NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 23, 2008

11:15 a.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 chamber will come to order.

And I ask all of those in attendance to recite 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 bow our heads for a moment of silence.

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

ACTING PRESIDENT MORAHAN: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, January 22, the Senate met pursuant to adjournment. The Journal of Monday, January 21, 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.

The Secretary will read.

THE SECRETARY: Senator Farley, from the Committee on Banks, reports the following bill direct to third reading:

Senate Print 6622A, by Senator Farley, an act to amend Chapter 591 of the Laws of 2001 amending the Banking Law.

ACTING PRESIDENT MORAHAN: The bill will be reported direct to third reading.

The Secretary will read.

THE SECRETARY: Senator O. Johnson, from the Committee on Finance, reports the following nominations.

As Commissioner of the Department of Taxation and Finance, Robert L. Megna, of Rensselaer.

ACTING PRESIDENT MORAHAN: Senator O. Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

ACTING PRESIDENT MORAHAN: The question is on the nomination of Robert L. Megna, of Rensselaer, to serve at the pleasure

of the Governor as Commissioner of the Department of Taxation and Finance. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The ayes have it; the nominee is confirmed.

Robert L. Megna, Commissioner of the Department of Taxation, you're here with your brother Philip. We congratulate you on your appointment and confirmation. Congratulations and all the best wishes for a good year.

(Applause.)

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: As Major General of the New York Naval Militia, Robert L. Wolf, of Ossining.

ACTING PRESIDENT MORAHAN: Senator O. Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

ACTING PRESIDENT MORAHAN:

Senator Johnson moves the nomination.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President. If I could comment just briefly for a moment.

I don't believe General Wolf will be here today in the Capitol with us, but I am very pleased that the Governor has sent over General Wolf's name to receive a second star, making him a major general.

I happen to have known General Wolf now over the course of a great many years, and I can tell you that he has had a most distinguished career, a long career in active duty as a United States Marine Corps officer, serving all over the world and in many responsible and very sensitive positions.

So we look forward to working closely with General Wolf, who will also be head of the state naval forces, our naval militia, and we thank the Governor for what I believe to be a very, very important and a good nomination.

ACTING PRESIDENT MORAHAN: Thank

you, Senator.

The question is on the nomination of Robert L. Wolf, of Ossining, to serve at the pleasure of the Governor as the Major General of the New York Naval Militia. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: Hearing none, the nomination is confirmed.

Congratulations to Major General Wolf, wherever you may be.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar at this time.

ACTING PRESIDENT MORAHAN: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN:

Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, Resolution Number 4080, by Senator Griffo, is at the desk. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: By Senator Griffo, Legislative Resolution Number 4080, congratulating Mildred Reape upon the occasion of celebrating her 105th Birthday.

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, if we could go to the noncontroversial reading of the calendar.

Or do we have another motion?

ACTING PRESIDENT MORAHAN: Senator Bonacic, do you have a motion?

SENATOR BONACIC: Thank you, Mr. President.

I move that Senate Bill 5028 be discharged from its respective committee and be recommitted with instructions to strike the enacting clause. And that Senate bill is by Senator Bonacic.

ACTING PRESIDENT MORAHAN: So ordered.

SENATOR BONACIC: Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Skelos.

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

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number

15, by Senator DeFrancisco, Senate Print 1830, an act to amend the Military Law.

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 18, by Senator Leibell, Senate Print 3588, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. 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, 51.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 22, by Senator Larkin, Senate Print 4835, an act to amend the General Business Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

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.

Senator Skelos.

SENATOR SKELOS: Mr. President, the Senate will stand at ease. We'll call, shortly, a meeting of the Rules Committee and then come back to take up the calendar.

So if we could just stand at ease.

ACTING PRESIDENT MORAHAN: The Senate will stand at ease. And there will shortly come up a meeting of the Rules Committee, and then we will reconvene.

(Whereupon, the Senate stood at ease at 11:24 a.m.)

ACTING PRESIDENT MORAHAN: Senator Skelos.

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

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

We will stand at ease until they return with the report.

(Whereupon, the Senate reconvened at 11:48 a.m.)

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, there's a report of the Rules

Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT MORAHAN: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

Senate Print 5953A, by Senator Bruno, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT MORAHAN: All in favor of accepting the Rules Committee report say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The report is accepted, Senator Skelos.

