NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 6, 2003

3:26 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.

I ask everyone present to rise and repeat with me the Pledge of Allegiance.

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

ACTING PRESIDENT MORAHAN: In the absence of clergy, may 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, Monday, May 5, the Senate met pursuant to adjournment. The Journal of Sunday, May 4, 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 LaValle, on page 16 I offer the following amendments to Calendar 328, Senate Print 3165, 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 retain its place on the Third Reading Calendar.

SENATOR FARLEY: On behalf of our distinguished president, Senator Morahan, I offer, on page 33, the following amendments to Calendar Number 588, Senate Print 4142, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MORAHAN: The amendments are received and accepted, and we

will have the bill retain its original place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are some substitutions at the desk, if we could make them at this time.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: On page 15, Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 2609 and substitute it for the identical Senate Bill Number 3137, Third Reading Calendar 306.

And on page 35, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 8388 and substitute it for the identical Senate Bill Number 4968, Third Reading Calendar 602.

ACTING PRESIDENT MORAHAN: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Crime Victims, Crime and Corrections Committee in the Majority

Conference Room.

ACTING PRESIDENT MORAHAN: There will be an immediate meeting of the Crime Victims, Crime and Corrections Committee in the Majority Conference Room.

SENATOR SKELOS: Mr. President, at this time I'd like to adopt the Resolution Calendar, with the exception of Resolution 1492.

ACTING PRESIDENT MORAHAN: All in favor of adopting the Resolution Calendar say 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, at this time if we could take up Resolution Number 1492, by Senator Maziarz, have the title read and move for its immediate adoption.

ACTING PRESIDENT MORAHAN: The

Secretary will read.

THE SECRETARY: By Senator Maziarz, Legislative Resolution Number 1492, memorializing Governor George E. Pataki to proclaim May 4 through 10, 2003, as "Brain Tumor Action Week" in the State of New York.

ACTING PRESIDENT MORAHAN: All in favor of the resolution say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, Senator Maziarz would like to open up the resolution for cosponsorship, with the consent of the Minority. If anybody would not like to go on it, they should notify the desk.

ACTING PRESIDENT MORAHAN: Senators will be listed as cosponsors. If they don't care to be a sponsor, notify the desk.

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 233, by Senator McGee, Senate Print 2406, an act to adjust certain state aid payments.

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, 49.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 409, by Senator Morahan, Senate Print 681, an act to amend the Executive Law, in relation to veterans who participated in Operation Restore Hope in Somalia.

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, 49.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 453, by Senator Farley, Senate Print 3031, an act to amend the Civil Rights Law, in relation to the confidentiality of certain personnel records.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 462, by Senator Skelos, Senate Print 3827A, an act to amend the Criminal Procedure Law and the Family Court Act, in relation to evidence of identification.

ACTING PRESIDENT MORAHAN: Read

the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 491, by Senator McGee, Senate Print 2858, an act to amend the Alcoholic Beverage Control Law, in relation to mandatory license revocation.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 4. 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, 49.

ACTING PRESIDENT MORAHAN: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I apologize, but I would like to be recorded in the negative on Calendar Number 462.

ACTING PRESIDENT MORAHAN: Without objection, Senator Hassell-Thompson will be recorded in the negative.

The bill is passed.

THE SECRETARY: Calendar Number 506, by Senator Spano, Senate Print 2989, an act to amend the Public Authorities Law, in relation to extending the time.

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, 49.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 529, by Senator Kuhl, Senate Print 1971, an act to amend the Vehicle and Traffic Law, in relation to authorizing the issuance of a second set.

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, 49.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 532, by Senator Balboni, Senate Print 4746, an act to amend the Military Law.

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 586, by Senator Maltese, Senate Print 81, an act to amend the Election Law, in relation to board of elections.

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, 51.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 593, by Senator LaValle, Senate Print 1413B, an act to amend the Education Law, in relation to the fees paid for certain initial licenses.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 9. 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, 51.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 594, by Senator LaValle, Senate Print 3057, an act to amend Chapter 676 of the Laws of 2002.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 676 of the Laws of 2002.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 602, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8388, an act to amend the Tax Law and others.

