NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 18, 2010

12:09 p.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT BRESLIN: The Senate will come to order.

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

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

ACTING PRESIDENT BRESLIN: 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 BRESLIN: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Wednesday, March 17, the Senate met pursuant to adjournment. The Journal of Tuesday, March 16, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT BRESLIN: 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 Klein.

SENATOR KLEIN: Thank you, Mr. President.

On behalf of Senator Dilan, on page number 16 I offer the following amendments to Calendar Number 222, Senate Print Number 1083, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: On behalf of Senator Stachowski, on page number 11 I offer the following amendments to Calendar Number 119, Senate Print Number 6434, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: On behalf of

Senator Parker, on page number 10 I offer the following amendments to Calendar Number 112, Senate Print Number 2274, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: On page 16, Senator Valesky moves to discharge, from the Committee on Finance, Assembly Bill Number 10093 and substitute it for the identical Senate Bill Number 3195B, Third Reading Calendar 223.

ACTING PRESIDENT BRESLIN: Substitution ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a resolution at the desk by Senator Seward. I ask that the resolution be read in its entirety and move for its

immediate adoption and give Senator Seward the opportunity to speak on his resolution.

ACTING PRESIDENT BRESLIN: Senator Klein, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Seward, legislative resolution urging the New York State Congressional delegation to enact House Print 2156/Senate Print 971, "Jason's Law."

"WHEREAS, House Print 2156/Senate Print 971 would implement a pilot program to establish parking facilities to address the shortage of safe long-term parking for commercial vehicles on the national highway system; and

"WHEREAS, It is the position of this Legislative Body that House Print 2156/Senate Print 971, also known as 'Jason's Law,' proposed by Congressman Tonko and

Senator Schumer, which would provide a long-term comprehensive plan to address safety issues that face our nation's truckers, should be supported by the New York State Congressional delegation; and

"WHEREAS, This law is in recognition of the tragic death of Jason Rivenberg of Schoharie County, who was killed at an abandoned gas station in South Carolina while following federal rest regulations for truck drivers, and who is survived by his wife, Hope, and their three children, Joshua, Hezekiah, and Logan; and

"WHEREAS, It is the intent of this Legislative Body to support the enactment of 'Jason's Law,' in order to ensure that truck drivers have adequate facilities to enable them to comply with federal laws without risk to their personal safety; now, therefore, be it

"RESOLVED, That the New York State Congressional delegation be and hereby is respectfully memorialized by this Legislative Body to vote in favor of House Print 2156/Senate Print 971, 'Jason's Law,' and be

it further

"RESOLVED, that copies of this resolution, suitably engrossed, be transmitted to each member of the Congressional delegation from the State of New York."

ACTING PRESIDENT BRESLIN: Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

This resolution is urging the federal government and in particular our New York Congressional delegation to enact "Jason's Law." This measure, that's being sponsored by Congressman Tonko and Senator Schumer, was prompted by a very tragic incident involving one of our mutual constituents -- that is, Jason Rivenberg, who was a truck driver from Schoharie County who was killed last year, just about a year or so ago, during a robbery as he sat in his rig at an abandoned gas station in South Carolina that was often used by truckers as a rest area because there was no other safe truck parking area available in that area.

At the time of his death, Jason was

a mere 12 miles from his destination but was unable to make his delivery at that time because he was too early.

Now, this tragedy highlights the seriousness of the problem surrounding the lack of available safe, secure parking facilities for our nation's truckers. We rely on commercial trucks to transport goods and services that are necessary for our economic well-being and our everyday lives, and it is vital that we also ensure that truck drivers who are transporting these very essential products have safe places to rest while they are waiting for pending appointments or in order to comply with the federal hours of service regulations.

As many of you know, federal law mandates that drivers rest for 10 hours after driving for 11 hours straight, and federal law also prohibits them from driving more than 60 hours in total over a seven-day period. So if we're going to require truckers to take regular breaks, it is imperative that we provide them with a safe place to rest.

This is a real problem, because

there is a severe shortage of such safe parking areas for motor carriers, forcing many drivers, like Jason that night, to park in a desolate, poorly lit area with little or no security.

Now, the federal legislation would authorize the federal government to work with the states and help fund pilot projects to expand and publicize parking options for commercial vehicles. The result would be a variety of improvements, including building new rest areas with adequate parking, expanding parking near truck stops at existing facilities, constructing turnouts along the highway system for commercial vehicles, as well as promoting and publicizing the available parking options in our highway system.

Now, Jason's family, who is joining us today in the chamber, have just returned from Washington, where they spent a number of days tirelessly lobbying members of Congress in support of "Jason's Law." And they have turned their personal tragedy into a real cause which is so important to us all.

And joining us here today, and I want to recognize them, is Hope Rivenberg, Jason's wife, and their three children, Joshua, Hezekiah and Logan -- and Hezekiah and Logan are twins, and today is actually their first birthday. And they were born a few days after their father's death -- and Tim and Sandy Hardendorf, other family members, and Butch and Cathy Savage, as well as Chip Savage.

And this family has been through a lot, and I hope that the passage of our resolution today will send a clear message to our representatives in Washington that "Jason's Law" must be enacted at the federal level so that we can prevent other families from going through the pain and agony that Jason's family has been forced to endure.

So, Mr. President and my colleagues, thank you for your support of this resolution. And, Mr. President, I would invite all members of the body to join me as cosponsors should they wish to do so. This is an important issue for all of us.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Seward.

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

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted unanimously.

And Senator Seward has asked that all of us will be on for cosponsorship unless someone comes to the desk and seeks an opposite position.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please move to a reading of the calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 108, by Senator Maziarz, Senate Print 1055C, an act to amend the Banking Law, in relation to preauthorized electronic fund transfers.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 203, by Member of the Assembly Pretlow, Assembly Print Number 5873, an act to amend the Public Officers Law, in relation to location.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: You know, I

had expressed a similar point of view on another piece of legislation that was brought in the past dealing with making assessors or tax collectors give a receipt when an application for a STAR program was requested. And there was no empirical evidence about that as to why it was really needed. There's no evidence that tax collectors or assessors didn't provide that when requested.

This is another bill -- and we've got so many serious issues here -- but this bill says public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings.

Now, I would be shocked if there's any public body that would not take reasonable efforts to provide facilities, appropriate facilities so people can attend.

So once again, we've got so many different issues here that are so important -- most importantly, the budget. I think this stuff really is not necessary. And it's almost a slap in the face of public bodies if

they're already complying and they're taking these reasonable steps.

So I'll vote yes to avoid a press release that says that I'm against adequate facilities. But I would hope that we'd concentrate on more substantial type of legislation.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator DeFrancisco.

Senator DeFrancisco will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 212, by Senator Serrano, Senate Print 3332, an act to amend the Public Officers Law --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT BRESLIN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number

213, by Senator C. Johnson --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT BRESLIN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 214, by Member of the Assembly Latimer --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT BRESLIN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 223, substituted earlier today by Member of the Assembly Destito, Assembly Print Number 10093, an act to amend the Public Officers Law, in relation to open meetings.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect April 1, 2011.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

Oh, excuse me. Senator Saland, to explain his vote.

SENATOR SALAND: I'm certainly not advocating that anybody vote against this bill. I am, however, concerned that this bill could be more specific in terms of what authority is granted to a local body in terms of how they shall govern the recording or telecasting of a particular meeting, giving them the right to impose reasonable limitations.

I mean, what would you do if 26 people showed up in a town hall with the capacity of 50 people and they all wanted to be able to use their video cameras to record the events of the meeting or of the day?

And I would hope that the sponsor would take a look at the likelihood of providing perhaps some additional guidance, perhaps restrictions that will make this a bit more manageable for those who are going to be subject to this provision of the law.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland.

Senator Saland will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0.

ACTING PRESIDENT BRESLIN: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 224, by Member of the Assembly Gottfried, Assembly Print Number 1138, an act to amend the Social Services Law, in relation to authorizing.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 229, by Member of the Assembly Sweeney, Assembly Print Number 8558, an act to amend the Environmental Conservation Law, in relation to creating an exemption.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 230, by Senator Huntley, Senate Print 6682, an act to amend Part R2 of Chapter 62 of the Laws of 2003, amending the Mental Hygiene Law and

the State Finance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 247, by Senator Aubertine, Senate Print 5486, an act to amend the Town Law and others, in relation to generic environmental impact statements.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 256, by Senator Valesky --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT BRESLIN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 257, by Senator Klein, Senate Print 6212A, an act to amend the Real Property Tax Law and the Tax Law, in relation to the "Middle Class STAR" rebate program.

SENATOR DeFRANCISCO: Please lay the bill aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 259, by Senator Serrano, Senate Print 6883, an act to amend the Executive Law, in relation --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT BRESLIN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 260, by Member of the Assembly Destito, Assembly Print Number 10196, an act to amend the Public Officers Law, in relation to enforcement.

ACTING PRESIDENT BRESLIN: Read the last section.

SENATOR DeFRANCISCO: Please lay the bill aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 261, by Senator L. Krueger, Senate Print 7109, an act to amend the Public Officers Law, in relation to publishing records.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BRESLIN: The bill is passed.

That completes the reading, Senator Klein, of the noncontroversial calendar.

Senator Klein.

SENATOR KLEIN: Mr. President, can we now move to a reading of the controversial calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

The Secretary will also ring the bell. Members are all asked to come to the chambers for the controversial reading of the calendar.

Senator Klein.

SENATOR KLEIN: Mr. President, I request that we start off the controversial calendar with Calendar Number 260, Senator Oppenheimer's bill.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer's bill, Calendar Number 260, will now be undertaken.

THE SECRETARY: Calendar Number

260, by Member of the Assembly Destito, Assembly Print Number 10196, an act to amend the Public Officers Law.

SENATOR DeFRANCISCO: Explanation.

ACTING PRESIDENT BRESLIN: An explanation has been requested, Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

Well, actually this is a bill that we passed last year unanimously and the Governor vetoed it. And the -- maybe I'll tell you briefly.

What the bill says is if a local municipal government debates the conditions of a piece of legislation before them in private, even though they may take the vote on it in public, that this violates our Freedom of Information laws.

So therefore, in the last bill -- that we passed unanimously last year -- if that were to occur, then the court could determine a fine -- a fee -- a fine against the members of the council or the trustees.

And the Governor, I think rightly,

said that that really was not fair and that we would end up having great difficulty getting people to serve on our town councils or our village boards or our city councils if they thought they had to pay a fine because they inadvertently -- maybe inadvertently -- held their discussions in private before taking the vote in public.

So now we've taken out the fine and we've said that instead, if the court finds that this did happen, that then they would offer a reprimand, the issue would have to be discussed in public, and perhaps they might have to take a class, a little minicourse on how to do it properly so this thing would not occur again.

That's the sum and substance. It's a pretty simple bill. And it's taken out the fines, which had many of us concerned because we could see nobody wanting to run for our municipal governments.

