NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 13, 2007

1:05 p.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

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

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

ACTING PRESIDENT GRIFFO: The invocation today will be given by the Reverend Ed Jones, of Faith Assembly of God Church, in Poughkeepsie.

REVEREND JONES: Let's bow our heads as we pray.

Heavenly Father, we ask You for wisdom, we ask You for strength, for guidance. We thank You, Lord, that Your knowledge is perfect and You understand everything. And we pray, Lord, that You will guide the proceedings, that You will guide us in all the decisions.

We ask as well, Lord, that You will give us the grace, as we build bridges over our differences for the common good of our state.

We pray Your blessing now on all of the proceedings, and we ask this in the strong name of our Lord and Savior Jesus.

Amen.

ACTING PRESIDENT GRIFFO: Thank you, Pastor Jones.

Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

Senate Print 2728, by the Senate Committee on Rules, an act to amend the Civil

Service Law and the State Finance Law;

And Senate Print 2729, by the Senate Committee on Rules, an act to amend Chapter 113 of the Laws of 2006.

Both bills ordered direct to third reading.

ACTING PRESIDENT GRIFFO: Without objection, the bills are ordered direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, I move that we adopt the Resolution Calendar, with the exception of Resolutions 386, 454, 457, and 482.

ACTING PRESIDENT GRIFFO: With the exceptions as noted, all in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed.

(No response.)

ACTING PRESIDENT GRIFFO: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: If we could take up Resolution 386, by Senator Connor, have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Connor, Legislative Resolution Number 386, commemorating the 100th Anniversary of the United Parcel Service of America, Inc., and recognizing its goodwill among the citizens of New York State.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Resolution 454, by Senator Golden, have the title -- strike that.

If we could take up Resolution 457, by Senator Connor, have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Connor, Legislative Resolution Number 457, commemorating the Asian-American community's celebration of the Lunar New Year, 4705, the Year of the Boar, on February 18, 2007.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President,

if we could take up Resolution 482, by Senator Larkin, have it read in its entirety, and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

Order, please.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 482, commemorating the 75th Anniversary of the Military Order of the Purple Heart on February 22, 2007.

"WHEREAS, It is the sense of this Legislative Body to pay tribute to those renowned organizations which devote their energy, resources and thoughtful care to improving and enhancing the quality of life for veterans; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to commemorate the 75th anniversary of the Military Order of the Purple Heart on February 22, 2007; and

"WHEREAS, Specifically a combat decoration, the Purple Heart is awarded to

members of the armed forces of the United States who are wounded by an instrument of war in the hands of the enemy and posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action; and

"WHEREAS, In 1932, the organization now known as the Military Order of the Purple Heart was formed for the protection and mutual interest of all who have received the decoration; and

"WHEREAS, Composed exclusively of Purple Heart recipients, the Military Order of the Purple Heart is the only veterans service organization comprised strictly of combat veterans; and

"WHEREAS, In addition, wives, mothers, daughters, stepdaughters and adopted daughters of Purple Heart recipients are eligible to belong to the Ladies' Auxiliary of the Military Order of the Purple Heart, which also does important work nationally and locally in veterans' hospitals; and

"WHEREAS, The mission of the Military Order of the Purple Heart is to

foster an environment of goodwill and camaraderie among combat-wounded veterans, promote patriotism, support necessary legislative initiatives, and provide service to all veterans and their families; and

"WHEREAS, Funds for welfare, rehabilitation and/or service work carried on by the Military Order of the Purple Heart are derived through the collection of used household items, the operation of thrift stores, through the donation of automobiles and, at the community level, from the annual distribution of its official flower, the Purple Heart Viola; and

"WHEREAS, It is the sense of this Legislative Body that when organizations of such noble aims and accomplishments are brought to our attention, they should be celebrated and recognized by all the citizens of the great State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 75th Anniversary of the Military Order of the Purple Heart on February 22, 2007; and be

it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the Military Order of the Purple Heart."

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

Senator Larkin.

SENATOR LARKIN: Mr. President, I'd like to open this up because, for me, this is a great, great year for us in the state of New York. The 75th anniversary will be celebrated in New York, and at the Hall of Honor, which is located in the 39th Senatorial District.

It took us 11 years to get this facility built. Now the nation is going to come to Stewart and then go to the Hall of Honor.

And I'd like to see it opened up for everyone to be included and paying tribute to those dedicated men and women, 1.7 million, who have received the Purple Heart.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: Mr. President, we'll put all members on the resolution. If anybody wishes not to sponsor the resolution, they should notify the desk.