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

Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

Senator Skelos, that completes the reading of the noncontroversial calendar.

SENATOR SKELOS: Thank you, Mr. President. If we could go to the controversial reading of the calendar at this time.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 453, by Senator Farley, Senate Print 3031, an act to amend the Civil Rights Law, in relation to the confidentiality of certain personnel records.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR FARLEY: Thank you very much.

This is bill that I am introducing at the request of the Public Employees Federation, PEF, a very important piece of legislation for them. It creates privacy protection for personnel records of investigators employed by the Department of Taxation and Finance. These investigators are currently defined as police officers, peace officers, under the Criminal Procedure Law.

Now, privacy protection currently is extended to all police officers, corrections officers, firefighters, paramedics, and parole officers. That's under Civil Rights Law Section 58.

And under this law, the personnel records are considered confidential and they're only open to review with the consent of the employee, the attorney general,

district attorney, other prosecutors, or a court order. Similar protections apply to court officers and to bridge and tunnel officers.

Now, numerous cases here have identified the purpose of the current law as the prevention of fishing expeditions into the personnel records of law enforcement officers who may have contact with criminals. Investigators here employed by the Department of Taxation and Finance conduct criminal investigations, they serve warrants, make arrests in the enforcement of our tax laws.

This protection is especially important to them, as their work relates particularly to white-collar criminals who could use this information in personnel records to threaten the investigators and their families.

This bill, incidentally, is opposed by the Trial Lawyers. Their memorandum acknowledges the legislative intent of the underlying statute in protecting law enforcement officers from fishing expeditions, but they argue that the law has been used to

avoid producing information about police misconduct and therefore should not be expanded.

The bill is sponsored in the Assembly by Assemblyman Lentol, and I think it's a piece of legislation that is urgently needed for investigators in the Department of Tax and Finance.

ACTING PRESIDENT MORAHAN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, through you, Mr. President, if the sponsor would yield for a question.

ACTING PRESIDENT MORAHAN: Senator Farley, will you yield for a question?

SENATOR FARLEY: I'd be happy to.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Mr. President, I wonder if the sponsor could tell us if there have been any instances in which the problems that this bill appears to be designed to address have taken place.

Have there been any police officers

employed by the State Department of Taxation and Finance who have had their records used or abused in the ways the sponsor described?

SENATOR FARLEY: I specifically don't know of any, Senator.

But I do know that PEF, or the Public Employees Federation, and the investigators from this department are very, very interested in this bill. This is a high-priority piece of legislation for PEF.

SENATOR SCHNEIDERMAN: Thank you.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Schneiderman.

Thank you, Senator Farley.

Any other Senator wish to be heard on the bill?

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, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 532, by Senator Balboni, Senate Print 4746, an act to amend the Military Law, in relation to the waiving of filing fees.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MORAHAN: Senator Balboni, an explanation has been requested by Senator Krueger.

SENATOR BALBONI: Yes, Mr. President. This is a bill that continues this Legislature's attempt to support the men and women who serve in our naval militia, the Air National Guard, the Army National Guard, and the -- I'm missing the last one -- the Army Reserves.

And what this bill would do is it would waive the requirement of any of those members who are in those forces during the time of deployment from having to file filing fees for any court action that they would bring during that period of time.

This bill was developed by members -- frankly, legislative staff counsel who are currently being deployed, and they brought this to our attention as another way to both encourage people to join these services, which is so essential, particularly at this time, but also to recognize that these are some of the little nuisances that we could take away from the men and women who are serving both our state and our nation.

ACTING PRESIDENT MORAHAN: Thank you, Senator Balboni.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If, through you, the sponsor would yield.

ACTING PRESIDENT MORAHAN: Senator Balboni, will you yield?

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

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President. And thank you, sponsor, for your explanation.

I find myself still confused. Is this civil court actions that are brought specifically relating to being called to active duty?

SENATOR BALBONI: No, no, they're not. Mr. President, through you, they are not related specifically to being deployed, they are merely a recognition of a different status in our society.