ACTING PRESIDENT BRESLIN: Thank you, Senator Oppenheimer.

Senator Winner.

SENATOR WINNER: Thank you,

Mr. President. Will the sponsor yield for a question or two?

SENATOR OPPENHEIMER: Absolutely.

SENATOR WINNER: Thank you, Senator.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Winner.

SENATOR WINNER: Thank you, Senator.

Senator, this legislation, as you indicated, was -- it was similar to a bill that was passed last year. However, this legislation was just introduced. Wasn't this legislation just introduced very recently, on March 9th, I believe?

SENATOR OPPENHEIMER: Yes.

SENATOR WINNER: And this is --

ACTING PRESIDENT BRESLIN: Would you like Senator Oppenheimer to continue to yield?

SENATOR WINNER: Thank you, Senator -- Mr. President. Appreciate it. If Senator would continue to yield for a question.

SENATOR OPPENHEIMER: Please.

ACTING PRESIDENT BRESLIN: Yes.

SENATOR WINNER: You know, this is Sunshine Week, and celebrating open government and transparency and the like. And I just am kind of curious, in the spirit of Sunshine Week, this bill was referred to the Committee on Investigations upon its introduction and I don't recall having any kind of vote on it or a meeting as it related to discussing this bill.

Was there some exigent circumstances or something that had this bill reported out of committee without a vote?

ACTING PRESIDENT BRESLIN: Senator Oppenheimer.

SENATOR OPPENHEIMER: You'll have to wait a moment for my response because I was not at the committee when this bill came up.

I understand that the bill went through Rules.

SENATOR WINNER: Well, the bill was introduced in --

ACTING PRESIDENT BRESLIN: Senator Winner, would you like Senator Oppenheimer to continue to yield?

SENATOR WINNER: Thank you, Mr. President. If the Senator would continue to yield to a question.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer?

SENATOR OPPENHEIMER: Yes, I will.

SENATOR WINNER: Senator, the bill was referred to the Committee on Investigations. Do you know whether that committee had a vote on this bill? Or was it sort of done in the middle of the night?

ACTING PRESIDENT BRESLIN: Senator Winner --

SENATOR WINNER: Yes, Mr. President.

SENATOR OPPENHEIMER: I'll be happy to respond.

SENATOR WINNER: One real question and one rhetorical.

SENATOR OPPENHEIMER: I'll be happy to respond to Senator Winner. This bill, it seems that it's a rather simple and obvious bill, since we passed it unanimously last year, when it was much more onerous than

it is now.

So it was -- you're right, it was put through Rules so that we would be able to pass it during the Sunshine Week.

SENATOR WINNER: Will the Senator continue to yield?

ACTING PRESIDENT BRESLIN: Would you continue to yield to Senator Winner, Senator?

SENATOR OPPENHEIMER: Certainly.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Winner.

SENATOR WINNER: Senator, you said it was put through Rules. The bill was referred to Investigations. So when was there a meeting? Did you ask for the bill to be taken out of Investigations without a vote and put into Rules?

SENATOR OPPENHEIMER: I have not asked for it to be put into Rules and not into Investigations.

But it seems to me that it's a pretty obvious bill. And going to Rules is not -- I know you want to make it into a very important thing, but this bill, while it is

something that is open government and is sunshine, and this is the week for it, it was expedited. It's as simple as that.

SENATOR WINNER: So the exigent circumstances is that it's Sunshine Week and so therefore we want to yank it out of the committee of reference into Rules so that it can be on the floor today?

ACTING PRESIDENT BRESLIN: Senator, even though it's been asked and answered, you may answer it again.

SENATOR OPPENHEIMER: I'm sorry that I didn't hear the question. But could you repeat it, please, Senator Winner?

SENATOR WINNER: Senator, it being Sunshine Week and Open Government Week, maybe I would ask this question. Have we had any open sunshine type of meetings on the budget this week?

ACTING PRESIDENT BRESLIN: Not germane.

SENATOR OPPENHEIMER: I don't feel that that's germane to this bill.

ACTING PRESIDENT BRESLIN: That's not germane to this proceeding. The question

out of order.

SENATOR OPPENHEIMER: But if I may respond, I'd like to say that --

ACTING PRESIDENT BRESLIN: Senator Oppenheimer, the question is out of order. It's not germane. We'll wait and see if there is another question to be asked.

SENATOR OPPENHEIMER: Well, actually --

SENATOR WINNER: Would the Senator yield to a germane question with regard to the bill before us?

ACTING PRESIDENT BRESLIN: Would you agree to answer a germane question, Senator?

SENATOR OPPENHEIMER: Yes, I'll agree to answer a germane question.

SENATOR WINNER: So is it your position that this bill was not properly referred to the Investigations Committee, or that there's a new rule that we have about bills that are simple and that don't need to be determined by a committee for whatever criteria we have here and then can immediately be taken out and put on the floor without any

committee review?

SENATOR OPPENHEIMER: Senator Winner, in response, from what I understand, there are thousands of bills, through the many years I've been here, that have come direct from Rules to the floor. So I think this is no exception.

And that has happened whether it's a majority or a minority bill, whether you, your side of the aisle or my side of the aisle has been in control of this chamber. So this is really not a very unusual circumstance.

ACTING PRESIDENT BRESLIN: Senator Winner.

SENATOR WINNER: Mr. President, on the bill.

ACTING PRESIDENT BRESLIN: Senator Winner, on the bill.

Thank you, Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

SENATOR WINNER: Mr. President, it's my understanding that the past practice of this house has been that when the committees have closed, then under those circumstances there have been referrals out of

the committee to the Rules Committee.

And certainly if there was some exigent circumstance -- the only exigent circumstance that I can see in this somewhat rather tortuous explanation of why we're not conducting any open meeting or committee process as it relates to this legislation is that we wanted to get it done today even though we've laid aside nearly every other bill that has any kind of real impact on open government and open meetings.

We have not had a particularly, I would guess, ambitious agenda in the spirit of sunshine or open government. In fact, it seems to be somewhat limited. So we had a committee meeting of Investigations on Monday. That bill certainly could have been on that committee agenda.

And it just seems to me a little bit ironic that we would have an open meetings violation -- or not a violation, but in the spirit of this Sunshine Week, so sort of cavalierly dealt with as it relates to our committee process here.

And so for those reasons,

Mr. President, you know, I express my concerns that we maybe ought to be a little bit more consistent with regard to our actions.

Thank you very much.

ACTING PRESIDENT BRESLIN: Thank you, Senator Winner.

Senator Ranzenhofer.

SENATOR RANZENHOFER: A couple of questions for the sponsor.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer, do you yield to Senator Ranzenhofer?

SENATOR OPPENHEIMER: Sure.

SENATOR RANZENHOFER: Thank you. Through you, Mr. Chairman. You keep on saying that this is the same bill that we had last year, but in your memo you say that this is a new bill. So I'm a little unclear. Is this a new bill, as you indicate here, or is this not a new bill?

SENATOR OPPENHEIMER: Through you, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer.

SENATOR OPPENHEIMER: This is a

new bill because we took out that part that had a fine for people who violated the law.

So this is indeed a new bill, but it's substantially identical except we have taken out that one provision that the Governor -- and myself, actually; I think it was a proper thing to take out.

ACTING PRESIDENT BRESLIN: Senator Ranzenhofer.

SENATOR RANZENHOFER: Through you, Mr. Chairman. Is another new part of the bill the fact that this training session is now required, or was that in last year's bill?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Oppenheimer?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT BRESLIN: You may answer.

SENATOR OPPENHEIMER: Thank you, Mr. President.

Senator, what we did was put in something that we felt was much less onerous than a fine, and that would be a training session. Because we felt the fine was burdensome and would make it difficult for us

to attract people to run for office. So in place of that, we put in the training session. Which we hope, when the training session is completed, we will never have to face that particular board again.

SENATOR RANZENHOFER: A couple more questions, Mr. Chairman, if the sponsor will continue to yield.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer, do you continue to yield to Senator Ranzenhofer?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR RANZENHOFER: In the bill, the fiscal impact, there's nothing there. How much is this going to cost municipalities?

SENATOR OPPENHEIMER: Pardon me, through you. Did you say how much will it cost?

SENATOR RANZENHOFER: Cost municipalities for these training programs for people that violate.

SENATOR OPPENHEIMER: The

training program is provided by the state.

The people who enforce the Freedom of Information Laws, they exist in our community, and they are there, particularly Robert Freeman, to assist us with any training that has to be done.

SENATOR RANZENHOFER: And who pays for that?

ACTING PRESIDENT BRESLIN: Senator Ranzenhofer --

SENATOR RANZENHOFER: I'm sorry. Through you, Mr. Chairman, will Senator Oppenheimer continue to yield.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer, will you continue to yield to Senator Ranzenhofer?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR OPPENHEIMER: Thank you, Mr. President.

SENATOR RANZENHOFER: Yes, who pays for that?

SENATOR OPPENHEIMER: I'm sorry. As I said, it is funded by the Department of

State. It is there for each of us to use as we choose to use it in our districts.

So you will find it available for any freedom of information issue that you may have within your Senate district. And it would be available in place of the fine for this particular case.

SENATOR RANZENHOFER: Okay, thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Ranzenhofer.

Are there any other Senators wishing to be heard?

Hearing none, the debate is closed. The Secretary will please ring the bells.

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: In relation to

Calendar Number 260: Ayes, 60. Nays, 0.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 257, by Senator Klein, Senate Print 6212A, an act to amend the Real Property Tax Law and the Tax Law.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe we have two amendments at the desk, the first one by Senator Saland and Senator Little. And I would ask that you call upon Senator Saland and Senator Little in that order.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

As Senator Libous pointed out, we've offered up the amendment, we would waive its reading and ask for the opportunity to explain the amendment.

ACTING PRESIDENT BRESLIN:

Senator Saland, your amendment is here at the desk. Without objection, the reading is waived and you may speak on the amendment.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, the amendment that we are proposing to the bill that is on the calendar, Senator Klein's bill, is an amendment which deals substantially with the very same items that you will find in Senator Klein's bill, and in fact even more expansively goes into some other areas that relate to real property tax relief.

And with your permission, I will briefly describe the major components, yield to my colleague Senator Little, who will go on at greater length with respect to one portion, and then perhaps to my colleague Senator LaValle, if he's so inclined, on yet another part.

This bill offers up both a real property tax rebate mechanism to reinstate the tax rebates that had been initiated several years ago. At the time of their initiation, it was an issue which I was very keenly

involved in and attempted to advance. Unfortunately, we've seen that these tax rebate checks have been stricken from this year's budget, last year's budget. And we would hope to be able to restore them and restore them for people with incomes of $250,000 and below.

It would afford real property taxpayers the option of having the greater of their tax rebate check or the result of what they would be entitled to under the circuit breaker. The circuit breaker -- and again, I'm going to defer to Senator Little -- also has a $250,000 household adjusted gross income cap on it.