SENATOR SKELOS: Mr. President,

at this time if we could take up Calendar Number 90, Senate Print 5953A.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 90, by Senator Bruno, Senate Print 5953A, an act to amend the Tax Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside, Senator.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could now go to the controversial calendar. And if we could ring the bells, please.

ACTING PRESIDENT MORAHAN: The Secretary will ring the bells, and we will now move to the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 90, by Senator Bruno, Senate Print 5953A, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Senator Winner, you look like you have

consternation going on. You want to be recognized, Senator?

SENATOR WINNER: Thank you, Senator. I didn't know whether we were having an amendment or whether we were on the bill.

ACTING PRESIDENT MORAHAN: We're on the bill, sir.

SENATOR WINNER: Okay, thank you.

SENATOR STACHOWSKI: I have an amendment.

SENATOR WINNER: He has an amendment, so I would defer.

ACTING PRESIDENT MORAHAN: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I believe there's an amendment at the desk. I ask that the reading of the amendment be waived, and I'd like to be heard on the amendment.

ACTING PRESIDENT MORAHAN: The reading is waived, and you may be heard on the amendment.

SENATOR STACHOWSKI: Basically, Mr. President, what this amendment does is it adds a section into this bill that would be

like a recruitment section, which would prohibit the outsourcing of jobs by businesses, business entities receiving state financial incentives. It would provide for repayment thereof and a five-year ban on assistance for violations of this provision.

It would provide for the enforcement by the Attorney General. It would require that state entities providing financial incentives to business entities and business entities receiving financial incentives to each report thereon to the Attorney General. And such reports would be made available to the general public.

So basically all this amendment does is into this bill we put in provisions to safeguard the state's investment, seeing that we do have limited resources. This would then stop companies from taking state aid and then either outsourcing the machinery or outsourcing the jobs and not living up to the provisions that they agreed to when they accepted the state aid.

So with that, Mr. President, I ask for everybody to please support this

amendment.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Anyone else wishing to be heard on the amendment?

On the amendment, those Senators in agreement please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Adams, Breslin, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, C. Johnson, Klein, L. Krueger, Montgomery, Onorato, Parker, Perkins, Sampson, Savino, Schneiderman, Serrano, Smith, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

ACTING PRESIDENT MORAHAN: The amendment is not agreed to.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please recognize Senator Robach.

ACTING PRESIDENT MORAHAN: Senator Robach.

SENATOR ROBACH: Yes, Mr. President, just to explain my vote on this

bill.

This is really the culmination, I think, a response to our constituency, which I think not only in Rochester but across upstate New York and perhaps downstate, for that matter, where people clearly are looking for a job, career opportunities, and other things to do this.

So we have moved forward this Upstate Now plan after a lot of thought, a lot of dialogue with business groups, different groups across the community to try and put something in place -- not in speech, and not rhetorically, but into statute, hoping that we can move to some action in the other house, sit down with the Governor in the light of day -- open policy, conference committee, whatever you want to call it, whatever mechanism we can use -- and agree upon the many things that I think we do agree upon to stimulate the economy, and then also hopefully hammer out what we don't agree upon.

And I would encourage everyone to support this. Clearly, as I go around, especially now with what's going on, people

want these things. They want job opportunities. It's long overdue. This package, ten-point plan, covers a lot of things that will assist in coverage of healthcare, strategic tax cuts, policies, strategic investments that would be very good.

And not only do I emphasize this, I think Mr. Burns from the Business Council said it well: It's not just about the "upstate," it also needs to be about the "now."

Last year we talked about strategic investment for Rochester, Buffalo, Syracuse and things that could have went out the door. We sat on a billion dollars even after we publicly went out with the Governor and announced agreement. It never came to fruition. We can't allow this to happen.

So this is a substantial program -- again, in law, not in speech -- to try and get something going now. And it doesn't mean that everything in here has to happen or can happen. It means that we ought to stake out a position and clearly go transparently, in the light of day, to get something with urgency done to help all of our constituents, the

economy, to retain those young people, to retain people moving jobs and create career opportunities in upstate New York.

And I would say upstate is important. We've learned that the cookie-cutter approach doesn't always work. What might work in New York City may not work in Rochester, may not work in Buffalo, may not work in Syracuse. And I won't keep you here long; I can show you a lot of policies we've done that have worked better in New York City than upstate New York. The time to do this is now.