SENATOR LIZ KRUEGER: Mr. President, if, through you, the sponsor would yield.

ACTING PRESIDENT MORAHAN: Will you continue to yield, Senator Balboni?

SENATOR BALBONI: Yes.

SENATOR LIZ KRUEGER: So again, as I read the memo, perhaps my confusion is that you were referencing the Soldiers and Sailors Civil Relief Act. And for some reason, as I read the memo and the bill, I'm still under the assumption that this is in some way relating to civil court actions associated with being called into active duty.

But again, just to rephrase for myself, you're saying this is if you're on

active duty, regardless of the reason for the civil claim or the case, we would exempt you from the filing fees?

SENATOR BALBONI: I'm sorry, Mr. President, I misunderstood the -- your prior question. I thought it was related to a lawsuit brought because of your deployment.

No, this actually references the -- it's right in the bill language. It is 5 and 6, and it is if the controversy -- that is, the court action -- is brought and is related to such service in active duty as it relates to housing, employment, or any of the other protected categories that are referenced in the federal statute.

SENATOR LIZ KRUEGER: Mr. President, if, through you, the sponsor would yield to one more question.

SENATOR BALBONI: Yes, I yield, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

SENATOR SKELOS: Mr. President, if I could just interrupt for a moment, please.

ACTING PRESIDENT MORAHAN:

Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Social Services Committee in the Majority Conference Room.

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

Senator Krueger has asked for another question, Senator. Do you yield?

SENATOR BALBONI: Yes, I yield.

ACTING PRESIDENT MORAHAN: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. I'll make it my last question, because I'm on Social Services and need to get out of here.

Is this a precedent anywhere else for anyone else who's in the military in regular active duty, as opposed to the categories you described or any other area of the law?

SENATOR BALBONI: Mr. President, it is my understanding that the individuals who serve with the federalized armed services are in fact already covered in this category

by the statute you referenced before.

SENATOR LIZ KRUEGER: Thank you, Mr. President. No further questions.

SENATOR BALBONI: Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Krueger.

Thank you, Senator Balboni.

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, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 602.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 602, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8388, an act to amend the Tax Law and others.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR BRUNO: Can I, Mr. President, say just a few words about the bill that's on the floor.

And as we all know, this represents an authorization for a revenue package for the people in New York City. And it is a package that contains a number of items. But there are two main pieces in it, and -- or three.

One is it increases the income on people, couples over $150,000 income and $500,000 with an escalation; singles, single individuals, $100,000 and over; and head of households, $125,000. And it sunsets and pretty much mirrors what was done at the state level, with a 10 percent surcharge. Then 1/8 of 1 percent of increase in the sales tax,

which disappears and sunsets in two years.

There is a conversion of the MAC debt that's about $2.7 billion that exists that will be taken over. And that saves the city about $500 million.

So in the whole package, there's some absentee landlord increases in taxes that have 25, 30 million this year, escalating -- 45 million this year, escalating a little next year. And there are other pieces in it. But there's about ten, twelve pieces. The total is about 1 billion, 700 million. Is that what that totals?

Some of the things that we have already had in the budget, plus this, it's about $1.9 billion that accrues to the city. In restorations, there was about $800 million between education and health care. So there's about $2.7 billion in either authorization for revenue or restorations to the City of New York.

So we think that's critical. We think it's very important because New York City was hardest hit with 9/11, with what happened there, and they've never fully

recovered. Also, with the national recession, New York City, being really the capital of -- the capital center of the world, was hardest hit.

So we think that it's important that the state come forward in a bipartisan way, joining with all of our colleagues here and our colleagues in the Assembly, to do what is appropriate for the greatest city in the whole world, New York City.

So that's what this is about, and that's why we're here. And I appreciate the support of all of my colleagues here in the chamber, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Bruno.

Senator Padavan.

SENATOR PADAVAN: Yes, thank you, Mr. President.

I briefly want to say that as a city resident, as a member who represents the City of New York, I'm very grateful for the leadership provided by the Majority Leader in bringing us to the point we're now at.

