NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 2, 2003

12:43 p.m.

REGULAR SESSION

SENATOR THOMAS P. MORAHAN, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MORAHAN: The Senate will come to order.

And I ask everyone present to please join with me and repeat the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT MORAHAN: In the absence of clergy, I would ask that we all bow our heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT MORAHAN: Reading of the Journal.

THE SECRETARY: In Senate, Thursday, May 1, the Senate met pursuant to adjournment. The Journal of Wednesday, April 30, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Maltese, Mr. President, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: That's Senate 156.

ACTING PRESIDENT MORAHAN: So ordered.

SENATOR FARLEY: On behalf of Senator Nozzolio, Mr. President, on page 35 I offer the following amendments to Calendar Number 575, Senate Print 1930, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MORAHAN: The amendments are received and adopted, and the bill will maintain its position on the Third

Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, I move we adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT MORAHAN: All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The Resolution Calendar is adopted, Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT MORAHAN: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 526, by --

ACTING PRESIDENT MORAHAN: Quiet in the chamber, please. Take your conversations outside.

The Secretary will read.

THE SECRETARY: Calendar Number 526, by Senator Wright, Senate Print 2171, an act to amend the General City Law, in relation to the membership of the examining board.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

531, by Senator Balboni, Senate Print 4744, an act to amend the Executive Law, in relation to requiring the Disaster Preparedness Commission.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 564, by Senator Golden, Senate Print 3121A, an act to amend the Executive Law, in relation to increasing income eligibility levels.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 568, by Senator Wright, Senate Print 700, an act authorizing the City of Fulton, County of Oswego.

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

Please read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

578, by Senator LaValle, Senate Print 2742, an act to amend the Town Law, in relation to exemptions.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 579, by Senator Libous, Senate Print 3022, an act to amend the Town Law and the Public Officers Law, in relation to providing.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 582, by Senator Little, Senate Print 3817, an act to amend the Local Finance Law and Chapter 413 of the Laws of 1991.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

SENATOR SKELOS: Thank you, Mr.

President.

We will await the return of the Finance Committee. And following the meeting of the Finance Committee, there will be a meeting of the Civil Service and Pensions Committee.

So the Senate will stand at ease pending the return of the report of the Finance Committee.

ACTING PRESIDENT MORAHAN: The Senate will stand at ease.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

ACTING PRESIDENT MORAHAN: There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 12:49 p.m.)

(Whereupon, the Senate reconvened at 12:59 p.m.)

ACTING PRESIDENT MORAHAN: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the Finance Committee and of the Civil Service and Pensions Committee. I ask that they be read at this time.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following bill:

Senate Print 1406B, Senate Budget Bill, an act to amend the General Business Law and others.

And Senator Robach, from the Committee on Civil Service, reports the following bill:

Senate Print 4902, by Senator Robach, an act to amend the Retirement and Social Security Law.

Both bills ordered direct to third reading.

ACTING PRESIDENT MORAHAN: Without objection, both bills are reported direct to third reading.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 601.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 601, Senator Robach moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 8352 and substitute it for the identical Senate Bill Number 4902, Third Reading Calendar 601.

ACTING PRESIDENT MORAHAN: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 601, by the Assembly Committee on Rules, Assembly Print Number 8352, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 600.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 600, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 2106B and substitute it for the identical Senate Bill Number 1406B, Third Reading Calendar 600.

ACTING PRESIDENT MORAHAN:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 600, Assembly Budget Bill, Assembly Print Number 2106B, an act to amend the General Business Law and others.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MORAHAN: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Mr. President, this bill provides for restoration of many items in the budget which were negatively affected by the Governor's budget.

For example, increase in school aid, aid to our hospitals and nursing homes, aid to local governments. We've made restorations of almost $2 billion in things that we had to put back for the benefit of our constituents.

That is being met primarily by increases in the income tax, a small increase surcharge on people over $150,000 per family income, and also a small bump up in the sales

tax of one-quarter of 1 percent. And of course closing some other tax loopholes which have existed for some period of time which we are now closing, being altogether about $3 billion.

This budget is balanced for the next year and will also provide some additional revenues to start off the following fiscal year.

So I think it's a very good bill. It's got a lot of things which your constituents asked you for, we put them in there, and we are voting for a small tax increase which will not hurt any low-income people to provide the revenue which will enable us to fund all these programs.

Thank you.

ACTING PRESIDENT MORAHAN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Briefly on the bill.

I recognize the creativity and I recognize the courage that went into this piece of legislation. I do have some concerns about some of the bill's provisions.

We are now in a multiyear fiscal crisis that did not appear overnight in this year's budget. And everyone who participated in the budgets over the last eight years has had a part in creating the situation we are in today. You can't raise spending and cut taxes forever without hitting the wall.

My concern is that the benefits of the $13.5 billion in tax cuts that we've enacted over the last eight years predominantly went to the wealthy. Almost half of the benefits of the tax cuts went to the top 5 percent of earners in New York State.