At the end of the day, regardless of where you are located geographically, implementing these to improve the economy will help each and every one of us as well as New Yorkers across the board.

Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Winner.

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

You don't have to be much of an

economist to realize that the real reason why the economy is not working very well in upstate New York is really because of the overall cost of doing business.

We can talk about our programs of the past, which have been strategic in their efforts to try and direct resources here and there, and those efforts have been successful in part and not successful in other part.

But overall, what everyone tells you is the reason why we are uncompetitive in New York is because the fundamental bottom line costs are still far above the rest of the states around us and make us noncompetitive. And those costs are pretty obvious. They're taxes, they're health insurance costs, and they're certainly energy.

This plan specifically addresses itself to those fundamental costs of doing business in New York. Unlike the Governor's budget proposal, unlike his proposal to dedicate certain funds, some of which we agree with, some of which we wish to reprioritize. But overall, there's nothing in the Governor's plan that reduces the basic cost of doing

business in New York, which is what we have to do.

This plan directs $2.7 billion in resources to do just that and make New York more competitive, particularly in the upstate regions.

We don't need plans such as the Governor just proposed to increase costs, like the proposed assessment increase on covered lives for health insurance premiums, the so-called tax on HMOs, which are going to be nothing other than passed along. And we're raising our health insurance premiums to employers and employees in this state by $365 million. That's going in the opposite direction. That's not going in the right direction of reducing the bottom line for business and industry in this state.

So this plan is the first well-thought-out plan to overall reduce the costs. And while it's expensive, it's an investment that has to be made if we're really going to be serious about turning the corner and making the upstate region a place to do business, a place to have good career jobs,

and a good place to keep our kids from leaving and going to greener pastures. And I urge its unanimous passage.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

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: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask permission to explain my vote.

ACTING PRESIDENT MORAHAN: Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President and my colleagues.

Upstate New York is a very beautiful place. And I daresay the Finger

Lakes region is the most beautiful in upstate, and of all the states, if not one of the most beautiful places in the world. But the Finger Lakes region is facing hard economic times. Its manufacturing base has been eroded. It is fighting hard to be competitive in agriculture, tourism, and manufacturing still.

But we need to do more to help the upstate economy, and that's what this plan is all about. This is a plan that will focus on all the economy of New York State, but particularly that in upstate. And that's why I hasten to support it, I work hard to get this measure through, and that I appreciate my colleagues' support.

New York is a wonderful place to live and work and raise a family. But the oppressive taxation is overburdening all the other benefits. This plan helps us ease that taxation. It helps us bring more jobs to the upstate economy. It helps secure a future for upstaters for generations.

I should add that earlier today we confirmed the commissioner of the Department of Taxation. Well, a part of that issue is

that there's an unlevel playing field in upstate New York where unlevel taxation occurs, and that too is driving businesses out that are paying their fair share of taxes.

We need to continue to press the Tax Department to level the playing field and to ensure that those businesses that are competing with Indian retail sales businesses are doing so on a level playing field where taxation is spread evenly, fairly, across this state.

Mr. President, this plan does a great deal for the upstate economy. I appreciate the support of my colleagues for it. It's going to help our taxpayers and bring jobs to our region.

ACTING PRESIDENT MORAHAN: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

I for one think that this economy is going to get softer in the next six months. We need bipartisan support now for job creation.

One of the problems I have is,

being a Senator from the mid-Hudson, there's talk about upstate/downstate. Quite frankly, I don't know where the Hudson Valley -- how it falls, whether it's upstate, downstate. When I speak to some agencies, they say everything above Albany is upstate and that's where we should direct our resources. I speak to the executive branch, and it's Albany, the mid-Hudson, the Island and New York City is downstate.

So whether we're upstate or downstate, we are one state. And we can never forget that. And our needs are different, to different degrees.

We're not reinventing the wheel, what it takes for bringing us out of a recession, if we're there or not. Job creation is simple. Cut down the cost of doing business in New York, reduce taxes, reduce utility costs, reduce insurance cost. And if you do that, you will have job creation and our economy in New York will get better. And it needs bipartisan support.

So I ask for that support. I support this plan for everybody in New York

State, whether it's upstate or downstate.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Bonacic.

Senator Bonacic and Senator Nozzolio will be recorded in the affirmative.

Senator Young, to explain her vote.

SENATOR YOUNG: Thank you, Mr. President, to explain my vote.