We also propose, in this amendment, a senior citizen property tax freeze, optional on behalf of local governments, for those 70 years or over, and very, very importantly, a property tax levy cap. And that property tax levy cap would be 120 percent of the CPI, or 4 percent, whichever is less -- numbers that we're all familiar with, having seen them in one form or another with regard to these issues over quite a period of time.

It would provide, as does Senator Klein's bill, I believe, for being able to bank any unused tax levy, provide for an underride, provide for a petition to override a levy limit.

In addition, we provide for mandate relief -- not mandate deferral, mandate relief, absolute and total mandate relief. And we say that no unfunded mandate shall be imposed upon another level of local government, be it a municipality or a school district. And we believe in these difficult, difficult times that should be an absolute ban.

We do recognize that there are times, whether it be by way of court order, whether it be by way of some federal action and several other potential exceptions -- home rule request -- in which a mandate may in fact wind up being imposed, but not by any action of this Legislature or by any direct action of any regulatory authority.

We look to save money through making greater use of regional cost-savers -- regional transportation, regional collective

bargaining negotiations. And we also provide a means by which school districts can reach reserve funds that are currently unreachable, monies that have accumulated with regard certain anticipated employee benefits. I believe the Comptroller has ruled that the accumulation of these reserve funds was not an appropriate means for particularly our school districts to engage in, and these monies could be released to afford real property tax relief.

This is a measure whose time not only has come, it is desperately overdue. It's something that we introduced as legislation as our Republican Homeowners Protection Act.

And I will yield to Senator Little, who certainly has been instrumental in really initiating the entire focus on the circuit-breaker approach and is perhaps one of the foremost experts in either house on the subject of the circuit breaker.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President. And thank you, Senator Saland.

I'd also like to begin by thanking Senator Klein for putting forth this bill today, a circuit breaker. And also Senator Liz Krueger, who has another version of a circuit-breaker bill that I believe I cosponsor with her, or I am on that bill.

A circuit breaker is an important bill to help with property taxes. The thing about property taxes is that property taxes are based on the value of your property, the value of your home, not on your ability to pay. And a circuit breaker will help you when those property taxes reach a certain percentage of your income, when you more or less go into overload, similar to an electric circuit, and you can no longer do it.

We've all had people call us and come to us whose property taxes are sometimes 20, 25 percent of their income. And who do they affect the most? They affect people who have lived in their home a long time, who have seen the value of their home rise, who have not seen their income change -- or their

income, because they are retired, is actually less -- and they are being forced to move out of their home.

I became interested in a circuit-breaker bill when taxpayer groups came to me, many groups within the North Country, especially because we're in a resort area and people who have had a home on a lakeside property and have retired to that home have found that the value has quadrupled, a tremendous increase in value, and they can no longer afford to pay the property taxes and realize that they may no longer afford to be able to live there.

They formed a group called the Omnibus Consortium. And that is now statewide, from Essex County, Dutchess County, Cayuga County, and all the counties in the state I believe have members in this. In their opinion, a circuit breaker is the fairest, most meaningful, most cost-effective way to provide property tax relief.

So what does our amendment do? Our amendment adds the bill that we proposed last week or the week before, which has many of the

same proponents as Senator Klein's bill, but we believe that it is more helpful and it is simpler. What our bill would do would be a flat 6 percent of your income, up to the $250,000 limit, and you would get a 70 percent credit on your property taxes.

So someone whose income is $350,000 and their property taxes are $4200 -- which is not out of range when you think about even a $100,000 house or an $85,000 house in our areas -- our circuit breaker that we are amending this bill with would actually help that homeowner with $840, whereas Senator Klein's circuit breaker would only be $210.

When you get up to the $200,000 household income -- you know, you could have a principal and a teacher. We're certainly not out of middle-class at that range -- a two-career family, Senator Klein's bill, if their taxes were $15,000, would not help, because you'd have to have taxes over $18,000 to get any help from that bill. Our bill, being 6 percent of that and 70 percent return, would help that person with $2,100 of their $15,000.

We have estimated our bill to cost about $1.4 billion. We believe that through many, many cuts in spending, cuts in areas where we control our spending, institute a spending cap for the state, that we would be able to pay for this.

And I would just encourage all of you this is, I think, a more helpful bill an simpler bill to understand. But in all honesty, I'm just really pleased that we are here today talking about a circuit-breaker bill to help the taxpayers of New York State before they're all gone.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Little.

Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

Our conference, the Republican conference, has for years made real property taxes and the reduction of real property taxes its number-one priority. Example, the STAR program and the enhanced STAR program was the basis, the beginning over a number of years,

of addressing the real property tax problem.

That was followed by the STAR rebate check that was an important component. And I think that people last year, almost in a knee-jerk way, went to their mailboxes on a daily basis in October and found that there was no rebate check.

The proposal that is being put forth here today is one that recognizes the differences in the state in what people pay in real property taxes and the income levels that they have. It allows people basically some choices. And the amendment was put together in a way that allows for a rebate check, if that works out in the best way, or the circuit breaker.

The circuit breaker has a long history. In 1977, I sponsored what is today in law. And one of the problems that we've had is to try and explain -- and I think Senator Little did a good job explaining, you know, the circuit breaker and the triggers.

In the current law, there are number of income levels and a number of triggers -- 3 percent to 7, 8 percent.

Senator Klein follows that suit in different income levels, using different triggers.

Our proposal really tries to simplify what is very, very difficult and simplifies it as one trigger, 6 percent, you get a check at the end, 70 percent of the overage. That simple. Not complicated.

The third component is there are a lot of senior citizens who, as they get older and find that Social Security checks have been frozen, they've lost money in their 401(k), they start to worry whether they can stay in their house because of the property tax. And so here we allow seniors 70 or older to be able to have a cap, be able to breathe easy, see some light at the end of the tunnel, and go on with their life.

As everyone here knows, when we went to the STAR program we were very, very careful to make sure that we didn't switch burdens from one class of taxpayer to another. And so in our proposal we reimbursed the school district dollar for dollar for what is being taken off the tax rolls in terms of an exemption.

I think it was mentioned the property tax cap that passed this house. Senator Klein's bill doesn't exactly replicate the measure that we passed in this house in 2008. And there are a number of mandate relief proposals -- a ban, a ban on mandates for not only school districts but for municipalities.

There are other things that our conference and individuals -- Senator Bonacic, I could go around -- other aspects of the real property tax problem. A cap is very important. Choice is very important in trying to save the maximum amount of dollars for each taxpayer.

Senator Klein's bill also includes, as does the current law, renters. And of course that item, I mean, people who rent are very deserving of some sort of help. It will be interesting to see the fiscal impact just from that one component.

So I think our amendment has both history, passage in this house, and I think it's a very thoughtful approach to dealing with a very complex problem.

ACTING PRESIDENT BRESLIN: Thank you, Senator LaValle.

Are there any other Senators wishing to be heard?

Hearing none, the question is on the motion to amend Calendar Number 257. Those Senators voting in support of the nonsponsor amendment please signify by raising your hands.

Announce the results.

THE SECRETARY: Ayes, 29. Nays, 31.

ACTING PRESIDENT BRESLIN: The nonsponsor amendment fails.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe we have another amendment at the desk, by Senator LaValle. And I ask that the title be read and you call on Senator LaValle, please.

ACTING PRESIDENT BRESLIN: Senator LaValle, your amendment is here at the desk. Without objection, the reading is waived and you may speak on the amendment.

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

I believe the body just heard me speak about some of the differences and some of the components in the measure that we offered up. Senator Klein certainly has components in his bill, a circuit breaker -- while we can disagree that it doesn't go far enough, the rebate check doesn't go far enough, the one thing he doesn't have in his bill that is critically important is to give some peace of mind to those seniors 70 or older who just find it intolerable to be able to live in their homes. And we certainly want to keep them in New York, keep them close to their grandchildren.

So this bill is the component that I explained before. It caps the property tax, gives the senior that option, and also replaces any of the exemption, dollar for dollar, to the local school district. This is critically important and would be a critically important addition to the Klein bill.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank

you, Senator LaValle.

Are there any other Senators wishing to be heard?

The question is on the second nonsponsor motion to amend Calendar Number 257. All those Senators voting in support of the nonsponsor amendment please signify by raising your hands.

Announce the results.

THE SECRETARY: Ayes, 29. Nays, 31.

ACTING PRESIDENT BRESLIN: The motion fails.

Senator Klein.

SENATOR KLEIN: Mr. President, I ask that the roll be opened. Senator DeFrancisco has a very important commitment that he has to get to, and allow him to vote.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would like to vote aye on the main bill.

ACTING PRESIDENT BRESLIN: First of all, the Secretary will open the roll call on Calendar Number 257.

Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Aye.

SENATOR LIBOUS: That was with unanimous consent, Mr. President.

ACTING PRESIDENT BRESLIN: That was with unanimous consent. Thank you very much, Senator Libous.

The roll call is now withdrawn, and we are back on the bill.

Senator Klein.

SENATOR KLEIN: On the bill, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Klein, on the bill.

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

I've spent some time with many of my colleagues on the issue of property tax

relief for New Yorkers. I know I've spoken to probably everyone here, even members of the minority conference, on what we need to do to provide property tax relief.

It's very, very clear that the voters of New York State are angry, and rightfully so. Their property tax keeps going up, but their income isn't going up at nearly the same pace.

So one of the things I tried to do is craft a property tax relief plan which I think allows us to pay for it -- because it's almost the exact number of the former rebate check that was taken out of last year's budget -- but at the same time I believe really provides a comprehensive plan for New Yorkers to save on property taxes.

First of all, I think one of the most important concepts of any property tax plan is that if you indeed have a circuit breaker, you must have a cap as well. They work well with one another. I think you can't just have a cap, you can't just have a circuit breaker.

One of the things that I've seen

over the years is the reason why the STAR exemption program has kind of grown out of control is because taxpayer dollars, rightfully so, are going into a pot of money to give property tax relief.

So if we constantly raise taxes and taxes increase on the local and school district level, we constantly have to put money into it to pay for it. So that's why having the 4 percent cap in my legislation -- which would exclude capital costs -- I think will go a long way towards making sure that school districts live within their means.

You know, we're asking New Yorkers each and every day, especially now, during tough economic times, to balance their checkbooks, to live within their means, to do more with less. I do not think it is too much to ask our local school districts to do the same.

They have to, I think, learn to live within their means. And I think the way we're going to finally lower property taxes and make property taxes drop like a rock in New York State is a very, very important step

of actually having a cap in place.

Next is the circuit breaker. The circuit breaker would apply to anyone who earns under $250,000 a year, their gross income, and it's broken into various brackets: $120,000 or less, $120,000 to $175,000, and finally $175,000 to $250,000. The threshold percentages of property taxes are 7, 8 and 9 percent. The circuit breaker tax credit is 30 percent.

