

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 January 19, 2011

11 11:17 a.m.

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13
14 REGULAR SESSION

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18 LIEUTENANT GOVERNOR ROBERT J. DUFFY, President

19 FRANCIS W. PATIENCE, Secretary

1 P R O C E E D I N G S

2 THE PRESIDENT: The Senate will
3 now come to order.

4 Please stand for the Pledge of
5 Allegiance.

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

8 THE PRESIDENT: We're proud to be
9 joined again by the Reverend Peter G. Young,
10 from the Mother Teresa Community of Albany.

11 Father Young.

12 FATHER YOUNG: Thank you,
13 Governor. Let us pray.

14 Having survived the sleet, the
15 snow, and the inclement weather, let us
16 remember that all of our Senators are here
17 today and they will guide our government for
18 just and caring societies.

19 May God strengthen them, lead them,
20 and give them wisdom and understanding as they
21 work for our good and for the good of all of
22 our New York State citizens.

23 Amen.

24 THE PRESIDENT: Thank you,
25 Father.

1 Next, the reading of the Journal.

2 The Secretary will read.

3 THE SECRETARY: In Senate,
4 Tuesday, January 18, the Senate met pursuant
5 to adjournment. The Journal of Monday,
6 January 17, was read and approved. On motion,
7 Senate adjourned.

8 THE PRESIDENT: Without
9 objection, the Journal stands approved as
10 read.

11 Presentation of petitions.

12 Any messages from the Assembly?

13 The Secretary will read.

14 THE SECRETARY: On page 1,
15 Senator Golden moves to discharge, from the
16 Committee on Finance, Assembly Bill Number 851
17 and substitute it for the identical Senate
18 Bill Number 1198, Third Reading Calendar 1.

19 THE PRESIDENT: Substitution
20 ordered.

21 Messages from the Governor.

22 Reports of standing committees.

23 Reports of select committees.

24 Communications and reports from
25 state officers.

1 Motions and resolutions.

2 Senator Libous.

3 SENATOR LIBOUS: Thank you,
4 Mr. President.

5 Mr. President, may we please adopt
6 the Resolution Calendar, with the exception of
7 the following resolutions: Number 98, 240,
8 and 241.

9 THE PRESIDENT: All in favor of
10 adopting the Resolution Calendar with the
11 exceptions of Resolutions Number 98, 240, and
12 241, signify by saying aye.

13 (Response of "Aye.")

14 THE PRESIDENT: Opposed, nay.

15 (No response.)

16 THE PRESIDENT: The Resolution
17 Calendar is adopted.

18 Senator Libous.

19 SENATOR LIBOUS: Thank you,
20 Mr. President.

21 Mr. President, I believe there's a
22 privileged resolution at the desk by Senator
23 Larkin. May we please have the title read and
24 move for its immediate adoption.

25 THE PRESIDENT: The Secretary

1 will read.

2 THE SECRETARY: By Senator
3 Larkin, Legislative Resolution Number 261,
4 commemorating the 30th anniversary of the
5 ending of the Iranian hostage crisis on
6 January 20, 2011.

7 THE PRESIDENT: Senator Larkin.

8 SENATOR LARKIN: Thank you,
9 Mr. President.

10 It's hard to believe that Tom
11 Libous was a young man with lots of hair on
12 his head 30 years ago when this country
13 suffered one of the most damaging blows to our
14 history and our honor.

15 On that day, the 20th of January,
16 1981, we saw a complete turnaround of that
17 incident. But we have to take a look at what
18 happened. On November the 4th of 1979,
19 thousands of Iranians took to the streets, not
20 only with words but with weapons. They took
21 into custody 90 members of the embassies and
22 of the military assigned to the embassy and
23 put them in captivity.

24 There was efforts to try to help
25 them. Back in 1980, we lost 8 U.S. Army

1 personnel that were killed when helicopters
2 crashed in the desert.

3 The period between '79 and when
4 they were released was a hardship on many of
5 them. Some family members had died. Some
6 people just gave up hope. But if you recall,
7 there was a drive in our country of yellow
8 ribbons. The song is out there someplace,
9 John; I know Skelos wrote it. But what we had
10 here was a statement from the American people
11 that this is our country, and we're not going
12 to be thrown around.

13 Fifty-two hostages, 444 days. One
14 person whose name is not mentioned anymore,
15 and I apologize, a charge d'affaires of the
16 Canadian Embassy, took Americans and hid them.
17 These were Americans that the Iranians wanted
18 because they were the shakers and movers of
19 policy of the United States government in Iran
20 at the time.