Yes, there are some other things we

would have preferred happen, like a commuter tax, but that was not politically viable. We all know the story of how it happened and why it's not going to happen.

But that being laid aside, what we've done in the budget that was adopted last week is provide the City of New York restorations that are significant in terms of essential services.

And, of course, paramount in that category is education, restoring $400 million in cuts that had been in the Executive Budget, so that our pre-K program will continue on unabated. And a whole host of other educational components, very important in terms of the viability of the educational system of the City of New York, are now not impacted by virtue of those restorations.

The Mayor, as you know, had promoted and talked about a doomsday budget that he would have to adopt if more revenues did not flow to the City of New York to deal with essential services, which include all the things we're familiar with: police, fire, sanitation, and certainly education.

This revenue package that's in the bill before us will to a large degree mitigate that necessity, and so the doomsday will not occur. What cuts he will have to still put in place, I frankly am not privy to.

But I do know that by our actions today, with this $1.9 billion and the restorations in the budget that we adopted last week, the city will have over $2.7 billion at its disposal to deal with myriad issues that are critical to the quality of life of the residents and those who work in the City of New York.

So again, I thank the leadership of this house, partnering with the Assembly, to bring us to the point we're now at. And at the same time, I acknowledge that there's probably still a lot more that we have to do for the City of New York as soon as we're able to do it.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Padavan.

Any other Senator wish to be heard?

Senator Krueger.

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

ACTING PRESIDENT MORAHAN: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

This is not a bill to bail out my city, bail out New York City. It is a bill that goes somewhere towards what the city was begging Albany for, some help in its fiscal crisis.

I don't disagree that there is good material in this bill. I don't disagree that the state, the Legislature, the Assembly and the Senate, working together, have come up with a package that helps the City of New York far more than the Governor's proposals. To reference Senator Padavan's statements, certainly the restorations that we passed through these two houses last week significantly help and go in the right direction.

But I would be remiss if I didn't point out that it is clear to me we could do better and we should be doing more to help New York City.

Senator Padavan just referenced it's almost $1.9 billion. I just want to highlight for the record that the vast majority of this money is money that we are giving New York City the permission to tax on its own of its own people, on top of the taxes that we passed. It's not new money from Albany, it's the city having the right to tax its own people for increased personal income tax, an increased local sales tax, and an absentee landlord tax.

Some of the monies in this package are simply accelerated payments of money that Albany has already owed the City of New York. Some of this money, while I am glad to see that it's there in the sense that we are allowing the city to refinance the remainder of their MAC bonds that they have owed since the '70s, when you look at that package in detail you see that what is now a $2.5 billion remaining obligation for the city in a refinancing of 30 years could translate to as much as $5.1 billion that the City of New York will have to pay back, albeit over a much longer period of time.

This is not a bailout of New York City, and it's not even an attempt to deal with the inequities in the state budget for New York City, because nowhere in this package do we finally address the unfair funding formulas in our education aid package. As we stand here -- or I stand here and you sit here today, there are people walking to Albany for the Campaign for Fiscal Equity fight to have a fair funding formula for the schools throughout this state.

Nowhere in this package do we address the unfair funding formulas for transit aid to the City of New York under the state's formulas, even though the City of New York is facing -- excuse me, has now in effect a 50-cent fare hike for every person who uses our public transportation.

This package does not have the commuter tax that so many of us hoped for and believed was a fair and equitable approach.

This package does include significant new taxes from the people of New York City to help fund their own costs.

But I would argue that if we had

seen the type of funding at the federal level to the State of New York and the City of New York, we would not have had to do the tax package that went through this house on Friday. Nor would the City of New York have to do the tax package that they're asking us for permission for today.

During the last two years -- excuse me, if the federal government froze the last two years scheduled in of federal tax cuts, if we froze the federal tax cuts where they are today rather than phasing in the remaining years, we wouldn't need new state or city taxes to address our needs.

And in fact, if the next set of federal tax cuts go through, the impact on our state and our city will be so extreme that no matter where we think we are today, we will be in dramatically worse shape next year.