ACTING PRESIDENT GRIFFO: So ordered.

On the resolution, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Resolution 454, by Senator Golden, have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Golden, Legislative Resolution Number 454, commending Jenny Hynes for her dedicated and compassionate efforts on behalf of the

Amyotrophic Lateral Sclerosis Association, and applauding her hard work and dedication in honor of her father.

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

I want to thank my colleagues and I rise today to pay tribute to a great New Yorker, Miss Jenny Hynes.

Nearly 70 years ago, baseball legend Lou Gehrig gave his name to a mysterious and rare disease called ALS. On July 4, 1939, Lou Gehrig gave one of the most memorable speeches of the 20th century when he announced to a packed house in Yankee Stadium: "Today, I consider myself the luckiest man on the face of this earth."

For many of us, we became familiarized with ALS through his speech and through the motion picture "The Pride of the Yankees."

Today it is with great pride that the Senate pays tribute to Jenny Hynes and to her late father, whose life was claimed by

ALS. In memory of her father, Jenny and her brother, Michael, decided to commemorate their father's life by selling "Never Give Up" bracelets and baseballs, enabling them to make a generous contribution to the cause.

Today's Senate resolution is a fitting tribute to Jenny's courage and to her dedication to raise funding and awareness for the ALS Association.

With Jenny and Michael and their mother, Cindy, and my good friend Judge Ariel Belen and his daughter, Lauren, I ask my colleagues to take notice of Miss Hynes and her brother, Michael, for their inspirational work to find a cure for ALS.

And I ask my colleagues, all of them, to go on this resolution if they wish and to join me in saying thank you, thank you very much for your dedication, for what you are able to do, one little person to do so much to look for a cure for ALS.

Congratulations to both of you.

(Applause.)

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed.

(No response.)

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: The resolution is adopted.

ACTING PRESIDENT GRIFFO: Thank you. The resolution is adopted.

SENATOR SKELOS: If we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The clerk will read.

THE SECRETARY: Calendar Number 37, by Senator Bruno, Senate Print 1456, an act to amend the Tax Law.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 41, by Senator Rath, Senate Print 678, an act

to amend the Family Court Act, in relation to orders of deposition.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 44, by Senator DeFrancisco, Senate Print 789, an act to amend the Estates, Powers and Trusts Law, in relation to defining.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Saland recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 52, by Senator Volker, Senate Print 566, an act to amend the Penal Law, in relation to expanding.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 62, by Senator Winner, Senate Print 946, an act to amend the Penal Law, in relation to criminal possession.

ACTING PRESIDENT GRIFFO: Read the last section.

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

November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 83, by Senator Maziarz, Senate Print 1567, an act to amend the Labor Law, in relation to allowance.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 110, by Senator Maziarz, Senate Print 254, an act to amend the Retirement and Social Security Law, in relation to providing.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 131, by the Senate Committee on Rules, Senate Print 2131, an act to amend the Tax Law, in relation to authorizing.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 2. Senators C. Johnson and Valesky recorded in the negative.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 138, by the Senate Committee on Rules, reported earlier today, Senate Print 2728, an act to amend the Civil Service Law and the State Finance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 27. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 139, by the Senate Committee on Rules, reported earlier today, Senate Print 2729, an act to amend Chapter 113 of the Laws of 2006 amending the Civil Service Law and others.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 28. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to Calendar Number 37, by Senator Bruno.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 37, by Senator Bruno, Senate Print 1456, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. To explain my vote.

ACTING PRESIDENT GRIFFO: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

ACTING PRESIDENT GRIFFO: Senator Krueger, can we get on a roll call first?

SENATOR LIZ KRUEGER: Certainly,

Senator.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

So this bill is called a small business tax exemption bill, a small business assistance package. But when you analyze it, I think you really need to think through how much of this is for small businesses, which small businesses, how are we deciding that, and, also, a fundamental question -- because annualized, this bill is projected to cost the State of New York $1.2 billion on an annual basis -- what are we cutting out of the new proposed budget to pay for it?

Because every time you make a tax cut and you cut $1.2 billion out of the state

revenue stream, you'd better come up with an alternative revenue package or know you're going to cut that money out of the budget.

So I would argue that like any other tax cut proposal or new expenditure proposal of some size, like $1.2 billion on an annual basis, this should be built into the context of the budget itself and a debate on the budget. And that's where we should be debating tax policy.