21 On January 20, 1981, a new
22 president was sworn in and the hostages were
23 released. You can't forget President Carter;
24 he did everything he could. But the Iranian
25 government were waiting for somebody to really

1 pitch in. The Iranian government said, We
2 will return your Americans if you give us
3 \$34 million. President Reagan says,
4 8 million, take it or leave it, and our
5 aircraft are ready.

6 Right after being sworn in, the
7 Swiss Embassy informed the Secretary of State
8 designee, 1981, that the hostages were
9 released.

10 Now, you know, the biggest thing
11 was first debriefing, healthcare. They were
12 flown from Iran to Wiesbaden, Germany, to the
13 U.S. Air Force Hospital. Two days later they
14 were flown to Stewart Airport in Orange
15 County. There's a spot on the ground that
16 marks where the aircraft landed. One of the
17 hostages, from Texas, got off the aircraft and
18 kissed the ground. And then he looked up, and
19 I was wondering what was going on when he was
20 looking up. And he said, "Lord, you did not
21 desert us." A very powerful statement and
22 something that we ought to be sure that we do
23 not forget.

24 On this Saturday there will be a
25 reunion of these individuals in Highland

1 Falls, New York, and at West Point itself
2 honoring those individuals. You start to
3 think about it, for 444 days they didn't
4 break, turn against their country, or those
5 Canadians or others from Australia didn't turn
6 against their countries and say "whatever you
7 want, we'll do." The message from President
8 Reagan was you're not going to get no
9 34 million, here's \$8 million in frozen
10 assets, no cost to the U.S. government.

11 But we need to take and think about
12 it. Thirty years ago, just think about where
13 you were when they were released. And also
14 take a moment and think about the 444 days
15 that these men and women were in captivity and
16 were subject to restraints that we don't
17 always know what happened.

18 So when we meet on Saturday, I'm
19 very happy. I understand my good friend
20 Senator Ball will join us there. Anybody in
21 the area, come join us. We have one from
22 Brooklyn, John, Mr. Rosen. He was a high
23 school classmate of Stanley Fink's. And
24 Stanley's got the whole book of pictures, by
25 the way.

1 Mr. President, I thank you. I
2 think it's a day that we should not forget.
3 We should always remember, this is the
4 greatest country, America is the greatest
5 country in the world. And when we live up to
6 the honors and respect that we should have, we
7 will be a greater country.

8 Thank you very much.

9 THE PRESIDENT: Thank you,
10 Senator Larkin.

11 The question is on the resolution.
12 All in favor signify by saying aye.

13 (Response of "Aye.")

14 THE PRESIDENT: Opposed, nay.

15 (No response.)

16 THE PRESIDENT: Senator.

17 SENATOR LARKIN: I would like to
18 ask that it be open for all members who would
19 like to be on the resolution.

20 THE PRESIDENT: So ordered.

21 The resolution is adopted.

22 Senator Libous.

23 SENATOR LIBOUS: Thank you,
24 Mr. President.

25 I also believe that Senator Huntley

1 has a resolution at the desk. I would ask
2 that you read the resolution in its entirety
3 and then call on Senator Huntley, please.

4 THE PRESIDENT: The Secretary
5 will read the resolution in its entirety.

6 THE SECRETARY: By Senator
7 Huntley, Legislative Resolution Number 98,
8 mourning the death of Chief Arthur B. Hill,
9 distinguished citizen and devoted member of
10 his community.

11 "WHEREAS, It is the custom of this
12 Legislative Body to pay tribute to citizens of
13 the State of New York whose lifework and civic
14 endeavor serve to enhance the quality of life
15 in their communities and the great State of
16 New York; and

17 "WHEREAS, Chief of the New York
18 Police Department Arthur (Artie) B. Hill, of
19 St. Albans, New York, died on Thursday,
20 July 22, 2010, at the age of 88; and

21 "WHEREAS, Arthur B. Hill was born
22 in New York in 1922 and grew up in Harlem. He
23 graduated from DeWitt Clinton High School, the
24 Bronx, in 1940, and proudly served in the
25 United States Army during World War II from

1 1942 to 1946; and

2 "WHEREAS, Upon an honorary
3 discharge from military service, Arthur B.
4 Hill took civil service exams and was called
5 to join the New York City Police Department in
6 1946. He was assigned to the 28th Precinct
7 and rose through the ranks; and