I represent Western New York and the Southern Tier, specifically, of Western New York. We have suffered there tremendously. We've been the hardest hit by economic issues across the entire state, if you look at the whole state. In Western New York we've lost jobs, we've lost population, and we need to do something to turn it around. And this plan will do that.

A few months ago I met with business and community leaders in my district, and I presented to them Upstate Now. And they gave a resounding endorsement to this plan. They said it does everything that we need. It helps manufacturers, it helps grow small businesses, it provides energy relief, it

helps alleviate the high cost of healthcare to small businesses.

And if you look at my district, we have depended over the years on three major components. It's small business, it's manufacturers, and it's the agriculture industry.

And I do want to mention to my colleagues that you may notice in our plan, I'm very happy that we led the way last year with the proposal for a $50 million fund to go toward developing agriculture-related businesses. That's something that we did last year when we passed this. We're going to do it again this year.

So we have our work cut out for us. But I would urge everyone to support this plan because when you look at New York State, our entire state has to be strong. We have to be together. This is something very tangible that is going to get results, going to get results now. And there is urgency to this plan. That's why it's Upstate Now.

I encourage everyone to join in and support this, because our future depends on

it.

Thank you.

ACTING PRESIDENT MORAHAN: Senator Young will be recorded in the affirmative.

Senator Griffo.

SENATOR GRIFFO: Thank you, Mr. President.

Symbolism is good, but substance is much more important and much more necessary. And I think the plan that's being presented today, the ten points, really will build the foundation for meaningful relief.

And that's what we're trying to advocate today, the sense of urgency that is challenging the economy across the state but particularly upstate. And while there's been much rhetoric, the time for results is now before this state, the Legislature, and the executive.

So I am hopeful that as a result of the package that's being presented, after talking to community leaders and small businesses, listening to their frustrations and witnessing some of the challenges that are

facing communities across the upstate region, that if we put in place programs as are being advocated here in this proposal, they can truly make a difference, they will invigorate the economy and really make the necessary improvements which will revitalize and allow us to grow and prosper.

The statistics are there for us to all look at, the exodus from the state. So whether you're up or down, it's always around. And what we need to accomplish is a program such as this that has a meaningful -- makes a meaningful difference, achieving a meaningful result that will benefit all of our constituency.

Thank you. I vote aye.

ACTING PRESIDENT MORAHAN: Senator Griffo will be recorded in the affirmative.

Senator L. Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. Chair. I rise to explain why I'll be voting no on the bill.

You know, there are good pieces of

this bill. There would have been a good piece if you'd voted for the amendment my colleague put on the floor, which would say you couldn't outsource these jobs out of New York once you were creating them in the context of this legislation.

And I have no disagreement with my colleagues' concern about the upstate economy. We all are concerned about the upstate economy. And if we have read the newspapers or listened to TV in the last couple of weeks, we should be concerned about the downstate economy, the U.S. economy, and the world economy, because we are walking ourselves right now into a recession.

Which is why I have to vote no against this bill, because as one of my colleagues just said, the estimated cost of the bill is $2.7 billion, $2.7 billion. And several sections of the bill don't have financial analyses; they are to be determined. So I think it's reasonable to say this bill would cost over $3 billion.

So if this bill was attached to an explanation of what my colleagues wanted to

cut out of the New York State budget equalling $3 billion, or if my colleagues wanted to explain what new revenue they would get to make up for the lost billions of dollars, then I might consider the discussion more seriously.

But this is a bill that was passed in June; it hasn't significantly changed. The economy has. And unlike June, now we're at the beginning of a budget process where our job as legislators is to balance revenue and expenditures.

So a bill that gives away over $3 billion in revenue that's beyond a press conference release is a bill that would explain what you're cutting out of the state budget to equal that amount of money or where you're getting the revenue you're giving up here.

This doesn't do that. Therefore, I cannot vote for it.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Krueger. You will be recorded in the negative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I rise to support this legislation.

And I am a little bit shocked that the Senator from New York City would not be supportive of this because this really applies across the board. These bills will help everybody across the board whether you're downstate or upstate.

But more importantly, before either she or I were in the Senate, I remember there was a time in the history of New York City where the city was bankrupt. And the whole state, including upstate, came to the rescue of the City of New York, and now they're stronger than ever.

So there is a serious problem in upstate. In my district, manufacturing jobs are slowly going away, sometimes even more quickly, much more quickly than we'd like to say they are.