The reason why I had the bill at 30 percent, as compared to I know Senator Little, who's worked on this issue for so many years, is a basic answer, cost. If we did the legislation that was proposed by the minority today in the form of their amendment, that circuit breaker would cost well over $4 billion, including returning the STAR rebate check to everyone. I'd love to say we can do it during these fiscal times, but we just can't.

So I think the proposal at hand today is taking that $1.5 billion -- well, I think the price tag here is closer to my circuit breaker of 1.2 -- and actually, I

think, providing meaningful property tax relief.

I believe a circuit breaker is a much fairer and progressive means of helping people, because we're finally going to take into account the percentage of someone's income that they pay in property taxes. The way we did it in the past, excluding the exemption, is to actually just give someone a check whether they needed that check or not. Our only proviso was making sure that they earned under $250,000.

I believe that the people who truly need that check, regardless of whether or not they qualify for a circuit breaker, are senior citizens. So under my plan, we're going to have a circuit breaker in place but there won't be any double dipping. If a senior citizen actually qualifies for a circuit breaker, they don't get a check. If they don't qualify for a circuit breaker, they get the check. Everyone else has to actually fit into the categories that I laid out to be eligible for the circuit breaker.

I think that's going to be a plan

that's going to go a long way towards making sure that we finally not only have property tax relief but a fair property tax relief system.

I just want to get back quickly to the cap. As I said, the way --

ACTING PRESIDENT BRESLIN: Excuse me, Senator Klein.

Senator Flanagan, why do you rise?

SENATOR FLANAGAN: Mr. President, would Senator Klein yield?

SENATOR KLEIN: I actually will yield.

ACTING PRESIDENT BRESLIN: Senator Klein will yield, Senator Flanagan.

SENATOR FLANAGAN: Senator Klein, I'm listening very carefully. I have a couple of basic questions. And I know you're coming back to the property tax cap. And you made comments about how school districts have to live within their means.

And I don't doubt your sincerity or your efforts in this regard, but can you explain to me and to our colleagues, if it is such a good idea for school districts, why did

you not include a spending cap at the state level in this bill?

SENATOR KLEIN: I think the way that we're going to do something about property taxes right now, for the voters of New York State and our constituents, is by having a property tax cap. I know the Governor floated a plan that if we had a spending cap, we may be able to pay for property tax relief next year in the form of a circuit breaker.

I do not believe that the taxpayers of New York State can wait another year. I think we need property tax relief now.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: Would Senator Klein continue to yield.

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Klein?

SENATOR KLEIN: Yes, Mr. President, I'll continue to yield.

SENATOR FLANAGAN: Going back to the same point, so I'm gathering that you don't support the spending cap at the state

level at all, or just for this year?

SENATOR KLEIN: I don't support the spending cap as a means to get tax relief this year.

SENATOR FLANAGAN: Mr. President, would Senator Klein continue to yield.

ACTING PRESIDENT BRESLIN: Senator Klein, will you continue to yield?

SENATOR KLEIN: Yes, Mr. President.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Flanagan.

SENATOR FLANAGAN: I'm looking at the bill and the memo -- and I appreciate your indulgence. In looking at the bill and the memo, I think I read correctly, you said the fiscal complications are to be determined.

Now, you offered an assessment of the amendment which we just put forward which is vastly different in terms of its quantity of money. You're saying it's at least $4 billion, and yet this is $1.2 billion.

Can you explain how you get to the $1.2 billion and -- it is a two-part question, Mr. President -- how you pay for it? Because

I don't see anything in here. I think there may have been some press information as to how it would get paid for.

But, for example, on the renters piece, how much of that $1.2 billion is the 15 percent credit for renters? Because I would assume that there has been some quantification of just how many units we'd be talking about. So if you could, the 1.2, how that comes together, and then how you pay for it.

ACTING PRESIDENT BRESLIN:

Senator Klein.

SENATOR KLEIN: Well, first of all, the first part of your question was I guess the cost. The reason why the cost was higher under the minority plan is because you had your circuit-breaker tax credit at 70 percent of overage. I lowered mine to 30, which substantially saved a lot of money as far as the cost of the circuit breaker.

I'm not sure, but I also put in a three-year residency requirement. I'm not sure if that was in your amendment as well.

SENATOR FLANAGAN: That was in

the amendment.

SENATOR KLEIN: Okay. That also lowered the cost substantially.

And in answer to your question as far as renters, they would account for $150 million under my circuit-breaker plan.

ACTING PRESIDENT BRESLIN: Senat or Flanagan. And if you want me to get to the rest of how we.

SENATOR KLEIN: And I will -- if you want me to get to the rest of how we pay for it, I'll --

SENATOR FLANAGAN: Yes, please.

SENATOR KLEIN: Okay. The next portion, to answer your question on how we pay for it. One of the things that I think was very important, one of the things that I thought was very important we do this today, at the start of our conference committees and our budget process, is to sort of state out a tax savings plan, a property tax plan for New Yorkers that will be part of the budget.

And one of the things that we need to make sure to do is to come up with $1.5 billion to pay for such a plan. I don't

want to get into, you know, a budget negotiation now, but I will mention just a couple of things which I think would be able to be used to pay for the circuit breaker that we have before us today.

First is cigarette tax money. There's no secret, I don't think, to anyone in this chamber, I've been someone that's been advocating of collecting the taxes on uncollected cigarettes. I wrote the law in 2000 which bans the sale of cigarettes over the Internet, with Senator Chuck Fuschillo as the sponsor in this house. And one of the things that we found is unfortunately it's not being enforced.

Just today -- I think it was actually last night -- that the United States Congress passed a bill, which the Senate already passed, which now would ban the United States Postal Service from delivering cigarettes.

I personally believe we can now eliminate Internet sales. Which according to Crain's, who did an editorial -- and I'll be happy to present that to you -- last week, it

was rather comprehensive, and they put a price tag on how much we can generate in additional revenue -- and this is additional revenue, not a one-shot, but year after year up to a billion dollars. That's something that I think we have to take very, very seriously, as well as the issue of bootleg cigarettes.

So I think what happened in Congress yesterday is going to go a long way towards making sure that we finally get additional revenue. And I can't think of any better way to get this additional revenue than to give it back to homeowners, give it back to renters in the form of real relief through a circuit breaker.

Next is yesterday, a bill that I've introduced and passed the Senate last year -- which was practically voted on unanimously -- would expand electronic table games to racinos around the state as well as the expansion of hours. Our finance staff has put a price tag on that as far as additional revenue. And again, this is not a one-shot, it's recurring revenue, anywhere from $100 million to $150 million a year in additional revenue

earmarked specifically for education. So that's another area.

The other area members of --

SENATOR FLANAGAN: Mr. President, excuse me. Senator Klein, if you would suffer an interruption.

SENATOR KLEIN: I'm just getting to my third area.

SENATOR FLANAGAN: You're being very clear, but I think somewhat inconsistent. Because you just mentioned $150 million based on --

ACTING PRESIDENT BRESLIN: Senator Flanagan, are you asking him an additional question?

SENATOR FLANAGAN: Yes, I am.

SENATOR KLEIN: I'd be happy a yield, Mr. President.

SENATOR FLANAGAN: Clarification, I would suggest.

You just mentioned $100 million to $150 million for the bill for yesterday, and you said it's going to go right to education. So this is part of my concern in fleshing some of these things out. Are we using all these

revenue sources to buy back a wide variety of things? If it goes for education, it can't go for this bill.

SENATOR KLEIN: I understand. That's why I was very reluctant to get into a full-blown budget debate. And that's why I thought it was important to get this bill passed today to sort of stake out our claim, and hopefully all of our claims, to make sure we have property tax relief.

Again, if we have additional revenue for education which we didn't have a year ago, that way we could figure out a way to sort of do more with less and have extra money for property tax relief. That's how our budget works.

I think the most important thing that we need to get across today is that we want to make sure that when we actually pass a budget -- on April 1st, hopefully -- we will have a property tax plan in place and the money to pay for it.

SENATOR FLANAGAN: Mr. President, would Senator Klein yield for one last question?

ACTING PRESIDENT BRESLIN: Would you yield for one last question, Senator Klein?

SENATOR KLEIN: Can I get to the third piece?

SENATOR FLANAGAN: Absolutely.

SENATOR KLEIN: The third part of the plan -- and again, I know members on both sides of the aisle are on a task force that Senator Sampson appointed me to on government efficiency. And one of the things that we found out very, very quickly is that the State of New York is spending an awful lot of money in overtime. Last year state agencies spent upwards of $400 million in overtime.

Again, I want to make sure that hardworking public employees continue to have their job, they work very hard to make sure we have services here in the State of New York. But I think we really have to take a good hard look. And I'm sure we can save a tremendous amount of money by reducing overtime, cutting it in half, and making sure we distinguish between what I would consider mandatory overtime versus discretionary overtime.

SENATOR FLANAGAN: Thank you.

ACTING PRESIDENT BRESLIN: He's already yielded for the last question, Senator.

SENATOR FLANAGAN: And I'm not splitting hairs, but you mentioned in the beginning when you first spoke that this would cost $1.2 billion. Several minutes ago you just used the number $1.5 billion to pay for the plan.

So if we're going to talk about numbers -- and let me parenthetically add I think it's fabulous that we're having this discussion. And this may be the semblance of a budget debate because, frankly, absent this, there's not a darn thing going on relative to the budget. So your bringing this out may engender some real discussion on the budget. I certainly hope so.

But is it $1.5 billion, or is it 1.2?

SENATOR KLEIN: Under my plan, it was 1.2. I guess I should have expressed myself a little more clearly. What I was saying is we're taking the money that was

previously used for the STAR rebate check and applying it to a circuit breaker. And according to our estimates, we came in even lower than the $1.5 billion that was previously spent.

SENATOR FLANAGAN: Thank you, Senator Klein. Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Flanagan.

Senator Saland.

SENATOR SALAND: Will Senator Klein yield, Mr. President?

ACTING PRESIDENT BRESLIN: Do you yield for a question from Senator Saland?

SENATOR KLEIN: Yes, Mr. President.

SENATOR SALAND: Mr. President, I may have more than one question, but I'll obviously go through the chair.

ACTING PRESIDENT BRESLIN: Fine.

SENATOR SALAND: Senator Klein, I'd like to, if I could, call your attention to page 3 of your bill, beginning at line 26 and running down through line 36. And I believe that's the language with regard to

which you calculate your rebate under your construct. Am I correct?

SENATOR KLEIN: Yes.

SENATOR SALAND: Could you explain to me what that particular paragraph says? Because I can't quite comprehend how it gets to where you say it gets.

SENATOR KLEIN: What page? I'm sorry, Senator Saland, page 3 --

SENATOR SALAND: Page 3, lines 26 through 36. Yes, thank you.

SENATOR KLEIN: I'm not following. The enhanced STAR exemption shall be determined --

SENATOR SALAND: Yes. Yes. Yes.

SENATOR KLEIN: Basically as far as the exemption program. We're not making any changes to the exemption program at all.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: I -- if the Senator would continue to yield.

ACTING PRESIDENT BRESLIN: Would you continue to yield, Senator Klein?