8 "WHEREAS, An exemplary leader,
9 Arthur B. Hill was promoted to the rank of
10 sergeant in 1959 while serving in the 42nd and
11 49th Precincts. He was then advanced to the
12 esteemed position of lieutenant in 1961 and
13 received a variety of assignments to work in
14 the 20th Precinct, as well as the 5th
15 Division, the 40th Precinct and in the
16 Planning Bureau, where he worked as a system
17 analyst. He had the honor of serving as
18 commanding officer of the Malcolm X funeral
19 detail in February, 1965; and

20 "WHEREAS, Arthur B. Hill was
21 promoted to the rank of captain in 1965 and
22 worked in the 5th and 6th Divisions of the
23 NYPD before he was appointed the second
24 African-American commanding officer of the
25 28th Precinct; and

1 "WHEREAS, While studying for
2 promotions, Arthur B. Hill attended John Jay
3 College of Criminal Justice/CUNY where he
4 earned a bachelor's degree in political
5 science and a master's degree in police
6 administration; and

7 "WHEREAS, His extraordinary
8 trailblazing career continued when Arthur B.
9 Hill was appointed to the rank of deputy
10 inspector in 1967 and was assigned to the 6th
11 Division in Harlem. On September 16, 1969,
12 Arthur B. Hill was promoted to the rank of
13 deputy chief inspector and transferred to the
14 13th Division, Brooklyn; and

15 "WHEREAS, Chief Hill became the
16 first African-American commander of the
17 Support Service Unit, which was formerly known
18 as the Special Operations Division. He
19 oversaw NYPD Tactical Patrol Force, Aviation,
20 Emergency Service and Harbor Patrol Units; and

21 "WHEREAS, Respected by his fellow
22 officers, Arthur B. Hill was promoted to the
23 rank of assistant chief in September 1971 and
24 retired in January 1973. During his
25 illustrious career, Chief Hill received two

1 Commendations, three Meritorious and three
2 Excellent Police Duty Awards, along with
3 numerous citations for outstanding community
4 service; and

5 "WHEREAS, Arthur B. Hill
6 distinguished himself in his profession and by
7 his sincere dedication and substantial
8 contribution to the welfare of his community;
9 and

10 "WHEREAS, Arthur B. Hill's
11 commitment to excellence, and his spirit of
12 humanity, carried over into all fields of
13 enterprise, including charitable and civic
14 endeavors; and

15 "WHEREAS, In retirement, Chief Hill
16 joined several civic organizations. He served
17 on several boards of directors for charitable
18 organizations, including the Apollo Theater.
19 He was the long-time executive secretary of
20 the Guy R. Brewer Club. Chief Hill also
21 enjoyed a second career as an executive for
22 the United Parcel Service; and

23 "WHEREAS, Arthur B. Hill is
24 survived by his beloved wife, Patricia, and
25 his children, Arthur, Jr., Ernest, Victoria

1 and Joanne; and

2 "WHEREAS, Armed with a humanistic
3 spirit, imbued with a sense of compassion, and
4 comforted by a loving family, Arthur B. Hill
5 leaves behind a legacy which will long endure
6 the passage of time and will remain as a
7 comforting memory to all he served and
8 befriended; now, therefore, be it

9 "RESOLVED, That this Legislative
10 Body pause in its deliberations to mourn the
11 death of Chief Arthur B. Hill, distinguished
12 citizen and devoted member of his community;
13 and be it further

14 "RESOLVED, That a copy of this
15 resolution, suitably engrossed, be transmitted
16 to the family of Arthur B. Hill."

17 THE PRESIDENT: Senator Huntley.

18 SENATOR HUNTLEY: Yes,
19 Mr. President.

20 Arthur B. Hill, who we
21 affectionately called "Artie," was a member of
22 the St. Albans community. He was a member of
23 one of the greatest political clubs in
24 Southeast Queens, Guy R. Brewer. He was a man
25 of many, many talents.

1 And I asked for the resolution to
2 be read in its entirety because I really
3 wanted people to listen, to hear about Artie
4 and to hear how he worked very hard to achieve
5 his goals. And I wanted you to hear what a
6 great family he had.

7 And he was a person who cared about
8 his community. He cared about his career, but
9 his community was also very important to him.
10 And at 88, he was still active before he
11 passed away. He was still active the year
12 before. I used to meet him in places, meet
13 him at the club, meet him at the dances, and
14 him and his wife were always there.