As I've said on this floor, I also think we should be discussing tax equity and changes in our tax policy from a broad-based perspective, not picking and choosing -- today maybe we'll give this group a tax cut, tomorrow maybe we'll give this group a tax increase to pay for the tax cut we gave that group last month -- and that we need to look at our 21st-century New York State tax policy.

And yes, on the face of it, saying it's a package of assistance for small business, well, who doesn't want to stand up and say they support small business? I want to support small business. But when I look at this proposal, we've got $150 million for

reducing net-income base rate and gradual elimination of the corporate franchise tax on all manufacturing. Some manufacturers are big; some are small. I'd love to see a breakdown of which type of manufacturer actually ends up with this tax cut.

Then we've got an additional corporate franchise tax reduction of another $550 million on manufacturing companies.

So the two proposals that tie into the net-income base rate and gradual elimination of corporate franchise tax on manufacturing is $700 million, the majority of this bill. And there's no explanation here about who are we defining as the manufacturers that would get this tax reduction. I'm not sure they're all the small manufacturers.

Then we've got some energy credits. Well, the catch is I do recognize we need to change our energy policy in this state. We need to expand use of alternative energy. We need to revisit the Power for Jobs program, the NYSERDA programs, alternative energy and green energy options.

But I don't think that the answer

for energy issues in this state is some automatic cut of $350 million, when fully implemented, of energy tax credits for a certain subset of businesses.

I think we need to address energy policy and energy taxes in a much broader sense. And my understanding is that actually on any number of days this whole house is agreed on that position, and I know that Governor Spitzer agrees on that position. So I don't know why we're suddenly taking on today, as part of one package of tax cuts, a $350 million tax cut.

I also don't understand this concept of a STAR tax credit for small businesses. Because as I read it, if your small business owns property, then you would get an additional tax credit rebate. But if you're a small business that rents your offices or your facilities, I don't believe you would get any advantage from this tax credit which, annually implemented, would cost $150 million a year.

And so the same way I have spoken out about my concerns about the overall STAR

program and its inequities to people who rent versus own their own homes, I'm equally concerned of the concept of a tax exemption for small businesses who own their facilities versus rent.

One, I think it is, by definition, going to be inequitable to small businesses in urban settings that are much more likely to be renting space versus owning.

I also think it probably skews in one way or another to a small subset of small businesses statewide, those who are in the kinds of businesses who are likely to own their property versus those who are in the types of businesses who are more likely to rent their property.

So I see both geographic inequity questions and type of business. And I think, before we decide we're going to lose $150 million in revenue and claim that this is a good deal for small businesses, we should ask the question who wins and who loses in this specific proposal.

So again, there's individual items within this bill that are perhaps things I

could support. But it's $1.2 billion. We're not explaining where we're going to get this money, what else we're going to cut out of the budget instead to make this deal. And we're really not answering the questions yet who wins and who loses even within the definitions of small-business manufacturing and other businesses in the state.

I know we all want to vote for tax cuts. These are complicated questions. I think we need a lot more answers before we move forward. I'm voting no, and I urge my colleagues to vote no also.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Order in the chamber.

Senator Winner, to explain his vote.

SENATOR WINNER: Thank you, Mr. President.

Certainly I understand the chagrin of the other side of the aisle that I don't know that Senator Krueger has ever met a tax cut that she likes.

But nonetheless, the area that I

represent and the small businesses I represent certainly know that doing business in New York State is certainly not a pleasant prospect these days, particularly in the upstate areas.

And certainly we understand what will happen -- what would happen if you folks were in charge. We'd be having more taxes on small business rather than less taxes on small business, and we'd have less jobs in upstate New York rather than more jobs in upstate New York.

ACTING PRESIDENT GRIFFO: Order.

SENATOR WINNER: There's no question whatsoever that New York needs tax cuts in order to be successful, particularly in the upstate regions. And we need to incentivize our small businesses, which is the backbone of the upstate economy.

You know, many of us were absolutely astonished when the Governor presented a budget after campaigning on a pledge to help the upstate economy that didn't have one thing in there for the upstate economy. In fact, what he had in his budget was $449 million, by his own admission, of

additional taxes to businesses and other entities that provide jobs in this state.

And as a result, we're going to only bleed even worse in upstate New York with the type of leadership that Governor Spitzer is providing for this state when he turns around and on the one hand says he wants to help the upstate economy and then on the other hand turns around and wants to tax manufacturers in the upstate economy. How does that make any sense? It doesn't make any sense.