SENATOR KLEIN: Yes.

SENATOR SALAND: Your bill, as I understand it, provides for a 30 percent enhanced STAR rebate for seniors?

SENATOR KLEIN: Thirty percent to circuit breaker. And the enhanced rebate percentage is 30 percent as well.

SENATOR SALAND: Thank you.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Thank you, Mr. President. I'm looking at this bill and desperately looking for something there that tells me that it's 30 percent. Because what I see is "such rebate base shall be computed by determining the exempt amount established for the segment for purposes of enhanced STAR exemption for the 2011 year. Such rebate basis shall be computed by multiplying that amount by the school district's tax rate applicable within that segment of the year as reported by the school districts and then multiplying the product."

Well, multiplying the product by what? It doesn't tell me what you're multiplying it by. So I don't know how you

get there.

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Senator Saland, I'm sorry, I'm just not understanding what your question is.

SENATOR SALAND: My question is if the essence of how you get to the 30,000 -- unless there's another paragraph I should be looking at -- if the essence of how you get to the 30,000 is contained in this paragraph, there's nothing in here other than the reference that I'm looking at, particularly lines 33 through 36, that says you're going to multiply something by the product.

What are you multiplying it by? Are you multiplying it by a fraction? Are you multiplying by 2, by 3, by 7, by a percentage? I mean, how is it that we get there?

SENATOR KLEIN: It's my understanding that we're not changing anything to do with the enhanced STAR exemption. I think the reason why we put it back is because when the rebate check was taken out of last year's budget, we had to put the language back

in.

SENATOR SALAND: I would --

ACTING PRESIDENT BRESLIN: Senator Saland, do you have an additional question?

SENATOR SALAND: I do.

ACTING PRESIDENT BRESLIN: Senator Klein?

SENATOR SALAND: And I would merely make a comment prior to my additional question, with your permission. I would respectfully request that perhaps your staff take a look at that section --

SENATOR KLEIN: I will, Senator.

SENATOR SALAND: -- because there seems to be something lacking. We can't get to a number without going through a calculation, and you don't tell us here what that calculation is.

SENATOR KLEIN: Thank you, Senator Saland. I will take a look at that.

SENATOR SALAND: Now, both the --

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Klein, to Senator Saland?

SENATOR KLEIN: Yes, Mr. President, I continue to yield.

SENATOR SALAND: Thank you, Mr. President. Thank you, Senator Klein.

Both the measure which we introduced in the form of an amendment and have introduced in the form of a bill and the bill before us provide for a cap on the tax levy. Can you tell me whether your bill also provides for a cap on spending and whether or not it also provides for the continuation of a contingency budget?

SENATOR KLEIN: Just the tax levy, Senator Saland.

SENATOR SALAND: Well, I looked through your bill -- and granted, it was last night and it was difficult for me to do it comprehensively. But I didn't find any repealer on a spending vote, and I didn't find any repealer on a contingency budget vote.

And we all understand that the cap on the tax levy is basically what's essential in order to enable the -- to define the confines within which a school district will have to live. So I would submit to you --

SENATOR KLEIN: I guess, to help you out, I know the tax cap is the identical tax cap to the tax cap that we passed in this house several years ago.

SENATOR SALAND: Yes, but I believe -- if the Senator will continue to respond --

ACTING PRESIDENT BRESLIN: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Mr. President, I'll continue to yield.

SENATOR SALAND: I believe that our version clearly has a repealer for both the spending vote, the vote on spending, and the contingency budget, in recognition of the fact that the tax levy is going to basically establish what that school district and school board has to deal with.

Senator Flanagan, in his questions, if you'll continue to yield --

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Klein?

SENATOR KLEIN: Yes, Mr. President.

SENATOR SALAND: -- raised a

question with regard to renters. And you said that the amount was some $150 million that you were allocating to that portion.

Do we have an idea of, first, perhaps through census data, how many renters there are in New York State versus how many residential homeowners there may be and what percentage of those renters would be affected by your legislation?

SENATOR KLEIN: In answer to your question, I don't have the specifics, but I do have some breakdowns which I'll be happy to provide of district by district.

And it's clear, just looking and reviewing the data, that districts that overwhelmingly have large amounts of homeowners as opposed to renters benefit much more from the circuit breaker. And their districts actually, you know, receive a lot more money for the circuit breaker.

The homeowners, according to the circuit breaker -- and I'll break it down -- would be about $900 million, thereabouts. As compared to the renters, as I said, was $150 million.

SENATOR SALAND: Thank you, Senator Klein. I certainly will endeavor on my part to try and see if I can get access to the information upon which your comments and conclusions are based.

And in your --

ACTING PRESIDENT BRESLIN: Do you have an additional question, Senator Saland?

SENATOR SALAND: Yes, I would. Thank you.

ACTING PRESIDENT BRESLIN: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Mr. President, I continue to yield.

SENATOR SALAND: In your exchange with Senator Flanagan you pointed to three sources, and the one that -- three sources of revenue for your bill. And the one that you are apparently most heavily relying upon is the cigarette tax money. Am I correct?

SENATOR KLEIN: That happens to be the largest number.

SENATOR SALAND: And has the Governor booked in his budget any money for cigarette tax collections?

SENATOR KLEIN: I think $250 million was allocated, I believe. Which I always thought was too low.

And in light of the United States Senate and Congress passing the legislation I talked about before, banning the delivery of cigarettes through the United States Postal Service, I think now we can increase that number to a much larger number -- as I said, as high as a billion dollars.

ACTING PRESIDENT BRESLIN: Senator Saland, additional question?

SENATOR SALAND: Thank you, Mr. President. No, if I may just go on the bill, Mr. President.

ACTING PRESIDENT BRESLIN: Certainly. Senator Saland, on the bill.

SENATOR SALAND: Thank you, Senator Klein.

I don't recall the Governor booking $250 million. I thought that the Governor had indicated that it was going to take some time to get this up and running. And I certainly will be more than happy to stand corrected; I simply don't recall it.

And the numbers which have been used over the course of the past several years for the cigarette tax have varied from anywhere as high as the $1 billion mentioned here today by Senator Klein to as little as a couple of hundred or $200 million.

Regardless of the action by the U.S. Congress, I suspect, whatever the number is, it is. Whatever Indian sales are occurring and occurring, as we've attempted to distinguish in the past, to people who are not native to whatever reservation they may be being sold on or whatever Indian lands they may be sold on, that is a number which I don't think one way or the other is going to be impacted by the Congressional action, although it obviously will contribute to making collection easier.

I would like, if I might, just to make a distinction and perhaps take issue as well at the same time with the financial calculations offered by Senator Klein with respect to the cost of the bill that was introduced as our amendment to Senator Klein's bill.

We actually placed the cost of that at some $2.6 billion. And like Senator Klein, we find some $200 million or more in efficiencies -- I think that's the term he used -- dealing with overtime. We certainly recognize that were we to enact a spending cap, that sometime before the conclusion of this year, were we to enact one, there would be additional revenues available. And certainly in the outyears, there would be even more revenues available.

The one thing that was conspicuously absent in the explanation of where revenues were to be derived was any mention of the need to curb the ever-growing and seemingly growing exponentially, voraciously consuming Medicaid programs that this state has. And our proposal would support or be supported by any number of efforts to curb some of that spending to deal with some of the optional programs.

It was recently reported, for example, that actually someone was, for nonmedical necessity, taking taxicabs from a place in my district to Albany at $300 a pop.

I mean, that's truly, truly beyond the pale. And that's a small example of one of the abuses of this system.

We would, among other things, go back to some of the eligibility requirements and screenings that had existed under prior law until avoided or repealed during the course of the past couple of years.

I mean, it's anticipated that over the next three years Medicaid is going to grow by 37 percent, some $5.3 billion more. We're already paying a billion dollars a week to sustain that program. And yet, you know, no effort in any way, shape or form to use some of those dollars to provide property tax relief to the very same people who at the county level are footing the bill.

Any county executive will tell you that there's absolutely nothing that is more damning, more costly, does more to damage their budgets than their Medicaid expenses.

And, you know, there are other things that could be done and we propose to do that enable us to fund this $2.6 billion proposal. And I certainly would hope at the

very least that this exchange, which I believe is an honest exchange, will be heard over in the other house. And that perhaps someday, if I live so long, I will get to see us engage in a conference committee that can hammer out some differences if the Assembly in fact ever takes up a similar bill.

Thank you, Mr. President. And thank you, Senator Klein.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland.

Senator Craig Johnson.

SENATOR CRAIG JOHNSON: Thank you very much, Mr. President.

First let me commend the deputy majority leader, Senator Jeffrey Klein. Since I began my tenure here three short years ago, it seems that almost every policy debate that I've had with Senator Klein, both in conference and outside of the halls of the Capitol, center around what we can do for property tax relief, as both he and I represent suburban areas in New York State and both are facing the growing problem along with our constituents -- a property tax problem

that's been here not just yesterday or last week, but here for decades. Here for decades.

And so I want to thank you first, Senator Klein, for your leadership on this issue. I truly appreciate the vigorous debate that you have brought to this house. And I thank the Senators who have asked him some very important questions. I want to thank Senator Bonacic for joining us in supporting and serving as a cosponsor of this legislation.

You know, I sat and listened to Senator Saland and Senator Little, Senator LaValle, with their amendments. And just now it would have been great maybe to have heard Senator Saland, during the actual presentation of the amendment, explain how they were going to pay for this amendment.

And I tried to digest the 96 pages, just getting it, to try and see if I could support this amendment. And there are a lot of things in here that in principle I have supported and a lot of us have supported in the past and will continue to support in the future. And I think what's important today

and important about this debate is to be getting those ideas out on the table to support a piece of legislation, to pass a piece of legislation, like Senator Saland said, to make sure the other house as well as the occupant on the second floor hears the Senate loud and clear.

And so I'm hopeful that we can take ideas that have come out of this Senate, along with this piece of legislation that's going to pass today -- and I'm hopeful it's going to pass -- that we can move the bill forward and go into the budget debate. Because it's an important debate to have, not just today but over the next week or until the deadline of when the budget is due.

And it's important for our constituents to hear about the three components to this bill: the property tax cap, the circuit breaker, and the check for our seniors.

You know, when we talk about the circuit breaker and the cap, Senator Klein is absolutely correct, they do go hand in hand. You can make the analogy they're like peanut

butter and jelly or peanut butter and chocolate. You've got to have them both together. They're great one-on-one, but they work a lot better together, because it keeps the spending in check.

And it's a great idea for our constituents, especially now. Because what we've seen, not just in the real estate crisis but the economic crisis, is a number of our constituents all across the state are house-rich and cash-poor. And that's just not limited to Suffolk County or to Ulster County or Erie County, it's also in Queens and Staten Island. They're homeowners. They're homeowners too. And this bill provides real relief. It provides relief to renters as well.