15 And when we lost Artie Hill in that
16 community, it was a great loss. And I just
17 want his family to know that I deeply
18 appreciated Artie for all the things that he
19 had done for people -- for young people, for
20 old people, for everyone. Because that's the
21 kind of person Artie was.

22 Thank you.

23 THE PRESIDENT: Thank you,
24 Senator.

25 The question is on the resolution.

1 All in favor signify by saying aye.

2 (Response of "Aye.")

3 THE PRESIDENT: Opposed, nay.

4 (No response.)

5 THE PRESIDENT: The resolution is
6 adopted.

7 Senator Libous.

8 SENATOR LIBOUS: Thank you,
9 Mr. President.

10 I believe there's a resolution,
11 Number 240, at the desk by Senator Peralta.
12 May we have the resolution's title read and
13 move for its immediate adoption, please.

14 THE PRESIDENT: The Secretary
15 will read.

16 THE SECRETARY: By Senator
17 Peralta, Legislative Resolution Number 240,
18 mourning the death of legendary New York
19 Yankees owner George Steinbrenner.

20 THE PRESIDENT: The question is
21 on the resolution. All in favor signify by
22 saying aye.

23 (Response of "Aye.")

24 THE PRESIDENT: Opposed, nay.

25 (No response.)

1 THE PRESIDENT: The resolution is
2 adopted.

3 Senator Libous.

4 SENATOR LIBOUS: Thank you,
5 Mr. President.

6 I believe Senator Peralta would
7 like the resolution open for all member. And
8 in custom, if you don't want your name on the
9 resolution, please let the desk know.
10 Otherwise, it will go on.

11 THE PRESIDENT: The resolution is
12 open for cosponsorship. If you don't wish to
13 cosponsor, please notify the desk.

14 Senator Libous.

15 SENATOR LIBOUS: Thank you,
16 Mr. President.

17 There's another resolution at the
18 desk, by Senator Perkins. May we please have
19 the title read and move for its immediate
20 adoption.

21 THE PRESIDENT: The Secretary
22 will read the title of the resolution.

23 THE SECRETARY: By Senator
24 Perkins, Legislative Resolution Number 241,
25 mourning the death of legendary jazz pianist

1 Dr. William Taylor.

2 THE PRESIDENT: Senator Perkins.

3 SENATOR PERKINS: Thank you very
4 much. I wanted to take an opportunity to read
5 into the record a letter to the family.

6 "Dear Mrs. Taylor and
7 Ms. Thompson-Taylor:

8 "On behalf of a broad and diverse
9 constituency of music lovers, extending
10 profound, heartfelt condolences for the loss
11 of your husband and father, the great
12 musician, composer and jazz ambassador
13 Dr. Billy Taylor, I write to you as the
14 Senator representing the 30th District of the
15 New York State Senate. Widely associated with
16 historic Harlem, my district also comprises
17 significant portions of East Harlem's
18 El Barrio, Washington Heights, Morningside
19 Heights, and the Upper West Side.

20 "It's serving Harlem, with our
21 incomparable connection to jazz history, that
22 makes it particularly important to praise
23 Dr. Billy Taylor, who through a career
24 spanning decades liltingly played piano with
25 other legends such as Charlie Parker, Ella

1 Fitzgerald, Dizzy Gillespie and Miles Davis.
2 Whatever he undertook, he was an innovator,
3 whether hosting jazz shows on WLIB and
4 National Public Radio, doing spots on CBS's
5 Sunday Morning, or playing his hit "C A G" and
6 "Capricious" on Marian McPartland's first
7 segment of Piano Jazz. Foremost, helping to
8 found Jazzmobile, which gives mobile
9 neighborhood concerts on a parade float,
10 Dr. Taylor was the ultimate explainer of
11 America's unique art form, jazz!

12 "All of this is exceptional, but
13 more importantly and personally, I write to
14 you as a friend of your talented son and
15 brother Duane. Reflecting on the life and
16 significance of Duane's father reminds me of
17 what a deep impact Dr. Taylor had on my
18 development and life and those of our
19 classmates. Writing 'I wish I knew how it
20 would feel to be free,' Dr. Taylor composed an
21 anthem that expressed the anger, anxiety and
22 aspirations of my community and generation.

23 "In an era when black excellence
24 was excluded from most history books,
25 Dr. Taylor came to Collegiate School each year

1 to teach about the artistic achievement of
2 African-Americans in music. Positive black
3 role models were not as visible then as today,
4 so Dr. Taylor had as valuable an influence on
5 the 50 white students he would address as he
6 did on the five black students in attendance.