So the time for rhetoric and all this other nonsense is over. The time is to put up a package that's going to help business and help upstate grow, help the economy of the state as a whole to grow, and not continue to say on the one hand I'm not for tax increases and on the other hand raise taxes and fees in the state by a couple of billion dollars. That completely is so disingenuous as to be beyond the pale.

And unfortunately, from what I can see, you folks are all in lockstep with Governor Spitzer on all of these measures. So

as a result, I'm sure that what we're going to be looking forward to is another $2 billion in taxes and fees if you had your way.

Well, fortunately, you don't have your way. And we're going to try to help these businesses in upstate New York, and we're going to try to help the taxpayers in this state, and we're going to grow this economy and not tax them to death.

ACTING PRESIDENT GRIFFO: Order.

Senator Libous, to qualify his vote.

SENATOR LIBOUS: Thank you, Mr. President.

Last week I met with a group of businesspeople in my district who had two years ago built a beautiful complex and had hired about fifty people. They came to me not to discuss the budget, not to discuss legislation, but as small business owners they were extremely concerned that their property taxes were too high and they couldn't continue to keep their operation going.

They didn't have -- they weren't in an economic development zone, they didn't

receive any benefits. This group of individuals actually put their hard-earned money together and invested in New York State. They invested in the Southern Tier.

They asked me why in the Governor's budget were there no incentives for small business. If there's a commitment to help upstate New York, why wasn't there any incentives in this budget? There were no tax cut for small businesses. There was no growth incentives for small business. There was no special economic zones for small business. There was absolutely nothing for small business.

Mr. President, this legislation is a step forward. It shows a commitment from this house, it shows a commitment from this Majority that we care about small business.

And by the way, Mr. President, this just doesn't help small business in upstate New York, this helps small business everywhere. Because what our goal here has to be is to create not jobs, but career opportunities for our constituents, career opportunities so that the money that we invest

in education -- we invest an awful lot of money in our education system, both private and public. But what we don't invest in is opportunities to keep them in the state.

Because after they graduate from our colleges, they go to other states, they go to other parts of the country, they go globally around the world. And we need to keep those young people here. We need to invest. We talk about investing in their future. We need to invest in their future by creating career opportunities.

This legislation does that. It not only helps the economy of upstate New York that needs it so desperately, it helps the economy of this state and it also shows the graduates of the institutions that we invest millions, millions, hundreds of millions of dollars in that we have a commitment in them.

And that the quality of these institutions which we are so very proud of, because they are great institutions, we're not continually training people so that they leave the state. We're investing millions of dollars of taxpayer money every year so that

we train people, some of the best in the world, so that they leave this state.

This legislation is committed to keep them here in New York. And it's about time people get on board, they understand. They understand that cutting taxes, cutting property taxes, which are too high in this state, giving small business and businesses opportunities, that's how we keep young people here, that's how we grow.

I vote aye, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Craig Johnson, to explain his vote.

SENATOR CRAIG JOHNSON: Thank you to the chair.

I congratulate my colleagues. I support this bill. And I believe it's critical, being a young person in this state and having friends who can't live in Port Washington and Roslyn and Great Neck and Elmont and areas of my district and all across the state.

And I'm learning, you know, about the procedures. But I have to wonder, and I wonder openly -- it's not a question, because

I am supporting this -- but where was this bill last year or two years ago or three years ago or 12 years ago?

We need to help small businesses, because they are facing the pressure. But this is pressure that's been going on for almost over a decade now. And it's a pressure that has been growing. And it is bursting. And it's bursting in Nassau County, it's bursting in Rockland County, it's bursting in Albany County, it's bursting all across the state.

So instead of getting angry or showing passion, we need to move that aside and help the small businesses, because for years they haven't received the assistance. And we are doing that in New York State. We're looking to reduce the healthcare costs that are crippling our small businesses. We're looking to provide them with the assistance they need. We're looking to keep people, our senior citizens in their homes, our working class in their homes, by reducing the property taxes.

But instead of pointing fingers at

a new governor, and even pointing fingers at an old governor, we need to work together to push this bill forward. And we need to do it now, because it's the small business man and woman who are sitting in those businesses right now who don't know how am I going to pay that utility bill, how am I going to pay for that health insurance, when for over a decade they haven't gotten that help.

So I applaud the Majority Leader for sponsoring this bill. It's about time we have some assistance for our small businesses. And I proudly cast my yes vote for this bill.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Johnson in the affirmative.