And the fact of the matter is that some of these proposals were not only passed last June, but they've been around for a long

time. Like eliminating taxes on manufacturers, tax credits for things like small businesses being able to provide insurance for their employees, tax rebates for property taxes, assistance in energy costs for small businesses. You know, these are all bills that are put in a package that we've talked about before.

Well, it was important to pass this bill last June. It's even more important to pass this bill now, with the national economy showing some serious problems. If we wait any longer, the problems are going to be worse, not only for upstate but throughout the state of New York. The time is now to create jobs by creating incentives and making business at least competitive with other states.

And I'm sure that if we look at this thing in the context of the budget process, we will understand that with this relief we're going to create more taxpayers and we're going to create higher taxes from the businesses that are prospering rather than those that are leaving the state.

So I would urge everyone to

consider this very seriously. The time is now. It ain't going to get any better. And we'd better do something right now in the context of what's happening nationally.

I vote aye.

ACTING PRESIDENT MORAHAN: Thank you, Senator DeFrancisco. You will be recorded in the affirmative.

Senator Schneiderman.

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

I'm glad we're starting the discussion this year on the subject that has been raised before the Majority conference got to it, which is our need to invest in and revitalize the upstate economy.

I would like to note that the Governor has made this a high priority of the state and has not just spoken about it upstate, he's been in New York City and I've seen him say to New York City audiences: We have to do for upstate what the rest of the state did for New York City. He's on it.

And maybe he's on it because he was reminded about it before any of you guys

started talking, on December 13th, when the Senate Democrats unveiled Right-NY, and Senator Stachowski, Senator Thompson, Senator Valesky and our leader, Senator Malcolm Smith, made a comprehensive proposal, elements of which are in the Governor's proposal for revitalizing upstate and elements of which are in your proposal for revitalizing upstate.

The one thing I would urge you to do, my colleagues on the other side of the aisle, is don't make this partisan, don't make this us-versus-them. The rest of the people in this state understand the needs for upstate. We understand we are one New York. And we don't have to live right in the middle of the border area, like Senator Bonacic, to understand it.

We want to help, but it is the definition of insanity to do the same thing over and over again and expect a different result. And I respectfully submit that Right-NY is a new proposal. I commend it to you. We can't continue to do these grab bags of little bits of tax credits, differentiating between industries and geographical areas, and

expect to get a good result.

There are some good things in this bill, particularly the alternative energy and ag jobs. I will vote for it, knowing that it's a one-house bill, and just for negotiations. But we have to break away from this old grab bag, haphazard economic development policy of the Pataki-Bruno era and move to something new. That's what's in Right-NY. That's what's in the Governor's proposal.

I vote yes with the understanding that we will be back to this debate, I hope, over and over again in the weeks to come.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Schneiderman will be recorded in the affirmative.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. Chairman.

Before I explain my vote, I would like to congratulate Senator DeFrancisco because his daughter is acting in the movie

The Bucket List.

So congratulations. I know how proud you feel about your daughter being an actress in a movie.

I'm voting yes on this legislation because I don't want to be painted as downstate against upstate. I agree with Senator Krueger: $3 billion, where are we going to get it? But as Senator Barack Obama says, we are one nation and one state. No upstate, no downstate, we are here to work for the State of New York.

And I want my colleagues from upstate to know that we legislators from downstate, we understand and we feel your pain. And that's why I'm voting for this bill, because I understand that upstate economy needs help.

Where are we going to get the money? Right now, don't ask me. I don't even know. I'm going to agree with Senator Krueger again; $3 billion is tough to swallow.

But to join my colleagues from upstate, again, that's why I'm voting yes, to at least to start talking about the problem

that upstate is facing. And this bill, even though we don't have the money, this bill will take us to that level where we could start negotiating and talking about the problem that my people from upstate are going through.

So, Mr. Chairman, I'm voting yes.

ACTING PRESIDENT MORAHAN: Thank you, Senator Diaz. You will be recorded in the affirmative.

Senator Skelos.

SENATOR SKELOS: Mr. President, I'm from Long Island, and I'm very happy to support this legislation because, quite frankly, there is a number of very positive components that are going to help the entire state.

My good friend Senator Schneiderman indicated that we could be doing better. But I think the Senate Majority has a track record. And if we went back as we brought up different legislation, I'm sure very similar comments, negative comments, were made about it.