So it's an important day. And we have to recognize, and I think it's important to recognize looking not just is that bill in the micro issue but the macro issue. Look across the river to the west, to New Jersey. Governor Christie, the new governor of New Jersey, campaigned on a promise that he was going to bring back the rebate checks for

the residents of New Jersey that were taken away. Just earlier this week, Governor Christie announced, You know what, I've got an economic problem, I'm putting that off for a year.

You know what? We've got an economic crisis. What Senator Klein is doing is recognizing we're providing property tax relief within the economic constraints that we are facing. His original bill had a $2 billion price tag. We had to reduce it down. We've offered ways to pay for it. I've heard Senator Saland's ideas. I look forward to fleshing them out in conference committee.

One of the things -- and I wish he was on the committee, on the Investigations Committee, but he could have attended the hearing yesterday, is we had a hearing on Medicaid fraud. And Senator Golden and I grilled the representative from the Office of Medicaid Inspector General, because they're not doing enough about recipient fraud.

And so the example that Senator Saland talked about, the taxicab ride back and forth, those are problems that have to be

addressed. We have to do a better job. And there are other things that we can find within this budget, this $130 billion budget. But we're going to have to work together.

And so I'm hopeful that today, in a bipartisan effort, we will start that process. And so that at the end of the day we will have property tax relief for our residents all across the state.

Again, I thank you, Senator Klein, for your leadership. Mr. President, I will be voting yes on the bill.

ACTING PRESIDENT BRESLIN: Thank you, Senator Johnson.

Senator Savino, on the bill.

SENATOR SAVINO: Thank you, Mr. President.

I want to thank Senator Klein for his leadership and his vision on this, and also my colleagues who mostly represent the suburban areas that have been hardest hit by property taxes. And of course Senator Sampson for making this a priority.

You know, I learned a long time ago in the labor movement that when you go into

negotiations, you never go in from a position of weakness. You have to start out strong. You have to lay your best case forward, with the greatest demands, knowing that at some point you're going to have to step back a little bit. But always know what your bottom line is.

We are about to go into the budget process where we're drafting our budget resolution, laying out the priorities for the New York State Senate, both parties, the entire house. And I think if we clearly and strongly say, as we go into this negotiation with the Assembly, that property tax relief must be a component of whatever budget we pass, we will achieve something for the thousands of homeowners all across the state, whether they be in my district -- and there's about 9,000 households that would benefit from this -- or Senator Lanza's district on Staten Island. He represents a few more homeowners than I do, but we'd bring real property tax relief to Staten Island or to Queens, where Senator Stavisky lives.

You know, I mentioned earlier today

that I grew up in Queens. You know, I was the second-generation grandchild of immigrants. And I remember watching my parents' generation, who were the first generation of immigrants, whose parents came from the Lower East Side tenements of Manhattan to the outer boroughs to live in better accommodations, but still in apartment buildings.

And I watched my parents' generation, who really wanted to move on and achieve the American dream, go out like pioneers to the suburbs. First they went to places like Nassau and to Westchester. And then they went out to Suffolk County and then to Putnam and to Rockland, and finally Orange County. And they went for the hope of the American dream of homeownership, a patch of land that they could call their own, and decent schools.

Thirty-five years later, after the great migration to the suburbs, those pioneers find themselves in an American nightmare. Their property taxes and their property tax payments are the higher than their mortgage payments in many ways. The communities that

they built and the schools that they built around them -- and the business community, and everything that was benefited by those pioneers who went out into the suburbs -- are jeopardized because the very people who stuck a claim in the ground in Nassau, Suffolk, Rockland, Westchester, Orange, and Putnam, are leaving in droves because they can't afford to stay there. Their children can't afford to buy a home there. And if they can to afford to buy the home, they can't afford to pay the property taxes.

We have an obligation to do something about that and correct it. We can maintain the good schools that drove people to the suburbs to begin with. We can put some fiscal stability on those communities. We can maintain that American dream. And we can do it by staking our claim in this budget. Remember, you never negotiate from a position of weakness. Because when you do, you don't get anything.

So I want to thank Senator Klein and Senator Johnson and Senator Foley and Senator Saland and Senator Marcellino and

Flanagan and all of those who represent -- and Senator Libous and Senator -- I'll be here all day if I start doing this. Everyone who took the time to educate a girl from Queens and now Staten Island about just how difficult it is to maintain that dream of homeownership for so many of the thousands of pioneers who built these communities.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Savino.

Senator Stachowski, on the bill.

SENATOR STACHOWSKI: Yes, Mr. President, briefly on the bill.

I just wanted to say that I agree with a lot of what Diane said, that we're staking out our position. I think it's very important. The people in New York State want property tax relief. It's been well documented how the combination of taxes in New York make living here difficult.

And so we thought that before the budget conversation started this year, in seriousness, that we should stake out our position that property tax relief is very

important to this body. Nobody can put a political tag on property tax relief; it's important to everybody.

And that this combination as put forth in this bill is reasonable considering our fiscal situation. Obviously, we'd like to make it bigger. But with today's economy, this is a reasonable start to head down the road of property tax relief to our people. A circuit breaker works very well for people because it limits your taxes to a certain portion of your income. Very much needed for a lot of people.

And for those seniors who would not qualify for this, getting that check is just as important to them as the property tax relief for the others.

So we think that this combination as laid out in this bill is a good combination now, it's affordable, it can fit in this year's budget plan, it's out there. We want to stake the Senate's position on that. And I want to congratulate Senator Klein for all the work he did in the back over the course of the last two years in putting this together.

Obviously, other people have worked on this long. We'd like to thank them for their help.

But something had to move now, and it had to be a part of this conversation. And hopefully we can convince the people in the other house and the people downstairs that this is an important situation, it's meaningful to everybody that lives in New York, it's something that should move forward now.

And I'm glad to be a cosponsor of this bill and someone helping to move this forward.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Stachowski.

Senator Foley, on the bill.

SENATOR FOLEY: Thank you, Mr. President. Thank you for the opportunity to speak on what clearly is one of the signature issues facing the state and something that's very important to this conference and we hope to the Senate at large.

You know, a year and a half ago when I first ran for office for this

particular position, this issue captured the attention of more voters than any other issue that we spoke about. And I can vividly recall when I was walking particularly in the Trihamlet community of Shirley, Mastic Beach and Mastic, working-class, middle-class areas that love their communities, where we had both young families as well as seniors who wished to stay in the communities that in some cases they were there for generations.

Mr. President, this particular piece of legislation will enable families to stay in the communities that they've been part of in some cases for four generations. I had one particular example of a retiree whose family still lived in that greater community who would receive over a $2500 property tax break with this kind of legislation. The joy on that particular's person's face when we spoke about this is something that I'll always remember. And I made a mental note at that time to bring it up to the floor when in fact we would debate this bill.

Coming from local government, Mr. President, and the kind of legislature,

and also as a supervisor of the Town of Brookhaven, I can tell you how property taxes is among the most regressive and crushing taxes that our localities pay. That's why it's very important that we put forward this legislation today.

And I want to commend Senator Klein, who has worked on this over a period of years. And I would say, for the record, respectfully but directly that Senator Klein's efforts on this behalf should have been listened to years back when this state was in a wash of billions of dollars of surplus funds.

But you know what? Even though we're not in surplus right now -- yes, we have a deficit, but it still remains important that we put this legislation forward today. And it's very timely as we go into budget negotiations. Because what we're saying, as I like to say, from Niagara Falls to Montauk Point is that we get it, we understand that property taxes is at the top of our public policy agenda, and that we're going to bring real change in that area here in the state

government, and in so doing bring a little bit more confidence to the public that we in the State Legislature are listening.

So I strongly support the bill. I'm also a cosponsor of it. And I think that it speaks volumes about where we are, that we're listening to the public and we want to bring real property tax relief.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Foley.

Senator Aubertine, on the bill.

SENATOR AUBERTINE: Thank you, Mr. President. Thank you for allowing me to speak on the bill.

I certainly want to commend Senator Klein for staying the course with this legislation. It's certainly sorely needed. And I would certainly hope that it has bipartisan support at the end of the day to pass.

But one of the provisions that Senator Klein has included essentially takes the essence of a bill that I had before the Senate last year, and currently, 4451, which

would allow farmers here in New York State to do something they've not been able to do up till now, and that is to take their depreciation schedules and not use that, in fact, during their incomes. That would allow them to participate in this program.

So for that and all the work that Senator Klein has done, I certainly want to commending him for bringing this bill forward, and I certainly intend to support it.

ACTING PRESIDENT BRESLIN: Thank you, Senator Aubertine.

Senator Valesky, on the bill.

SENATOR VALESKY: Thank you, Mr. President.

I too want to thank my colleague Senator Klein for his efforts in bringing this bill to the floor. I know he spent many hours shaping and crafting a proposal that can bring real property tax relief to our constituents.

And I'm sure that my colleagues would agree that as we consider various pieces of legislation, we look at and see how they are beneficial to our specific Senate district. And the information that has been

made available as a result of this bill and through passage of this bill, and hopefully favorable consideration in the Assembly after this Senate approval, is that in my Senate district alone, over 15,000 households, under the circuit-breaker component of this legislation, over 15,000 households receiving real property tax relief. Average income tax credit of over $716 per household. Renters in the 49th Senate district receiving an additional about almost $5,000, in total, of property tax relief.

And certainly the enhanced senior STAR rebate check component of this legislation in the counties in central New York -- Cayuga, Cortland, Madison, Onondaga and Oswego -- almost 43,000 seniors would be receiving an enhanced senior STAR rebate check, with an average somewhere around a $1000 each.

Mr. President, that is real, real property tax relief. I'll be supporting this bill today and certainly encourage my colleagues on both sides of the aisle to do the same.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Valesky.

Senator Diaz, on the bill.

SENATOR DIAZ: Thank you, Mr. President.

Mr. President, would the sponsor yield for a question or two?

ACTING PRESIDENT BRESLIN: Senator Klein, will you yield for a question from Senator Diaz?

SENATOR KLEIN: Yes, Mr. President, I'll be happy to yield.

ACTING PRESIDENT BRESLIN: Senator Diaz, the sponsor will yield.

SENATOR DIAZ: Senator Klein, as you know, I represent the 32nd Senatorial District. But I'm also the chairman of the New York State Senate Aging Committee. So I have two questions.

Before, let me talk about my district, the people that I represent. I have 20,882 households in my district. You are telling me, you are telling me, Senator Klein, that when we vote for this piece of

legislation, we vote yes and it goes to the Assembly and the Assembly approves it and the Governor signs it into law, you're telling me that 3,920 households in my district will be able to get at least $475 each?

SENATOR KLEIN: That's only homeowners who would qualify for the circuit breaker. That's correct.

SENATOR DIAZ: I mean, let me ask you this I don't know if I hear you okay, right. So 3,920 households in my district will be able to get about $475 each?

SENATOR KLEIN: That's correct, under the circuit-breaker provisions of the bill.

SENATOR DIAZ: Under this bill?