7 "Defying stereotypes, his gentility
8 was disarming. Mild-mannered, he was always
9 quietly but distinctively dressed, wearing
10 definitive enormous dark-rimmed eyeglasses.
11 Impeccably reasoned, Dr. Taylor's scholarship
12 was an articulate activism, as affecting and
13 radical as any expressed by Stokely Carmichael
14 or Malcolm X.

15 "So if the riches of possibility,
16 the potential to transform a formerly
17 apathetic and passive pupil like me was the
18 one great gift of a first-rate education,
19 exposure to a brilliant and committed man like
20 Dr. Taylor was equally imperative.
21 Invaluably, his example of success underscored
22 my potential to be productive as well.

23 Hearing him speak and play, one
24 easily appreciated an art not merely for art's
25 sake. Nor were the intellectual pursuits he

1 espoused only about academic concerns.

2 Instead, Dr. Taylor employed our music as a
3 synthesis of eclectic sounds and traditions to
4 articulate and focus the meaning of a movement
5 fighting for freedom and inclusion.

6 "I epitomize the effectiveness of
7 Dr. Taylor's pioneering efforts to enlighten
8 our youth. Appreciative of his influence,
9 working to perpetuate his example, one hopes
10 to similarly teach young people today about
11 our extraordinary heritage and to suggest to
12 them the limitless possibility of all they
13 have to offer.

14 "Inevitably, whenever someone takes
15 on a selfless mission, their family has to
16 sacrifice for that cause too. The world,
17 especially our world, is greatly indebted to
18 the work and wisdom of Dr. Billy Taylor.
19 Because you, his loved ones, drove, sustained,
20 inspired and fulfilled him, we are indebted to
21 you as well. For myself, my family and all
22 New Yorkers, I say thank you. Dr. Taylor was
23 an heroic figure. He and you are in our
24 prayers.

25 "Sincerely, Senator Bill Perkins,

1 30th District."

2 THE PRESIDENT: Thank you,
3 Senator.

4 SENATOR PERKINS: And I ask my
5 colleagues to join me in signing onto the
6 resolution. Thank you.

7 THE PRESIDENT: Senator Libous,
8 Senator Perkins asked that the resolution be
9 reopened for cosponsorship.

10 SENATOR LIBOUS: Again, if
11 someone doesn't want to be on the resolution,
12 they should let the desk know.

13 Senator Perkins, otherwise, that
14 you have opened up the sponsorship to all
15 members?

16 SENATOR PERKINS: Yes. Thank
17 you.

18 SENATOR LIBOUS: Can we move the
19 resolution, please.

20 THE PRESIDENT: The question is
21 on the resolution. All in favor signify by
22 saying aye.

23 (Response of "Aye.")

24 THE PRESIDENT: Opposed, nay.

25 (No response.)

1 THE PRESIDENT: The resolution is
2 adopted.

3 Senator Libous.

4 SENATOR LIBOUS: Mr. President,
5 before we go to the noncontroversial calendar,
6 there was a resolution that was adopted
7 already on the calendar today by Senator
8 Larkin. It's Number 231. Senator Larkin
9 would like to open that up to all members of
10 the Senate.

11 And again, as our policy, if you
12 wish not to be on Resolution 231, please let
13 the desk know. But it had already passed.

14 Mr. President, may we please have
15 the reading of the noncontroversial calendar.

16 THE PRESIDENT: The Secretary
17 will read.

18 THE SECRETARY: Calendar Number
19 1, substituted earlier today by Member of the
20 Assembly Weinstein, Assembly Print Number 851,
21 an act to amend the Civil Practice Law and
22 Rules.

23 THE PRESIDENT: Read the last
24 section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the same date and in
2 the same manner as Chapter 568 of the Laws of
3 2010.

4 THE PRESIDENT: Call the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 60.

7 THE PRESIDENT: The bill is
8 passed.

9 THE SECRETARY: Calendar Number
10 2, by Senator Alesi, Senate Print 1891, an act
11 to amend the Tax Law.

12 SENATOR BRESLIN: Lay it aside.

13 THE PRESIDENT: The bill is laid
14 aside.

15 THE SECRETARY: Calendar Number
16 3, by Senator Ranzenhofer, Senate Print --

17 SENATOR BRESLIN: Lay it aside.

18 THE PRESIDENT: The resolution is
19 laid aside.

20 THE SECRETARY: Calendar Number
21 4, by Senator Zeldin --

22 SENATOR BRESLIN: Lay it aside.

23 THE PRESIDENT: The resolution is
24 laid aside.

25 That completes the reading of the

1 noncontroversial aspects of the calendar.