Senator Thompson, to explain his vote.

SENATOR THOMPSON: Yeah, I wanted to sit back and listen to the debate, being from upstate New York. And we've heard a lot about upstate for a long time. And being someone who's been involved for a while particularly formerly running a small business development agency, I think this year we'll

really be able to see who really has a meaningful plan as relates to jump-starting the upstate economy.

I concur with my colleague, my new colleague, that there's been plenty of time to talk about what should have been done. But this session we intend to offer not only to the Governor but also to our folks on the other side of the aisle a number of different ideas -- not just tax cuts, but policy initiatives as well -- that can help upstate.

There are a lot of issues that impact Niagara Falls, Buffalo, Tonawanda and Grand Island. We've seen a lot of companies leave. We've seen the population decrease. There are things that the various state economic development agencies can do to help. There are housing initiatives that need to be addressed. There's a population decline as well, where we need to look at immigration reform so we can get some of those people that are fleeing to downstate to move upstate as well, to help address the large housing surplus upstate.

There are a number of things that

can be done beyond just what we've talked about today. So I look forward to a real meaningful debate about what can be done to help upstate New York. And we're going to put together some serious policies for the Governor to look at and some serious policies for our folks across the aisle to look at as well.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Thompson, how do you vote?

SENATOR THOMPSON: I vote in support of the bill.

ACTING PRESIDENT GRIFFO: Senator Thompson in the affirmative.

Is there any other Senator wishing to explain their vote?

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I'm reading the introduction of this bill, and it says: "The purpose of this legislation is to implement the Senate Small Business Assistance Package. This plan will eliminate the corporate franchise tax for

manufacturers, provide direct property tax relief checks to small businesses, provide tax relief for businesses that pay personal income tax credits for the cost of energy, and reduce the cost of doing business in New York for small businesses and farmers."

Well, Mr. President and fellow members, I am a Democrat. And this Democrat -- and I'm speaking only for me, not for my conference -- this Democrat, this one, Reuben Diaz, who represents the 32nd Senatorial District in the Bronx, I hate tax increases. Every time that I see anybody proposing tax cuts, that I love. I don't like tax increases. Our people are fed up with tax increases.

They say that we Democrats -- they say that we Democrats, there is no tax that we don't love. But this Democrat hates tax increases. And this one, I'm supporting this legislation because it contains tax increases. And, ladies and gentlemen -- I mean tax cuts. Sorry. Sorry. Slip of the tongue. Tax cuts.

And I congratulate Senator Bruno. And whoever submits any legislation that

contains tax cuts, I will always support it. Tax increases are not good for the people of the State of New York, no matter what, especially for senior citizens. Tax increases are hurting our economy, are hurting our people, are hurting our manufacturers, are hurting everybody.

So, ladies and gentlemen, let's stop this bickering who's at fault. If the Republican Party submits a good bill, including tax cuts, I will support that. If the Democratic conference submits a bill increasing the tax, I will oppose that. Whoever submits a bill that includes tax cuts, I will support.

However, let me tell you something, ladies and gentlemen. They keep saying that we are the dysfunctional -- the most dysfunctional legislature in the country. And that was supposed to end at Day One. We are over Day One, and we're still fighting and being dysfunctional.

So maybe we had great hopes, when the new Governor came, to see we'd stop this. But let's stop the fights, the bickering. The

Governor and the Legislature have to work together. Let's do tax cuts for the State of New York, and let's legislate and stop the dysfunctional parts of the Legislature.

Thank you very much.

ACTING PRESIDENT GRIFFO: Senator Diaz, how do you vote?

SENATOR DIAZ: I am voting 150 -- no, 250 percent in favor of tax cuts in the State of New York.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Diaz, 250 percent in the affirmative.

Senator Sampson.

SENATOR SAMPSON: Thank you, Mr. President. And I too rise in support of this legislation.

I want to thank the Majority Leader. And as my colleague next to me, Senator Diaz, says he supports tax cuts. I pay enough in taxes, and I do support tax cuts.

This is not an upstate/downstate issue. This is about the citizens of New York State, and that's what it's all about. You

know, as Senator Johnson said, what happened to last year? What happened to the anger and frustration 10 years ago? What happened to the anger and frustration 12 years ago?

It's not about passing the buck, it's all about working together to make sure that we show small businesses in all regions of this state that we understand their frustration, their anger, and at the same time we want to pass tax cuts that are beneficial.