SENATOR KLEIN: Under this piece of legislation.

SENATOR DIAZ: And you're telling me that under the circuit breaker, the people in my district will be getting about $6 million?

SENATOR KLEIN: Six and a half million, in total, of levels of property taxes.

SENATOR DIAZ: So the renters in Parkchester, in my district, will be able to benefit from this?

SENATOR KLEIN: Well, I think Parkchester is a condominium. And yes, condominiums would qualify for the circuit breaker. And I guess the ones who pay rent as well.

ACTING PRESIDENT BRESLIN: Would you like to ask an additional question, Senator Diaz?

SENATOR DIAZ: Yes, Mr. President.

ACTING PRESIDENT BRESLIN: Would you yield, Senator Klein?

SENATOR KLEIN: Mr. President, I'd be happy to yield.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Diaz.

SENATOR DIAZ: And the people that rent in public housing, would they be able to benefit too?

SENATOR KLEIN: Senator, it depends on the proportion of their income that they spend in rent. So I would --

SENATOR DIAZ: Well, let me --

ACTING PRESIDENT BRESLIN: Do you have an additional question?

SENATOR DIAZ: Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Klein?

SENATOR KLEIN: Yes.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR DIAZ: Senator Klein, I am also the chairman of the Aging Committee, supposed to serve the whole state, not only my district. You're telling me that under this piece of legislation, senior citizens throughout the state, senior citizens will be able to benefit from this piece of legislation?

SENATOR KLEIN: Yes, Senator. Because under the legislation, the STAR rebate check would go to senior citizens at previous levels who don't qualify for the circuit breaker. And this legislation also restores the New York City PIT credit for seniors in New York City. So yes.

SENATOR DIAZ: Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT BRESLIN: Senator Klein, will you continue to yield to Senator Diaz?

SENATOR KLEIN: Mr. President, I'll continue to yield.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Diaz.

SENATOR DIAZ: I have a piece of information in my hands that says, Senator Klein, that every county that's upstate, that's somewhere upstate -- this is not in the South Bronx, every county is upstate -- they're telling me here that the senior citizens in every county, New York seniors with $40,000 in income and $5,000 in property taxes will benefit from this?

SENATOR KLEIN: Yes, Senator. Actually, an Erie County senior with $40,000 income who pays $5,000 in property taxes of course will continue to receive the enhanced STAR exemption. The net result for that individual, who would qualify for the circuit breaker, would be $1,299 more in tax relief

than they got in 2009, and even $386 more than they got in 2008 before the check was eliminated.

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Mr. President, will the sponsor --

ACTING PRESIDENT BRESLIN: Senator Klein, will you continue to yield to Senator Diaz?

SENATOR KLEIN: Mr. President, I'd be happy to continue to yield.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Diaz.

SENATOR DIAZ: I have, in the same piece of legislation, I have three other countries, like Oswego County, Westchester County senior citizens, and Suffolk County. In Oswego County, seniors with family with $60,000 income and $6,000 in property tax will benefit. In Westchester County, senior citizens with $120,000 per year and $12,000 in property taxes will benefit. And that the Suffolk County family with $150,000 in income and $50,000 in property tax would benefit from

this.

So you're telling me that as the chairman of the Aging Committee, I could tell all the senior citizens in the state that this Senate, Republican and Democrats, under this the piece of legislation that Senator Klein is sponsoring, we are working very hard for them?

SENATOR KLEIN: Yeah, actually you can say that, Senator. Because under the various categories and the various counties within our state -- Oswego, Westchester, Suffolk -- not only do seniors benefit, but they benefit more than they did in the past as far as just having the rebate check. A circuit breaker provides more property tax relief, especially for a senior, than just having a rebate check. So --

SENATOR DIAZ: Mr. President --

SENATOR KLEIN: -- your assumption is correct.

SENATOR DIAZ: -- just two more questions.

ACTING PRESIDENT BRESLIN: Senator Klein, would you yield for two additional questions?

SENATOR KLEIN: Yes, Mr. President, I'll continue to yield.

SENATOR DIAZ: The first question is this. Would I be able to say, Senator Klein, that anyone that votes against this is voting against senior citizens?

SENATOR KLEIN: Well, I will say, Senator, in answer to your question that certainly this is a piece of legislation that helps senior citizens. Because even if a senior citizen, under this legislation, does not qualify for a circuit breaker, they still get their rebate check back. And if they live in New York City and if they qualify for a circuit breaker, that's great. But if they don't, they still get the New York City PIT credit under --

SENATOR DIAZ: Last question, Mr. President and Senator Klein, is this.

ACTING PRESIDENT BRESLIN: Senator Klein has indicated he will yield.

SENATOR KLEIN: Yes, Mr. President, I'll be happy to yield.

SENATOR DIAZ: My question is this. After all this information, after all

this help that we're giving to senior citizens and to people that pay property taxes and we're trying to do something for them, why are we continue talking and we don't vote for it?

SENATOR KLEIN: I can't answer that question. But I know I continue to answer your questions, Senator.

SENATOR DIAZ: Senator Klein, this is a bill that I am very proud of and honored to support it. I congratulate you and your staff and the members of the Senate that have put this together with you. This is something that really, really, really does something for senior citizens in the state.

As the chairman of the Aging Committee, I'm so proud, I'm honored to support this legislation.

SENATOR KLEIN: Thank you very much, Senator.

SENATOR DIAZ: And I ask everyone else that we should do something for senior citizens and to please talk no more and let's vote for it. Thank you.

SENATOR KLEIN: Thank you.

ACTING PRESIDENT BRESLIN: Thank

you, Senator Diaz.

Senator Bonacic, on the bill.

SENATOR BONACIC: Thank you, Mr. President.

I want to thank Senator Klein for bringing this bill forward. Property tax reform is something that has been a top priority with me for the last six years. The people in the mid-Hudson and the Catskill region, many of them have their houses underwater because the mortgages and the property taxes are just eating them up.

And what I like about this particular bill is that it's not just a STAR rebate check, it has a cost-containment provision. We've seen how doing just STAR rebate checks, what happened. In good times, we gave more money at the state level for STAR, school budgets went through the roof, there wasn't cost containment, and it wasn't successful.

And it wasn't successful -- and I want to share with you just an experience yesterday. In the Minisink Valley School District, where I live, they laid off 24

employees, immediately. And then they're now looking at laying off teachers at the end of June. After all the money we have given them, the State Legislature, over the last six years with the STAR rebate check.

So it's not a matter of just throwing money. We have to find a way of controlling costs and enhancing the educational opportunities.

The last point that I want to make, it started in 1993 with Senator Cook that wanted a property tax rebate. In 2006, 2007, and 2008, Senator Saland and I and this conference -- and you -- supported legislation that would eliminate school property taxes for primary residences. And that was a collective effort of the Senate.

Senator Krueger has now been an advocate for property tax reform and is working in the aspect of the tax-exempts, where there's a shifting of cost, and trying to eliminate those abuses. And I join her in that effort, and I hope that she comes forward shortly with comprehensive legislation in eliminating the abuses of tax-exempts.

Last but not least, we have to be united on this issue as the budget talks start. In '93, the Assembly did nothing. In 2006, the Assembly did nothing. In 2007, the Assembly did nothing. In 2008, the Assembly did nothing. They cannot continue to sit on their hands when people are losing their homes because of escalating property taxes. Homeowners should not have to choose between whether I can stay in my home or whether my children can have a quality education.

So I look forward to conference committees next week, and the budget process. We should be one voice in this Senate to get it done this year, together.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Bonacic.

Senator Adams.

SENATOR ADAMS: Thank you, Mr. President.

And I'm happy I follow Senator Bonacic, because he has been consistent on this issue. As well as I want to commend Senator Klein.

You know, I think that all great legislation that passed through this house, many people outside the chamber are not aware that it's not year one, it's just year after year after year an individual is consistent with the same tone and the same message. And he's probably not only singing to the choir when he talks about property tax relief, but many of us probably wrote that song as well.

So Senator Klein really needs to be commended that during these challenging economic times that we're talking about something that impacts New Yorkers.

And I believe there are three sections of our society that we must come to the rescue for. The first, of course, are our children. The second are those who have either physical or emotional special needs. And the last are our seniors. And we are all in a position where we should be willing to give more to make sure those three sections of our society that needs the greatest amount of assistance get that assistance.

We all were children one day, and we all, if God permits, are going to be

elders. So those are groups of people that we are supposed to give them theirs off the top. And we need to find ways, as Senator Klein stated, we need to find ways to make sure that this is a reality.

And it also resonates another tone. the beauty of this chamber is the diversity of this chamber. And those outside this chamber will criticize the fact that we debate, will criticize the fact that we argue. But that's what we're supposed to do. We're changing laws that impact the lives of people. We're not supposed to walk in here and all be on one accord, because the state is not on one accord. What is needed in one part of the state may be different in another part of the state.

But we should always give each other the opportunity to debate, bring to the forefront those issues that each neighbor is talking about. And no matter where you go in this state, the question of property tax relief is a real issue. And we are in a win/win scenario because when we relieve the property tax issue and the rebate for our

seniors, we're covering the areas that we believe are important.

So one can articulate where you're going to find the money, but darn it, we better find the money, because it's a tone that's resonating throughout this state. So yes, we're the choir and we're singing that song, but we've got to have that song and the chorus of that song sung on the second floor and across in the other house. We must give property tax relief. That's what's being called for. And if we have to cut in other areas to obtain that, then let's cut in other areas to obtain that. Because that is the message that the people of the state has been stating.

And if we can't sing the same song of the people who sent us here, then we're in the wrong choir. This choir is saying property tax relief. And I commend Senator Bonacic and Senator Klein for being consistent with that message.

And if both sides of the aisle, if we put aside our philosophical differences, if we put aside our differences based on

geographical boundaries, if we put aside on what side of the aisle or what name is on the back of the chair or what role we are at the polling place, if we put all that to the side and leave here with one statement to the second floor and across in the other house, property tax relief, then everyone must get on board.

Because we're not the lower house, we're the upper house. And we need to set the tone for those people in our communities and neighborhoods from Bethpage to Brownsville that are stating, We need the rebate and we need property tax relief.

I support this bill, and I thank you, Senator Klein, for bringing it. Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Adams.

Senator LaValle, on the bill.

SENATOR LaVALLE: Thank you, Mr. President.

Will Senator Klein yield for one question?

ACTING PRESIDENT BRESLIN:

Senator Klein, will you yield for a question from Senator LaValle?

SENATOR KLEIN: Yes, Mr. President, I'd be happy to yield.

ACTING PRESIDENT BRESLIN: You may proceed, Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

Senator Klein, could you tell me how much the renters provision costs in the bill? Have you been able to cost that out?

SENATOR KLEIN: Yeah, it's $150 million.

SENATOR LaVALLE: Statewide?

SENATOR KLEIN: Yes.

SENATOR LaVALLE: Okay. Thank you.

On the bill, Mr. President.

ACTING PRESIDENT BRESLIN: Senator LaValle, on the bill.