This bill is not nearly as progressive. This bill does not follow the same pattern and seek to impose taxes on those who benefited from the earlier tax cuts.

We have determined that because of the federal tax cuts, wealthy New Yorkers actually will still have a net tax cut, even with the increases in this bill on the income tax, but poor New Yorkers will be substantially hurt by increases in sales tax. Particularly the exemption for clothing, we

think, is a -- I think is a grave error.

We have a multiyear problem here. This is something that requires the kind of planning that unfortunately is not easy to do in the state government. I think we are very, very pleased that this is going to become the budget, and it will become the budget, instead of what the Governor has proposed.

However, I feel that the regressive nature of some of the taxes and the failure to add additional resources to the state's budget by rolling back the tax cuts enacted over the last eight years and rolling them back equitably by taking back from those who benefited make this bill really less than what we should be doing right now.

We're going to be faced with this situation again next year. We're going to have a budget gap next year. And I think it's important for us to engage in the honest argument about taxes and spending that this state deserves and not to degenerate into the kind of rhetoric that we've been seeing in recent days, much directed against members of this house.

The fact of the matter is New Yorkers are willing to pay slightly higher taxes for good public services. We all know that. Our constituents tell us that all the time. People move into districts where they will pay higher taxes because they know there are good public schools.

Let's have an honest debate. Taxes aren't always bad; tax cuts aren't always good. Let's get the conservative hardcore who are prepared to take a fundamentalist position on this issue to debate it honestly.

But we're going to be back here next year, and I urge that we try to look for more progressive ways to generate revenue and that we look again to the income tax and look at the beneficiaries of the last eight years of tax cuts.

I'm going to vote no on this bill because, in my view, the sales tax increase is a mistake. I think we have to do better. I do think we need to generate more revenues. And I hope these factors will be taken into consideration as we move forward this year and next year.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Any other Senator wish to be heard?

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. On the bill, Mr. President.

I too know that we are in a very difficult situation. We need to raise our revenues. We need to ensure that we have the money to continue to operate fundamental public services. But I also know we could have done better on this revenue package. And I want to highlight a few of the things that I think we should have in this package and things that we should not.

I'll start out with the sales tax increase. We all know that sales taxes are the most regressive approach to taxing our community and our constituents. I just want to highlight that New York State already has the highest tax burden on poor people in our state, the lowest 20 percent percentile of any state in the country. And sales taxes, because of their regressivity, will hit our lowest-income New Yorkers the most.

The households in the state that have incomes below $15,000 a year, sales tax before we pass this budget results in a 9.5 percent tax on these households. For households between $15,000 and $27,000 in income per year, the sales tax is equivalent to 7.5 percent before this budget is implemented. But, for the top 20 percent earners in this state, sales tax is equivalent to only a 3 percent rate.

It's a bad model for taxation, and we shouldn't be expanding our sales tax.

At the same time, the personal income tax increases and surcharges that we propose I think are a better model for taxes, and I think we could have done better and gone farther. No one wants to tax anyone. No one likes taxes. But in fact in this state we've seen dramatic decreases in the tax rates on our highest-income New Yorkers, both through tax cuts in 1995 at the state level and federal tax cuts of the early Bush administration, even before we talk about the tax cuts being proposed right now in Congress.

So in fact the tax proposals that

we've put into this budget will have a significant impact on our ability as a state to deliver services. But when you factor in previous tax cuts on upper-income New Yorkers and the fact that our new income tax surcharges will be deductible from federal taxes at a certain level for many, in fact, the personal income tax increases we're proposing are relatively minor, and I do believe are the right approach for us to be going forward with.

But perhaps the thing that I'm most disturbed about in our budget bill today is the fact that we're going to borrow over $4.2 billion that we will have to pay back at an extraordinarily high interest rate.

Borrowing money to pay for operating expenses is the worst way for us to budget in this state. It is that exact situation that got my home city, New York City, into so much trouble during the 1970s. And I would argue that we had preferable alternatives before us.

We should have been looking at a restructuring of our entire tax code,

particularly our tax expenditure budget. There are $29 billion in tax expenditures in the state tax code that we didn't even look at or discuss this year. And we should have focused on that tax budget, the expenditure budget, to evaluate where else New York State could go to get the money we need to continue the operation of our state at the levels that I think we need to.

Just a few examples. While we're increasing our sales tax and we're expanding sales tax again for low-cost clothing, we did nothing to explore a sales tax on the buying and selling of bullion in this state. If you are in the business of buying or selling gold or silver bullion, we exempt you from taxes, for sales tax.

So while poor people and middle-income people in this state in this budget are going to be asked to pay higher sales taxes, we consciously each year don't tax the buying and selling of gold and silver bricks. And that's $101 million we don't collect from that one industry.