A lot of times we pass tax cuts for these big corporations, which we call corporate welfare. But it's the mom-and-pop small business operations that have sustained this society, and we need to show them a sense of gratitude by supporting these tax cuts.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Sampson, how do you vote?

SENATOR SAMPSON: I vote yes.

ACTING PRESIDENT GRIFFO: Senator Sampson, in the affirmative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you,

Mr. President. I rise to explain my vote.

I hate to make a comment, particularly when Senator Johnson made his maiden speech here in the Senate. But this proposal is not a Johnny-come-lately proposal but simply builds on proposals that Senator Bruno and our Majority have advocated for years.

So if we look at the record, this is just continuing in this year, 2007, a proposal that builds on prior initiatives. Whether it be in property tax relief, incentives, tax cuts, or other programs, it is one that we're building upon, but it's not just new.

I vote in the affirmative.

ACTING PRESIDENT GRIFFO: Senator LaValle casts his vote in the affirmative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President.

Senator LaValle eloquently stated pretty much everything I was going to state, that this bill has been here before in many

forms. This house has a record of passing tax cuts and aid to small businesses all over the state.

If you want to know why it hasn't happened and why we're still trying to pass these bills and we don't have them in fact in complete compliance and law the way we would like them to be, I suggest we look to the other end of this building and find out why many of these bills and most of these bills have never come to the floor in the other house for a single vote.

I vote aye on this bill. It's about time.

ACTING PRESIDENT GRIFFO: Senator Marcellino recorded in the affirmative.

Senator Montgomery, to explain her vote.

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

I want to rise to support this legislation. And I am hopeful because it represents in this house a commitment, hopefully on the part of those of us who are here who represent districts like mine, where

there are a number of small businesses, small manufacturing -- I have the waterfront, I have Farragut, I have Red Hook, I have Sunset Park, waterfront areas, lots of manufacturing businesses. I hope this is going to help them.

We're now targeting the right place to have tax cuts, and we're not -- I know that I have some young people in this chamber today looking at us, and they are going to be taking back to the school where they come from, P.S. 307 in Brooklyn, they are going to talk about the fact that they heard Senators, their Senators on the floor discussing something that is very important to them and their future.

So I thank you, Mr. President, and I'm proudly going to vote yes on this legislation. Thank you.

ACTING PRESIDENT GRIFFO: Senator Montgomery recorded in the affirmative.

Senator Volker, to explain his vote.

SENATOR VOLKER: Mr. President, very quickly. I usually don't get into these

political discussions, which is what this is, but I have to tell you something.

The fellow that created a lot of this nonsense, in my opinion, was the fact that our candidate for governor, John Faso, ran around the state telling about how terrible everything was and so forth. And a smart guy, Eliot Spitzer, stepped in and started talking.

And the editorial boards of this state, that are generally not the brightest lights in the world, paid no attention to the fact that this state has cut more taxes in the last 12 years than any state in the union by far. Now, for some reason, they don't want to talk about the fact -- do you know that there's not one major tax that hasn't been cut in this state over the last 12 years? No governor and no legislature has ever cut taxes the way New York has.

We've got a long way to go, although I would say to you people in New York City, you have some of the lowest real property taxes but your other taxes are very high. It's us upstate, it's the suburban

people that have the big real property taxes, not the city. The city is low. Buffalo has some of the lowest real property taxes in the entire Northeast. But see, we don't hear that stuff, because people don't talk about it.

But when you're talking about a chamber that has cut taxes and for small businesses, I'll bet you that we have suggested a hundred billion dollars in small-business taxes. Very honestly, and I'm the first to say it, George was really great on big businesses, not quite as good on small business. It was this house that generated all the major tax cuts on small businesses and on real property taxpayers.

In fact, my colleague Senator LaValle, who was here, he's the one that devised the STAR program, gave it to George Pataki, and Pataki picked up on it.

Now, when you talk about taxes, this state, I think we're now 11th in the country in state taxes. This is the state. Nobody will tell you that; we're 11th. It's overall where we're the leading taxed state in the union. It's all downstate, below Albany.

Once you get above Albany, there's no comparison. I mean, I live in an area whose taxes are one-third to one-fourth what Westchester is. Probably one-fifth of Long Island.

The only reason I mention all that is it wasn't our fault that a lot of that happened. But we don't talk about it. It was the people there. The people wanted great schools, they wanted to spend tons of money. But now they're looking to us. So we need to deal with this.

