending Mary Nolan upon the

occasion of her selection as guest of honor at the annual dinner dance of the Brooklyn Shamrocks Football Club on Friday, May 3, 1996.

By Senator Connor, Legislative Resolution commemorating Albany Jerusalem 3000, a gala celebration of the glorious history of city of Jerusalem to be held in the well of the Legislative Office Building, Albany, New York on May 7, 1996.

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolutions are adopted.

SENATOR LARKIN: Is there any housekeeping up there?

ACTING PRESIDENT KUHL: No. Senator Larkin, the desk has been swept clean with one exception. The bill that we passed earlier, as you are aware, the Nassau County extender bill passed the Assembly at the same

time. So the bill is being recalled so it can be substituted and repassed. We have a national cross that we want to correct before we do anything else -- before we conclude today.

SENATOR LARKIN: Stand at ease then.

ACTING PRESIDENT KUHL: The Senate will stand at ease momentarily. It should be right here.

(Whereupon, the Senate stood at ease from 2:15 p.m. until 2:19 p.m.)

ACTING PRESIDENT KUHL: Senate will come to order.

Senator Larkin, we do now have the bill at the desk. We would like to reconsider the vote by which the bill passed the house, if that's permissible with you.

SENATOR LARKIN: Please do so.

ACTING PRESIDENT KUHL: The motion is to reconsider the vote by which Calendar Number 909 passed the house. The Secretary will call the roll on reconsideration.

THE SECRETARY: Calendar Number 909, by the Senate Committee on Rules, Senate Print 7486, an act to amend Chapter 261 of the Laws of 1993.

ACTING PRESIDENT KUHL: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is before the house. We have an Assembly substitution. I'd ask the Secretary to read.

THE SECRETARY: Senator Bruno moves to discharge from the Committee on Rules, Assembly Bill Number 10571 and substitute it for the identical Third Reading Calendar 909.

ACTING PRESIDENT KUHL: The substitution is ordered. We have a message of necessity from the Assembly on the bill. The motion is to accept the message of necessity.

SENATOR LARKIN: Accept.

ACTING PRESIDENT KUHL: All those in favor of accepting the message of necessity

signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section -- read the Assembly bill.

THE SECRETARY: Calendar Number 909, by the Assembly Committee on Rules, Assembly Print Number 10571, an act to amend Chapter 261 of the Laws of 1993.

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

THE SECRETARY: Section 82. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Mr. President,

there being no further business, I move we adjourn until Monday, May the 6th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday, May 6th, intervening days to be legislative days.

(Whereupon, at 2:21 p.m., the Senate adjourned.)