SENATOR LaVALLE: Certainly any effort that we make to reduce real property taxes on the people that we represent is a good thing. But this problem is so acute, I think in each of our districts people are

calling out for help. The pain that they feel is enormous. This bill really doesn't go far enough.

Our young people, you know, we've talked, I've talked about those seniors who are 70 or older. There are a lot of young people. That's why the STAR rebate program covers all households regardless of age. Senator Klein's bill limits that. If we look at the circuit breaker, income of $50,000 and you have taxes of $3500, you get no help. At $75,000 in income, your taxes $5,250, you get no help. If your income is $100,000 and your taxes are $7,000, you get no help.

And I want to tell you, there are a lot of people in various parts of the state at that $100,000 who are paying $7,000 in taxes and won't get any help. And $120,000, with taxes $8400, no help; $175,000, with $12,800 in taxes, you get no help.

So we have young people not getting help. We've got people in these income categories in various parts of the state who will get, really, no help. And that's why the choice set up of the rebate, the circuit

breaker, and the freeze or the cap for those over 70, that kind of synergy works from one end of the state to the other.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator LaValle.

Senator Larkin.

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

ACTING PRESIDENT BRESLIN: On the bill.

SENATOR LARKIN: We've heard a lot of talk here today. Some of you are not as old as LaValle or Volker or Georgie Winner over here. But in 1980 there was a bill put together by Senator Cook and Assemblyman Bill Larkin, and we went around the state with it. Here we are, 2010, and we're still talking about.

Now, I heard Senator Klein say we can't talk about the money. But let's talk about the money. You have to. We're saying we're going to wait for a budget? I think that we have to make sure what we're talking about. I mean, this is a very important bill

today. Look at all the empty chairs. Look at all the empty chairs.

Some of you might remember a couple of weeks ago, in Washington, Congressman Kennedy nearly went wild -- maybe he lost his pills -- but he screamed that nobody was paying attention.

This is serious. Where is the money? I don't hear anybody say it. I hear them saying, Oh, we're going to do this. Let's look at it: $129 million for the license plates. That's a dead issue. The Speaker said this morning the soda tax is gone. That's $450 million. And wine in the grocery stores, that's another. Now you're talking a billion dollars.

And we don't know where this is going. We're saying we'll do it when the budget comes. I don't know whether you're paying attention to some of your people at home, but they're saying "Where is the money?"

And, you know, the thing that amazes me from that side of the aisle is when they say We're going to do something about the STAR. I saw letters come out: Join me with a

letter to the Governor, change it before he does his 21 days. Now I see it here. You would have never been here talking about it today if one year ago one person from that side of the aisle said "Hold it." Because, you know, somebody may be taking your picture and say "This was you last year when you were smiling. This is you this year when you're crying."

There is a great opportunity, but somebody better start saying where the money is coming from.

Most people are going to vote for this because conceptually it's a good item. But where were you last year? You weren't here. Why? Because it wasn't popular. I got news for you. It's been popular for the 30 years I've been here. The will to do it just wasn't there. But when somebody gets up here and says "Support my bill" and I say "Where's the money?" -- "Oh, by the time we get to the budget."

We don't have a sponsor in the other house. I checked with it; there is no sponsor from the Assembly. I don't see any

letters. The only one I see is from NYSUT. They don't support you. So I think we're --

ACTING PRESIDENT BRESLIN: Excuse me, Senator Larkin.

Why do you rise, Senator Craig Johnson?

SENATOR CRAIG JOHNSON: Will Senator Larkin yield for a question, please?

SENATOR LARKIN: Yes, I would.

SENATOR CRAIG JOHNSON: Thank you so much.

Senator Larkin, I appreciate your comments that you're saying. But are you aware that Assemblyman Englebright in the Assembly has the same-as legislation for Senator Klein?

SENATOR LARKIN: Pardon me, I couldn't hear you. My ears are not working.

SENATOR CRAIG JOHNSON: I apologize, Senator Larkin. Are you aware that Steve Englebright, an Assemblyman from Suffolk County, is the Assembly sponsor for the same-as legislation --

SENATOR LARKIN: I didn't see it yesterday when I was trying to find it. So I

accept that, and I apologize to Senator Klein.

SENATOR CRAIG JOHNSON: Just for purpose of clarification. Thank you very much, Senator Larkin.

ACTING PRESIDENT BRESLIN: Thank you, Senator Johnson.

You may proceed, Senator Larkin.

SENATOR LARKIN: I'm glad, but I haven't seen anything, as I said.

But the point of the matter is if we got a bill, it's sponsored in both houses, why are we afraid to come up and say this is the money for this, and this is it? The reason we don't is we don't have an agreement. And, you know, we're talking to the choir and trying to tell them that we're doing something for them.

Now, last but not least, when somebody tells me it's only $150 million for the renters, I think somebody better be part of the Census. Because I'll bet you it's going to be closer to $250 million, not $150 million.

So good bill. I'd like to see the check that's going to pay for it.

ACTING PRESIDENT BRESLIN: Thank you, Senator Larkin.

The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you very much.

I have some concerns, as I've heard my colleagues say, about making sure that this bill moves into budget negotiations. And that's where we're going to go next.

So while there can be a million different issues raised -- and with respect to my colleagues on the other side of the aisle's hostiles, they would have doubled the cost. And realistically, we all know we're in a very difficult budget year where we are trying desperately to get a budget done on time,

knowing we're going to make difficult cuts.

But I am pleased to be able to stand with my colleagues and vote for this bill today, because I do know that a priority of the Senate Democrats is to make sure that we address property tax relief concerns this year.

I vote aye. Thank you.

ACTING PRESIDENT BRESLIN: Senator Krueger will be recorded in the affirmative.

Senator Robach, to explain his vote.

SENATOR ROBACH: Yes, Mr. President, very quickly.

I would just rise to support this, but I would associate my comments very much with Senator Bonacic.

One thing Senator Klein said that was on point, people are angry. People in my district are beyond angry, they're screaming. And part of what they're screaming about is what was done in last year's budget where part of the STAR check was taken away, on party-line vote, by my colleagues on the

Democratic side of the aisle. So I'm glad we're moving in a different direction.

Now I'm going to make no bones about it. I'm frustrated too. I like the amendments we did. I like the Republican plan. And I think if people voted on their own volition, they would have voted for those too. Because it doesn't cost more, it gives more relief, and that's what people are screaming for.

And then lastly I'll say while I'm happy that we're moving in this direction -- and I'll applaud Senator Klein as well that we're doing this bill today -- before anybody breaks their arm patting themselves on the back, we're all going to have to use a little political capital to get this done in the other house. Which is exactly what John Bonacic said. It has languished for years with no attention to the public, whether it's downstate New York, suburban Long Island, or certainly not in upstate New York. And this is serious stuff.

The work isn't done because we've had a press conference. We've really got to

get this done. And whether it's stand-alone or part of the budget, quite frankly, the people I represent don't care, they want a result. So I'll vote for this to move towards that result. But make no mistake, our work is far, far from done.

ACTING PRESIDENT BRESLIN: Senator Robach will be recorded in the affirmative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: Thank you.

I'll be voting yes because there's much in this bill that I do like very, very much, particularly my Senate district, which certainly is exceedingly overburdened. We have the highest property taxes, in Westchester County, of any place in the United States. So obviously I am very supportive of that part of the bill.

The part of the bill that I have difficulty with -- even though I am supporting the bill, because generally I do think the bill is good. But I believe that individual school districts should have the authority and

ability to decide their own fate.

And to think that citizens are not aware of their budgets is foolhardy, because I can assure you the citizens in the district that I represent scrutinize their school budget budgets. And, you know, as we all know, this is the only place where voters can take out their frustrations. And it is on the school budget that they take their frustrations out on.

But one would think that if this cap was such a good thing that we ought to be able to cap those other budgets, like municipal and county. We should be able to cap them too, because in a way we can't even vote on those budgets. So a lot of frustration is taken out on the only area where it is possible to vote.

I'd also like to say that just judging from what I hear in my Senate district, there is absolutely no school budget that seems to be above 2, maybe 2 1/2 percent. Because we all recognize that there is a great deal of frustration and anger with the property tax, and that therefore we have to

restrain it even though it does mean in many cases enormous layoffs of teachers. Which means it will be difficult to maintain the excellent education programs that we have just finally put in place in the last few years.

So I'll be voting yes, but I must say I have always been and will always be against caps.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer will be recorded in the affirmative.

Senator Fuschillo, to explain his vote.

SENATOR FUSCHILLO: Thank you very much, Mr. President. Just quickly; this has been a long discussion.

I agree with Senator Robach that last year direction's in the state budget by reducing STAR and taking away the rebate and increasing taxes and fees sent the state in the wrong direction. But this is a start in the right direction. And I want to compliment Senator Klein for his efforts, because he did truly reach out, I know to myself -- I met with him, we had numerous phone calls on this

issue -- and also my colleagues.

There isn't a day that goes by that I don't hear from constituents in my district that they're choking to death on property taxes. And if we don't do something that's real and meaningful, then we fail the people of the State of New York. This is a step in the right direction. Shame on the Assembly if they don't do anything. I proudly support this bill.

ACTING PRESIDENT BRESLIN: Senator Fuschillo will be recorded in the affirmative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President. I appreciate you recognizing me to explain my vote.

I intend to support this bill, and I congratulate Senator Klein for his efforts in bringing this bill forward. He's got many good things in the bill. There are some things I would have added, like the two amendments I thought would have enhanced the bill, made it even better and even stronger.

However, a good first step. Let's continue the process. I agree with my colleagues who have just said we need results. Talk is cheap. Taxes are high. And my constituents want tax relief, property tax relief.

And I agree with what Senator Fuschillo just said. Shame on the other house if they don't do something like this. If they don't bring this bill forward, if they don't carry this bill forward and give us real property tax relief in this state, then we will have a real problem here. And I think we have to address that.

This bill is a first step. I think we have to do more. However, I'll take it. I'm going to support it. And I'm more than willing to work with anyone -- Senator Klein, anybody -- if we can get to the other house and get them to pass this legislation and make this property tax relief for real for a change. Not just talk, a real bill.

Thank you, Mr. President. I vote aye.

ACTING PRESIDENT BRESLIN:

Senator Marcellino will be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 257, recorded in the negative: Senator Perkins.

Absent from voting pursuant to Rule 9, Senator Hassell-Thompson.

Ayes, 58. Nays, 1.

ACTING PRESIDENT BRESLIN: The bill is passed.

Senator Klein.

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

ACTING PRESIDENT BRESLIN: Senator Klein, the desk is clear.

SENATOR KLEIN: There being no further business, Mr. President, I move that we adjourn until Monday, March 22nd, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT BRESLIN: There being no further business, on motion, the Senate stands adjourned until Monday, March 22nd, at 3:00 p.m., intervening days

being legislative days.

(Whereupon, at 2:36 p.m., the Senate adjourned.)