2 Senator Libous.

3 SENATOR LIBOUS: May we go to the
4 controversial calendar, Mr. President.

5 THE PRESIDENT: The Secretary
6 will ring the bell.

7 The Secretary will read Calendar
8 Number 2.

9 THE SECRETARY: Calendar Number
10 2, by Senator Alesi, Senate Print 1891, an act
11 to amend the Tax Law.

12 SENATOR LIZ KRUEGER:
13 Explanation.

14 THE PRESIDENT: Senator Alesi, an
15 explanation has been asked for by Senator
16 Krueger.

17 SENATOR ALESI: Thank you,
18 Mr. President and my colleagues. I'm very
19 proud, for the second time in a year or so, to
20 introduce this bill; happier still that the
21 bill has made it to the floor. It is called
22 the 2011 Job Creation and Retention Package.

23 The underpinnings of this bill have
24 three major components: First of all, a job
25 tax credit for new jobs that are created in

1 this state; secondly, what is called the Small
2 Business Tax Freedom Plan; and finally, the
3 Red Tape Moratorium Plan.

4 This is a comprehensive approach
5 toward creating new jobs in New York State.
6 And there isn't anybody in this chamber, I
7 believe, that would argue that we don't need
8 new jobs to improve our economy.

9 The first component, job creation
10 tax credit, provides a payroll tax credit to
11 any small business that creates a new job. So
12 for example, if there is no employee working,
13 there is no withholding tax against a
14 nonexistent employee. If the new small
15 business hires a new employee, they are given
16 a tax credit against the withholding tax.
17 There's no cost to the state because there was
18 no employee paying that withholding tax in the
19 first place. It's totally neutral.

20 But more significantly, it's a very
21 large incentive for small businesses who many
22 of them right now, in this economy, are on the
23 threshold of emerging into a hiring mode but
24 are holding back just because they need that
25 little extra.

1 This is that little extra that will
2 help those companies survive, that will help
3 them move into the future. And equally
4 important, it is that little extra at no cost
5 to the state that will get people back to
6 work.

7 The second component of this is the
8 Small Business Tax Freedom Plan that
9 eliminates the corporate franchise tax for
10 small businesses, cutting it in half this year
11 and reducing it entirely into the future.

12 And then finally, we all know and
13 we've heard many times that red tape is one of
14 the biggest killers of small businesses. It
15 keeps them from thriving, it keeps them from
16 growing, it keeps them from succeeding, it
17 keeps them from staying in New York or even
18 wanting to locate in New York.

19 Those are the three components of
20 the 2011 Job Creation and Retention Plan,
21 similar to a plan that was, I believe,
22 fashioned after this plan that Senator Schumer
23 introduced and had implemented in the United
24 States Congress about three months after we
25 proposed it.

1 Thank you, Mr. President.

2 THE PRESIDENT: Thank you,
3 Senator.

4 Senator Krueger, why do you rise?

5 SENATOR LIZ KRUEGER: I rise to
6 request that the sponsor yield to some
7 questions, Mr. President.

8 THE PRESIDENT: Senator Alesi, do
9 you yield to questions?

10 SENATOR ALESI: Mr. President, it
11 would be my pleasure.

12 THE PRESIDENT: The Senator
13 yields.

14 SENATOR LIZ KRUEGER: Thank you,
15 Mr. President. Through you, if the sponsor
16 could explain to me how this is a cost-neutral
17 proposal to the state as opposed to a loss of
18 tax revenue to the State of New York of
19 hundreds of millions of dollars.

20 SENATOR ALESI: Mr. President and
21 my colleagues, there's a simple answer to
22 that, as I stated in my opening remarks. If
23 there is a withholding tax against an existing
24 employee and you take that withholding tax
25 away, that would be a cost to the state

1 because that withholding tax is being taken in
2 as revenue.

3 If an employee does not exist today
4 but is hired this afternoon, a new employee
5 against which -- whose payroll against which
6 there was never any withholding, is hired and
7 the employer has a tax credit -- in other
8 words, doesn't have to pay that withholding
9 tax up to the limit -- there's no lot of
10 revenue because there was never any revenue in
11 the first place.

12 The benefit to that is you have
13 someone working and you have a business
14 growing and starting to thrive because they
15 have additional help and talent.