The Governor tried to make a deal with New York City and said we'll cut Medicaid and we'll give more money to schools. That's exactly what happened. If you look at the numbers that went into school aid, you'll see that it was deducted almost exclusively out of Medicaid. The problem with that is that hits hospitals and nursing homes.

This bill -- which I think probably will pass the other house eventually, because we've got so much money this year. We've got such a surplus that it's a very good possibility it will. So what we need to do is

pass these kind of bills, send them over to the Assembly, and eventually make sure they do them. Because I believe that the Governor ultimately will have to sign some of these bills because of his pledge to cut taxes. And that's what we have to do.

This bill has passed this house many times, by the way. I mean, a similar bill. But the thing is, this house -- Democrats and Republicans, by the way -- we have been passing tax-cutting bills for years and years and years. It's the other house that's had trouble with that.

So the answer is, yeah, okay, it's fine, this house doesn't have to shrink from anything. We have stood for cutting taxes. Now we have to make sure that the other people in this Capitol do the same thing.

I vote aye.

ACTING PRESIDENT GRIFFO: Senator Volker recorded in the affirmative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

Like Senator Volker, I don't like to get involved in these political conversations.

(Laughter.)

SENATOR SCHNEIDERMAN: But, you know, I am a fan of fiction, and I am a fan of fantasy fiction, and I feel that I've had a little treat here this afternoon. We have a massive tax burden in the State of New York due to the budgets passed by this house over the last 12 years. Let's not kid ourselves. Did the size of our government go down? Did it get cheaper? How are we paying for it?

We now have got a situation where we've cut some taxes, forcing increases in other taxes. So we shoved everything off on local governments, they raised the property tax, and, oh, my God, we've got a crisis in property taxes. We're shocked, shocked that property taxes are going up. Why are they going up? Because of the budgets we've passed for the last 12 years.

So let's be honest about it. This is another bill that reduces certain taxes but does not lower the cost of government. This

house has not been proposing budget cuts. You've been proposing tax cuts that have to be paid for somewhere.

So where are we after 12 years of moving the burden around, going further into debt and increasing the size of government every year? We are further in debt than our state has ever been.

We have a massive tax burden distributed inequitably because we have so many loopholes and exceptions in our tax code, due to bills like this, it looks like a Swiss cheese. As a result, while we have very high marginal tax rates in certain areas, we generate very little revenue.

So, ladies and gentlemen, let's not kid around and pound ourselves on the chest and say, We're right, we cut taxes, the Assembly are the bad guys. Last time I looked, both majorities passed these budgets. Both majorities need to take some responsibility.

I'm glad we're having a good open dialogue about this, but we're not going to solve the problem by passing one-house bills,

railing at the Assembly, and then quietly going along and proposing more spending increases without telling the public how we're going to pay for it.

I'm going to vote for this bill in the hope that we get to the table this year with the new Governor -- who really, I think, wants more transparency -- in an effort to reduce tax rates in a real way for the people that deserve it and need it, to include means testing, to make sure that we restore some progressivity to the tax code.

But let's tone down the rhetoric, ladies and gentlemen. The budget went up under the watch of George Pataki and the majority in this house. Let's not pretend it's not our fault.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Schneiderman recorded in the affirmative.

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I am reminded, as I listen to people explaining their votes on this, of

something a very wise and my very good friend Norman Adler once said to me in 1991. He said: "When good government and politics come together, it's perfect."

I'll be voting yes, Mr. President. Thank you.

(Laughter.)

ACTING PRESIDENT GRIFFO: Senator Duane recorded in the affirmative.

Are there any other members who wish to explain their vote?

Senator Stavisky.

SENATOR STAVISKY: Yes, very briefly.

If the tax picture is as rosy as Senator Volker has described it, I'm just a little confused as to why the upstate economy is in such difficulty.

And, secondly, I too am concerned about the tremendous debt that the state is undertaking, particularly -- not only the state debt, but also with the public authorities.

Nevertheless, I am optimistic, and I vote yes.

ACTING PRESIDENT GRIFFO: Senator Stavisky recorded in the affirmative.

Are there any other members who wish to explain their vote?

The chair recognizes Senator Alesi to close.

SENATOR ALESI: Thank you, Mr. President. And thank all of my colleagues, especially those who see the wisdom in voting in the affirmative on this bill.

I'm going back a few years when one of your most notable colleagues, and a very dear friend of mine, Senator Dollinger, was on the floor debating against a bill. And after I was voting to close, he saw the wisdom of the bill that was before him and actually changed his vote.