And again, this is not a bailout of New York City. Because I need everyone in the house and the public to remind themselves that the City of New York still, in these tough fiscal times, year in, year out, is sending more than $3 billion more to Albany than is

received back by the City of New York.

So I don't like this bill. And I do think that we could have been standing here today working together to come with up with a better package. But my City Council has asked for it, my Mayor has asked for it. And so I will vote for the bill even though I am sorry, as a legislator from New York City, that Albany couldn't do better for the City of New York this year, because we should have.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you.

Senator Sabini.

SENATOR SABINI: Thank you, Mr. President. On the bill.

Let me say something on a positive note first. The ability to charge absentee landlords which is contained in this bill, charge them a different kind of tax, is something I've been talking about for the better part of a decade. And it's very important.

For those of you who don't know, New York City's property is taxed based on its

usage. And many of our neighborhoods have seen one-family and two-family homes, which are taxed at the lowest rate in New York City, used as rental properties. And in fact, there are speculators who have bought up lots of one- and two-family homes and used them as rental properties. Illegally, in many cases.

And yet the tax code in New York encourages them to do that. And that's really put many of our neighborhoods at risk. In fact, this may come too late for some of them.

Further compounding that transgression is the fact that much of the rent is paid in cash in those properties, and we never see revenue, tax revenue, from those rentals as well, since in one- and two-family homes they're not supposed to be rented in many cases.

And the good part about this tax policy is it may encourage the owners of those properties to live in those properties. And that encourages stable neighborhoods, it encourages people to keep their property up and make New York City's neighborhoods stable, positive places to live and raise children.

So that's something I worked on for a long time in the City Council. I'm delighted at least a portion of it is coming to fruition.

But to echo the comments of my colleague Senator Krueger, we should call this "I Can't Believe It's Not an Aid Package." Or "Aid Package Lite." Because other than the conversion of the MAC bonds, which is really just refinancing a home -- which every New Yorker is basically doing now -- and other than the restorations passed last week, which went to every school district in the state and every healthcare institution in the state, the only thing in this package basically is allowing New Yorkers to tax themselves, New York City residents.

New York City residents now pay a higher transit fare. They'll now be paying a higher income tax. They're paying higher sanitation fines, higher user fees for lots of things. Rents are going up for stabilized tenants. So that all we're doing here, really, is allowing New Yorkers to bail themselves out. There's no gift here from the

state.

We are not even giving away -- somebody said it's like giving away cake and cookies. We're not even doing that. We're not even buying the ingredients for the cake and cookies. We're driving someone to the store to let them buy the ingredients and let them bake the cake and cookies.

All we have here in this package really is allowing the city residents to bail themselves out. Now, if that's a bailout, that's a new one on me.

ACTING PRESIDENT MORAHAN: Excuse me, Senator.

Can we have a little order in the house, please. Take your conversations outside.

Senator Sabini.

SENATOR SABINI: This package is a rather poor attempt at a life preserver for the City of New York. Yes, it will help make lives better for New Yorkers, and we're here to make people's lives better.

And I applaud the courage and feistiness of our Mayor, who has been

advocating very strongly both for taxes he had to raise and to get things moving up here for his constituents' benefit. So I applaud Mayor Bloomberg for supporting this package.

But I think we could have done better, and I think in the future we will have to do better. But for the time being, this is the best idea put before us, and I'll be casting my vote in the affirmative, despite the fact that it's really spin to call it an aid package. There's very little aid in here. It's really the New York City residents aiding themselves. And people should understand that, both outside the city and within the city.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Sabini.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, thank you.

I too want to join my colleagues, as a New York City representative, in saying that on the one hand, as I have said about other proposals in our house, it is a teaspoon

of sugar and a cup of poison.

However, I'm happy even with the poison. I was in the city this past weekend, and the constituents that I spoke with and who spoke to me, and people who have been here in Albany this week and on the weekend, have said that despite the fact that they know that New York City residents will in fact suffer more based on our revenue proposal, despite that, they are in support of us doing this legislation.