16 SENATOR LIZ KRUEGER: Mr.
17 President, if through you the sponsor would
18 continue to yield.

19 THE PRESIDENT: Senator, will you
20 continue to yield?

21 SENATOR ALESI: Thank you for the
22 opportunity, Mr. President.

23 THE PRESIDENT: The Senator
24 yields.

25 SENATOR LIZ KRUEGER: Thank you.

1 Well, I suppose first a statement.
2 On that logic, then, assuming that jobs
3 continue to be created -- which we hope in the
4 state -- and then people also move from job to
5 job, and we were continuing to withhold the
6 money from the employee, which is what this
7 does, the employee has the tax taken out of
8 their paycheck but never moved over to the
9 state, you would actually have a transfer from
10 employees to businesses without ever seeing
11 new tax revenue for the state forever. But
12 that's not actually my question.

13 The bill also allows the
14 bifurcation for small business income between
15 the taxpayer's personal income tax bill to the
16 state and the business tax bill to the state,
17 which as we know some small businesses
18 currently choose to pay their taxes through
19 their PIT.

20 Can you just explain a little more
21 how this bifurcation would work? Let's say I
22 was a fairly successful business owner but I
23 had 10 small businesses. So now there's a
24 bifurcation where I can have a different tax
25 rate, I, the wealthy business owner, under

1 your model.

2 SENATOR ALESI: Mr. President, I
3 think I heard two questions there. If not,
4 the first part was at least a comment which
5 deserves a comment in response.

6 I can't imagine in today's
7 environment, when people are struggling to
8 find jobs and businesses are struggling to
9 find a way to employ people, that people would
10 take a job, move on to another just to take
11 advantage of what we're trying to do here.
12 That's like finding a Coca-Cola machine that
13 is working for free. There's only so much
14 Coca-Cola you can drink.

15 And I don't think anybody would do
16 that. There may be some, but I don't think
17 enough to make any impact on this bill or the
18 benefits this bill can provide to businesses,
19 working people in this state.

20 Secondly, I'm not entirely sure
21 that you can look at businesses that have
22 subsidiaries -- wholly owned subsidiaries,
23 LLCs, other corporations -- that are part of
24 an overall enterprise and say that the single
25 or collective owners of those businesses would

1 benefit unfairly because of this program.

2 Because the simple answer is this program is
3 designed to put people to work.

4 And if the program puts people to
5 work because it incentivizes employers to
6 offer jobs that they can't offer now because
7 they can't afford it, then that's the end
8 goal.

9 And if in fact a company owns or a
10 business owner owns more than one company,
11 it's the company that benefits and it's the
12 people that are employed by that company or
13 companies that benefit.

14 The net result of that is that
15 New York State benefits, because we have
16 people out of work and when people go to work,
17 there isn't anybody in this room that would
18 argue the fact that the more people that are
19 working, the more robust our economy is; the
20 more robust our economy is, the better off we
21 are with tax revenues, et cetera.

22 Mr. President and my colleagues,
23 this is a good bill. It was, I believe, if
24 not copied, at least it was imitated on the
25 federal level with the federal HIRES Act,

1 which expired at the end of this year but is
2 scheduled to be reinstated because it has
3 proven to be so effective as a tool to hire
4 new people, put people to work, not only in
5 America but now here in New York State.

6 In fact, coupled with that, my
7 colleagues, this bill leverages the federal
8 bill because it provides even more tax
9 incentives for those businesses that want to
10 put people to work.

11 THE PRESIDENT: Senator Krueger.

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

14 THE PRESIDENT: Senator Krueger,
15 on the bill.

16 SENATOR LIZ KRUEGER: Thank you.

17 Thank you, Senator Alesi, for your
18 explanation of the bill.

19 I think I will get to my points
20 better if I just articulate some of my
21 concerns.

22 I am certainly not opposed to a tax
23 credit model that puts more New Yorkers to
24 work. Senator Alesi is right, there's no one
25 in this chamber who doesn't want to see more

1 New Yorkers working. But as is often said,
2 God is in the details, especially on tax
3 expenditure and tax credit bills.

4 So the reason I raise the concern
5 about it being a withholding bill from
6 employees' paychecks is you have to ask the
7 question what actions are you incentivizing.
8 Are you incentivizing the creation of new
9 jobs, or are you actually incentivizing the
10 creation of rapid turnover in jobs?

11 Because we know, in a bad economy,
12 there are endless numbers of people all
13 competing for the same jobs. But if you set
14 up a tax credit for business where they get
15 additional money off of their taxes for every
16 new person who comes in without any obligation
17 to keep that person, they have a reason to
18 keep moving people in and out, in and out, in
19 and out, because you get more money the more
20 people you put on payroll, not necessarily
21 keep on payroll.