Now, I'm not predicting that Senator Krueger is going to do that today. But hopefully, after we hear just one more reason why we should pass this bill, the Senator from New York City might decide to change her vote.

With regard to Senator Diaz,

250 percent is very much appreciated. However, a little more would have helped.

I think that what we're doing for the small businesses in this state is not just a little bit more. It is not something that we should hope for. It is something that we have to recognize that has been proposed in previous years. Not collectively like this, but it has been. And it has been fought by the other side of the aisle far too many times.

And so now I'm very encouraged to see that most of the Minority members there recognize that wherever they come from -- not upstate, not downstate -- New York State, Niagara Falls, New York City, that those members also have small business owners in their districts as well, regardless of what the business is.

Our economy in New York State survives only because we have small businesses that provide goods and services to the larger businesses that most of the time we focus on when we're talking about helping business survive. But it is those small businesses

that hire 10 or 12 or 20 people. It is the mom and pop that provides the goods and services that we rely on every day.

It's the taxicab driver that we helped last year when we passed a cap on the gasoline tax. Which unfortunately some of the members on the other side voted against, thereby voting against the small businesses that they represent.

We have an opportunity here to recognize that when we give a tax benefit to major manufacturers, which is the underpinning of this bill, that we're helping all of those small businesses that provides goods and services to those large corporations, those large manufacturers.

But the rest of this package focuses on small businesses, as it rightly should, whether it's help for energy costs, whether it's help in filing your income taxes as a small business owner. And I can speak from my own personal experience, not only as chairman of this committee and as one of the architects of this bill, but as a third-generation business owner in this state.

It doesn't matter where this bill was last year, any more than it matters where any of you were last year. We know where we are this year. And this year is what's important. This bill before us today is what's important.

This bill sends a message to business, to small businesses, to those people that struggle to make a bottom line so they can pay their mortgage, so they can pay their rent, so they can pay their kids' school tuition, so they can put gasoline in a couple of vans that deliver some bread down the road. It sends a message. It says that we want to help small businesses. We recognize that you have struggles every day in the marketplace, and we don't want to be part of those struggles. We want to be part of your success.

For the life of me, I can't imagine why anybody, even on principle, would vote against this. Because what they're saying when they say no, they're saying no to those small business people that live down the street from them, that live on the floor above

them or below them, that live across from them. They're saying no to the people that they go in every day when they buy groceries, when they buy a newspaper, when they bring their dry cleaning -- whatever it is they're doing with those small business people, they do on a daily or weekly basis. When you vote no, you have to look them in the face and say: I didn't want to help you because I don't know where the money is coming from.

There isn't an economist in the world that wouldn't agree with results. And the results clearly say, time and time and time again, that when you offer tax incentives, whether reducing the corporate rate or just making a rebate on your property taxes -- which, by the way, should theoretically lower the rent for your tenants, and that's where the savings benefits are -- there isn't anybody that doesn't say the results clearly show when you lower taxes, you create an environment that improves the job picture, that improves the economy, that improves commerce, which means more people working, making more money, and obviously

paying more taxes.

But what it really comes down to is this. There are people in this state, people all over the world, that choose to become small business owners for whatever reason. They work hard. They put their blood, sweat and tears into their business. Because if they fail, their business fails, it's over. It's not like a big corporation where if they lose a job, they go on and find something. This is their own blood, sweat and tears that's invested.

How can we stand here with any good conscience and say we don't want to help them? How can we stand here and say we don't know where the money is coming from, even though it looks good? How can we stand here and say we don't want to take a chance on that?

With all respect to Senator Krueger, she said she doesn't know how we can afford to do this. I would simply say I don't know how we can afford not to.

ACTING PRESIDENT GRIFFO: The Secretary will announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 37 are Senators Hassell-Thompson, L. Krueger, and Parker. Also Senator Perkins.

Ayes, 55. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR SKELOS: Mr. President, is there any further business to come before the Senate?

ACTING PRESIDENT GRIFFO: Not at this time, Senator Skelos.

SENATOR SKELOS: In consultation with the Minority Leader, Senator Bruno hands up the following committee assignments and asks that they be filed in the Journal.

ACTING PRESIDENT GRIFFO: They will be so filed in the Journal.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Wednesday, February 14th, at 11:00 a.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until

Wednesday, Valentine's Day, February 14th, at 11:00 a.m.

(Whereupon, at 2:02 p.m., the Senate adjourned.)