They want to be in a position to at least save our city. Unfortunately, it is going to cost New York City residents more to save ourselves --

ACTING PRESIDENT MORAHAN: Excuse me again, Senator Montgomery.

Can we please have some order in the house. Take your conversations outside.

Thank you, Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

It's going to cost New York City residents more to save ourselves, to dig ourselves out of this terrible fiscal crisis.

But we're resilient, and we're committed to doing it.

And despite the fact that the state, the Legislature is doing very little to help the city, we're determined that we're going to do it. And this only gives the Mayor and the City Council the opportunity to devise a plan by which, somehow, New York City will come back.

So for that I'm grateful, despite the fact that I and every other one of my citizens, my co-citizens in the city, will have to pay an awful lot more. Because unfortunately, we're not getting it from the federal government, we're not getting it fully from the state, so we have to do it ourselves.

I thank you. I will be voting yes on this legislation, because I know that it is the last hope to keep New York City at least afloat for now.

Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Montgomery.

Senator Brown.

SENATOR BROWN: Thank you, Mr.

President.

Many might wonder: Senator Brown, why do you rise? You're not from New York City. Clearly, I represent Buffalo and Niagara Falls and Tonawanda and the town of Grand Island. But I rise because I believe strongly that New York City is important to the entire state.

Clearly, after September 11th, that point was brought home to us more clearly than ever before when we saw the devastation that occurred to New York City -- it not only devastated New York City, but it devastated the economy of all of New York State.

When we look at the revenue that is generated in New York City and what that revenue means to the rest of the state, I rise, like colleagues have risen before me, to indicate while this legislation does assist New York City, I don't feel that it goes far enough.

I'd like to offer a thought of something that I think would have helped a little bit more. Certainly it's very controversial. But I do believe we should

have looked at the commuter tax. I do believe that when people are able to earn their livelihood in a community, when they're able to take resources out of a community and take those resources back someplace else, there should be some payment for the ability to do that.

While this package does not include that today, I do believe that's something that has to be considered for the future, for not only the fiscal health of New York City but for the fiscal health and well-being of the entire state of New York.

So I too will be voting in the affirmative on this piece of legislation, because it does allow New York City to help itself. But I do feel it doesn't go as far as we need it to go. And I'm hoping in the future we will craft legislation that goes even further.

Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Brown.

Senator Lachman.

SENATOR LACHMAN: I now know more

than ever what Winston Churchill meant when he said: "Democracy is the worst form of government, except for all the other alternatives."

We have a bill here that isn't perfect, a bill that can be improved. But we're living in a democratic society, and we are the representatives of people in this society.

I have always been opposed and I still am opposed to the imposition of regressive sales tax upon the people of the City of New York and indeed the people of the State of New York. However, at the very same time I realize I can't vote against the sales tax and yet vote for this bill, which I think is essential.

It's an omnibus bill. And it allows the City of New York to increase sales taxes that they deem appropriate. The question is, why do they deem it to be appropriate?

It would avoid another substantial property increase, which would be devastating to New York Cityites. It would also, and

absolutely, avoid social cuts, service cuts, and layoffs in health and human services and education, which many of my colleagues have spelled out and which I will not repeat.

In voting for this bill, I would have hoped that a majority of our colleagues four years ago would not have repealed the commuter tax bill, because that would have made up approximately $500 million. But they did it. And we have to realize we're living in a real world and not in a dream world, and in this session we can't get the commuter tax bill back again and changed. Maybe in a future session.

But most importantly, I am also voting for this bill for something that is not in the bill. And that is a State Legislature working together, Democrats and Republicans in the State Senate and the State Assembly, for the better good of the entire population of the City of New York and the State of New York. Compromising, because that's what politics is about. Taking the heat, because that is what politics is about. But voting for this bill that is essential for the

well-being of the City of New York and the State of New York.

Thank you.

ACTING PRESIDENT MORAHAN: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Mr. President.

I too rise to list my concerns about this particular bill. I do not have to enumerate what is wrong with it.

I want to thank Senator Johnson, Senator Bruno, for the effort that they put into bringing forth a bill, along with my colleague Senator Breslin, to ensure that the City of New York would still be able to survive.