Now, what's our track record? We had Jobs Now, helped fund high-tech

development projects. We had Ge*NY*sis, funded biotech development. Power for Jobs provided low-cost power for manufacturing. We had workers' comp reform that saved over a billion dollars. And, because of the Senate Majority, over $127 billion in tax cuts which have benefited the economy throughout the state of New York.

What we do not need is increases in driver's license fees, which the Governor has proposed. We do not need to tax healthcare benefits and premiums on health insurance where people throughout this state, and I know on Long Island and elsewhere, are struggling to make these payments. And we do not need the over $1.7 billion in tax increases and fees that the Governor has proposed.

So I'm very happy as a downstate resident, as a Long Islander, to be supporting this legislation -- unfortunately, Senator Krueger has sought not to -- because if any part of the state prospers, the rest of the state will prosper. So if upstate prospers, New York City will prosper, Long Island will prosper. And I think that's the approach that

we should be taking.

So, Mr. President, I support this legislation, and if you would record me in the affirmative.

ACTING PRESIDENT MORAHAN: Thank you, Senator Skelos. You will be recorded in the affirmative.

Senator Volker, to explain your vote briefly.

SENATOR VOLKER: Yes, Mr. President, to explain my vote.

This is an Upstate Now bill. And, Senator Schneiderman, you said you announced some stuff in December. We announced this a year ago, well over a year ago.

Part of this bill applies to New York City, by the way. You can't reduce the corporate tax and some taxes without -- you can't say I'm just going to do it in upstate New York. That's a little bit of a constitutional problem. So part of this bill does apply to New York City. So when you're voting against this bill, if you do, you're voting against some issues that are directly related to New York City also.

But I think the thing you have to realize, this is not an all-encompassing package that doesn't have anything related to anybody else. We had an agreement with the Governor last year, I thought the billion dollar or the billion -- whatever the heck was Governor to going to give -- we had an agreement last year. I thought it was a good idea last year. It was an even better idea this year.

But my point is, we had agreed to that last year. Now, it's been fleshed out more in this budget. Some of the things that are in this package are in the Governor's budget, some of them. Some of them were in some of the things that the Senate Minority suggested. We're not saying that we know everything.

But if this whole package passes -- and we can find the money to take care of this. I mean, you know, I hate to say this, we got this deficit, but we've got over $4 billion or $5 billion sitting there that's been allocated for the last three, four years that's never been put out. There's a huge

amount of money in economic development, a billion worth of cash and a billion worth of bonds.

And is anybody asking what happened to the Javits money? As far as I know, only $14 million of that out, of a billion dollars, had gone out, and that was to take away the tolls up in Buffalo, to take the two toll barriers. Because everyone agreed to it right at the end when George left. George Pataki, I'm talking about.

The problem is, the governors, both governors, this one and the previous one -- who the previous governor I think was a Republican -- were holding up all the money to put the heat on the Legislature. It's something we really haven't talked about too much.

But the truth is we have money backed up. So we have a potential deficit. And Tom DiNapoli said the truth, except that Tom DiNapoli couldn't tell whether all that money went out or not. He's saying if all the money went out that we have allocated, there'd be a deficit.

But we have to realize there are ways to handle this deficit, and there certainly are ways to improve the economy of the State of New York. If upstate New York gets better, all of New York gets better. Let's not forget that.

Just as New York City, the city has a little problem right now in Western New York, we know that, with the bridge. New York City leaders are coming to us and saying get that Peace Bridge done, because it's hurting -- they think it may be hurting New York City. We're trying to get that done, because we are one state.

And so I can't imagine anybody voting against this Upstate Now package. I vote aye.

ACTING PRESIDENT MORAHAN: Thank you, Senator Volker. You will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 90 are Senators L. Krueger and Perkins. Also voting

in the negative, Senator Parker.

Absent from voting, Senators C. Kruger and Sabini.

Ayes, 54. Nays, 3.

ACTING PRESIDENT MORAHAN: The bill is passed, Senator Skelos.

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

ACTING PRESIDENT MORAHAN: There is no other further business at this desk, Senator Skelos.

SENATOR SKELOS: There being none, I move we stand adjourned until Monday, January 28th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MORAHAN: The Senate will be adjourned until Monday, January 28th, 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:25 p.m., the Senate adjourned.)