We should be reevaluating corporate

tax loopholes, particularly reforming the current alternative minimum tax, where we have reduced the rate by almost 50 percent since 1994. We should be looking at the model that other states have already implemented to fill or close the, quote, unquote, Toys "R" Us tax loophole that costs us an estimated 400 million in annual revenue.

There is no excuse for some people to pay little to no taxes while other people are asked to pay even higher tax rates each year. There is no excuse for us going down the road of a more regressive pattern of tax policy rather than a more progressive model for tax policy.

We should have, as well, looked at additional decoupling from the federal tax policies when their decisions are unfair to us and our state and our taxpayers. We do have to raise our revenues in order to assure that we can meet our obligations, but I think -- I know we could have done a better job and that we should have focused more of our time and energy on a true evaluation of New York State's tax code and the relationship between

personal income tax levels, corporate tax levels, and again the entire budget of tax expenditure items that we give exemptions year after year and we never go back and look again at what that means for our economy.

And it's unfair. And this budget is unfair. So I will also be voting no on this bill today.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Any other Senator wish to be heard?

Senator Lachman.

SENATOR LACHMAN: Yes. I agree with much of what my colleagues have just said. There are many problems with this bill. I am opposed to the sales tax as much as my colleagues are opposed to the sales tax, especially the elimination of the exemption on the sale on clothing, which will hurt many people and has been a successful revenue generator in the past.

But we're faced -- we're facing a real world, not a world that we can create ourselves, alone, individually, without

cooperating with others of both parties in achieving a viable budget.

Now, if this was not an omnibus bill, if I could pick and choose what I thought was good and what I thought would not be good, I would never consider putting this into a form where I would have to vote for everything.

But it's not that easy. If this bill is not passed, if this budget bill is not passed, this revenue bill is not passed, the property tax, which afflicts mostly middle-class and working-class people, could double, almost, in Staten Island and parts of Kings County.

So what I'm saying to myself as well as to others is that we will be not voting on a perfect bill, but it certainly is a much fairer version than we received from the second floor. And it is not what I would like to have in total, but because it is a fairer bill and it is an omnibus bill and we are living in a real world and we have to pay for what we want in terms of human services -- otherwise, not only will our safety net be

shredded totally, but the things we take for granted in a humane, civilized society would be lost as well -- I have to vote for it.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Any other Senator wish to be heard?

The Secretary will read the last section.

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

ACTING PRESIDENT MORAHAN: Senator Bonacic, to explain your vote.

SENATOR BONACIC: Thank you, Mr. President.

I come from a district that in the past couple of years has seen two of my rural hospitals on the verge of bankruptcy. One actually went bankrupt. I'm in an area where I have a lot of lands that are tax-exempt, and we have experienced double-digit property taxes for the last four years.

We're seeing quite a bit of growth coming into the mid-Hudson area from the metropolitan since 9/11. In fact, one of the counties in our Senate district is the

fastest-growing county in the State of New York.

If I were to embrace the Governor's budget, I would see a decrease in education for our children and our school districts and our hospitals to the tune of $30 million. We simply cannot afford that. It is for that reason that I'm supporting this taxing bill.

I don't like taxes, but we're dealing in fiscal reality, where it's the toughest economic times this state has experienced in the last fifty years. And when you represent the majority in a house, you have the responsibility to govern and provide solutions. They may not always be the perfect solutions, but you have to weigh costs versus benefits.

And in my humble opinion, we have to watch out for our children and we have to watch out for the healthcare of our citizens in our Senate district.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Bonacic.

The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 600 are Senators Golden, L. Krueger, Meier, Parker, and Schneiderman. Ayes, 54. Nays, 5.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT MORAHAN: No, Senator Bruno.

SENATOR BRUNO: There is not. That is a remarkable thing, Mr. President. You are keeping a very orderly house.

(Laughter.)

SENATOR BRUNO: And we have now finished the budget process here this week. And we are sending to the Comptroller, thank to the efforts on both sides of the aisle here, and the Assembly, in having partnered in the Legislature, in sending a constitutionally balanced budget to the Comptroller. So that

that budget, if signed, or stands after ten days, becomes the budget of the people of this state.

And I believe, Mr. President and colleagues, that we have met the needs of the people as best we can and that we are choosing an alternative that serves the people of this state in the best ways possible.

And I want to thank my colleagues here, both sides of the aisle, because we truly are making history, I think, in the way we are functioning, the way we are dealing with this budget, and the way we are governing and moving government forward on behalf of the great majority of the people here in this state.

So thank you, Mr. President, and thanks to my colleague Leader Paterson, and thanks to all of our colleagues.

And there being no further business to come before the Senate, I would move that we stand adjourned until Monday at 3:00 p.m., intervening days to be legislative days.

Have a safe weekend.

ACTING PRESIDENT MORAHAN: The

Senate stands adjourned until Monday, May 5th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 1:24 p.m., the Senate adjourned.)