And I'm greatly concerned because I understand that there are impending layoffs of some of our constituents -- in one local alone, 2300 people. And if this can at least stop our constituents from losing their jobs and not being able to pay taxes, I will be in favor of the bill.

And once again, I thank my colleagues on the other side of the aisle, and

I hope that we can have a continued working relationship.

ACTING PRESIDENT MORAHAN: Thank you, Senator Smith.

Any other Senator wish to be heard?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

With this bill we complete a cycle of legislation to address the fiscal crisis that the state and the city face. These are not perfect bills, but I think that we all recognize that the Legislature at least has taken steps to address the crisis.

What I'd like to do is raise the next issue on the agenda. I'm confident that these bills will withstand a veto should the Governor choose to exercise that power. But we will be back to address other fiscal problems in the very near future.

The solutions to our problems are still beyond our grasp. The legislation we passed last week and the legislation we're passing today did not solve the state's fiscal crisis, did not solve the city's fiscal

crisis. They address critical needs at a critical time. But we have more work to do.

And I would like to suggest, as has been suggested by many in my conference -- Senator Paterson and others -- that there are two things we need to put on the agenda for the rest of this session and for next year as we move forward.

After we've gotten these bills through whatever additional hurdles we may face, let's address the systematic discrimination against the City of New York by the state government. We haven't been able to do it yet. It's still a crying need after September 11th.

The city carries 81 percent of the state's transit riders and gets 62 percent of the transit aid. If you adjust for poverty, we have 45 percent of the state's schoolchildren and 37 percent of the state's school aid. The revenue-sharing formula, if the Governor would simply apply the formula as required by statute, the city would be receiving $1.78 billion of revenue-sharing aid instead of $327 million.

It is well known that the City of New York sends billions of dollars more to our state government every year than it gets back. And it is time for us as a Legislature to begin to address these problems.

What we're doing today enables the city to survive. It does not enable the city to prosper. And the state of New York cannot succeed if the city of New York is not prospering. We have more work to do to close the city's budget gaps. And as soon as this legislation is concluded and this cycle is concluded, I would suggest that we have a lot of work to do.

My final item for the agenda that's before us is that I hope we can take steps to make our tax system more progressive. We will be here to deal with next year's fiscal crisis, next year's budget gap, next year's city budget gap. And I think we have to take a look at our system of taxing with an eye to restoring some of the progressivity that existed a decade ago.

During the last eight years, we cut taxes $13.5 billion. There would be

$13.5 billion more in our coffers if we had not enacted tax cuts over the last eight years. Almost half of that, almost half of the benefit of those tax cuts went to the top 5 percent of the population.

Now we've restored taxes, we've taken painful steps that were necessary under the circumstances, but we've restored more regressive taxes. We've made the state a less progressive state. Poor people are paying more of their share, more of the cost of running the state than they were a decade ago. Middle-income people are paying more. It's time for us to adjust that balance.

I don't think that anyone in the State Legislature should feel any concern about the criticisms that we may face from the Executive on these issues, because the last time I looked, every one of those budgets for the last eight years the Governor was a participant in the process that led us to the situation we're in today.

I am confident, as I said, that the bills we passed last week and today will stand. We do have further work ahead. And I

echo Senator Smith, I hope we can go forward working together to solve the problems our state and our city face. Because the City of New York, even with this bill today, is in very, very serious trouble.

And all those of us who represent it and those of us who don't represent it, like Senator Brown, but who recognize its importance to our state, need to get to work, solve the problems, and enable the city to do more than survive, but to prosper.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Schneiderman.

Any other Senator wish to be heard?

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I just rise to speak on the bill and say that I am from New York City, from the Bronx, South Bronx. And sometimes I feel that I am a lonely voice in the desert.

But we are happy, some of us are okay, we voted for something that we know is not perfect. But even so, however, the City

of New York will be taxing people. When I was in the City Council, I asked the Mayor myself, Mayor Bloomberg, "Why is it that if we are looking for money and we keep taxing people, why is it that we don't tax Con Edison when Con Edison makes our streets put their wire cables and uses our streets, and they pay no taxes? Brooklyn Union Gas pay taxes. Why is it that we're so afraid in the city to tax Con Edison?"

Then I come here, and I'm in the minority here, and it's very difficult for me to present bills and to get them approved, because I am in the minority Democratic conference. However -- however, I've been saying, and I will say it again, that we are looking for money.

And I keep saying to those of you that would like to listen, and would like to act on, that when you purchase with credit cards, the credit card charges you taxes. And those taxes are sent to the credit card company, and the credit card company sends the taxes back to the merchants. And the merchants are supposed to send the taxes to

the state. However, those taxes, most of them never got to the State Treasury. And we are losing about $400 million in a year there.

Why don't you in the Majority present a law to change the tax law to force the credit card companies to send the taxes back to the state, and we will get there $400 million more to the treasury?

I'm voting for this budget, and I'm honored to be part of this Senate that will be helping the City of New York. But again, I might be a lonely voice in the desert.

Thank you very much.

ACTING PRESIDENT MORAHAN: Thank you, Senator Diaz.

Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

You know, in Central New York we have a fondness for New York City and an affection and an understanding of some of the pain that New York City experienced after 9/11, like everybody else does. But we've also come to feel much more closeness with New York City in recent years.

And I want to compliment Mayor Bloomberg for being willing to reach out to New York agriculture. This is an administration that has made a decision to showcase the bounty of New York's harvest at public events and even at private events in the Mayor's own home. New York wines are exclusively served in Gracie Mansion and for Mayor Bloomberg's personal activities.

I take that as a great sign of the kind of solidarity and mutual respect that this state and New York City need to continue displaying for each other as we go forward.

There are issues that will come before this chamber in months ahead where I will ask for the support of some of my colleagues who represent New York City on behalf of New York's number-one industry. And just as we today have attempted to be as responsive as we can to New York City's needs with special legislation, I know I will be able to count on my colleagues to help upstate New York through its economic crisis as well on the farms.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Hoffmann.

Any other Senator wish to be heard on the bill?

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.)

SENATOR PATERSON: Party vote in the affirmative.

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is passed.

SENATOR DUANE: Mr. President.

ACTING PRESIDENT MORAHAN: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I'd like unanimous consent to be recorded in the negative on Calendar Number

463 and 532.

ACTING PRESIDENT MORAHAN: So ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to reports of standing committees.

And I believe that there are some reports of some of the standing committees, and I ask that they be read at this time.

ACTING PRESIDENT MORAHAN: The Clerk will read.

THE SECRETARY: Senator McGee, from the Committee on Alcoholism and Drug Abuse, reports the following bill:

Senate Print 4873, by Senator McGee, an act to amend Chapter 533 of the Laws of 1993.

And Senator Leibell, from the Committee on Corporations, Authorities and Commissions, reports:

Senate Print 3985A, by Senator Volker, an act to amend the Public Authorities Law and the Education Law.

Both bills ordered direct to third

reading.

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

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 462.

ACTING PRESIDENT MORAHAN: Without objection, Senator Montgomery will be recorded in the negative on Calendar 462.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MORAHAN: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. Just to clarify, I'm sorry, I misspoke. I'd like unanimous consent to be recorded in the negative on Calendar Number 453 and 532.

ACTING PRESIDENT MORAHAN: Senator Duane will be recorded in the negative on Calendar 453 and 532.

Senator Skelos.

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

ACTING PRESIDENT MORAHAN: There is no housekeeping at the desk, Senator.

SENATOR SKELOS: Before we adjourn, I'd like to announce that there will be an immediate conference of the Majority in the Majority Conference Room.

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

SENATOR SKELOS: And there being no further business, I move we stand adjourned until Wednesday, May 7th, at 11:00 a.m.

ACTING PRESIDENT MORAHAN: On motion, the Senate will be adjourned until Wednesday, May 7th, 11:00 a.m.

(Whereupon, at 4:24 p.m., the Senate adjourned.)