22 So you have to be very careful in
23 business tax incentives not to be encouraging
24 simply the rotation of people rapidly off of
25 jobs that have been incentivized. And that

1 actually is the history of any number of
2 programs, state and federal, that went wrong.
3 And I don't want the state to go wrong again.
4 And that is one of the big ways that this bill
5 is very different than the bills being
6 proposed by the Obama administration.

7 Second, the issue of bifurcating
8 the business tax from the personal tax when a
9 person is trying to pay both as a small
10 business owner through their personal income
11 tax, rather than filing as a corporate tax, is
12 we can in fact, at no benefit to the State of
13 New York, dramatically lower the tax rate of
14 wealthier successful business owners.

15 I want business owners to be
16 successful. I want them to hire more people
17 into their companies. I want them to increase
18 economic activity. But I don't want us to,
19 under the rubric of saying we have a job
20 creation program, actually shift to a more
21 regressive personal income tax for
22 higher-income New Yorkers. And I'm very
23 concerned that that is a big piece of this
24 bill and perhaps the most costly piece of the
25 bill to the State of New York.

1 So that section of the bill
2 wouldn't create jobs but would reduce tax
3 revenue at a time where we have a \$10 billion
4 deficit and none of us know how the heck we're
5 going to meet that responsibility in the next
6 few months.

7 Third, this bill also provides for
8 a reduction by 50 percent of the corporate
9 franchise tax for small businesses in the
10 first year and then a zeroing out of the
11 corporate franchise tax afterwards. It's not
12 clear from the language of the bill whether,
13 if you got to be -- let's all hope that every
14 small business becomes the next IBM, the next
15 Google, the next fill-in-the-blank. It's not
16 clear here where they would ever be obligated
17 to pay business taxes again, even though they
18 had been successful, incentivized and went on
19 to become large corporations in New York.

20 So the concept that within a bill
21 we might actually be zeroing out corporate
22 franchise taxes for everybody over time, when
23 you think about the cost impact for the State
24 of New York and the tax policy ramifications,
25 I have to urge people to think carefully.

1 In addition, particularly because
2 there's another section of the bill that set a
3 moratorium on any tax or fee increase on
4 businesses until June 2015, meaning you might
5 have your taxes zeroed out, being a small
6 business, using the incentives to do the right
7 things and hire people, and then shift your
8 entire business model, but there would be no
9 way for New York State to get taxes out of you
10 at least till June 30, 2015. And if some of
11 the other bills we're going to discuss soon --
12 about supermajority rules for taxes -- became
13 law, we probably would never increase or
14 revisit a zeroed-out tax again for anyone.

15 So I have to say, watch the details
16 carefully. There have been successful tax
17 credits to create and incentivize small
18 businesses hiring people, and there have been
19 some real doozies of failures right here in
20 our state. And we don't want to replicate the
21 mistakes of the past as we move forward.

22 Finally, it's an expense bill two
23 weeks before the new Governor Cuomo is giving
24 us his budget. I don't understand why we are
25 making a one-house decision at this moment in

1 history to cost the State of New York a
2 minimum of \$500 million when we are awaiting
3 the Governor's budget with a \$10 billion
4 deficit to fill.

5 I think there are any number of
6 reasons today for members on both sides of the
7 aisle to vote no on this bill. I'll be voting
8 no.

9 Thank you, Mr. President.

10 THE PRESIDENT: Thank you,
11 Senator Krueger.

12 Senator Alesi.

13 SENATOR ALESI: On the bill,
14 Mr. President.

15 Thank you, my colleagues. Thank
16 you, Senator Krueger.

17 I'll be brief. I think that it's
18 easy to see that we disagree. So I'm urging
19 my colleagues to supporter this bill because
20 this bill is an intelligent way to give
21 businesses who desperately need to grow and
22 thrive in New York State the incentives to
23 hire new employees.

24 And with regard to Senator
25 Krueger's concerns about an employer hiring

1 someone and then firing them and then hiring
2 them again and firing them to take advantage
3 of multiple credits, I can't imagine that that
4 would occur in any business atmosphere,
5 because the credit is against the paycheck.
6 So if you hire and fire somebody, you're not
7 gaining anything. The tax credit goes against
8 the paycheck, not multiple persons.

9 But we could get into the smaller
10 details of someone's objections to this and do
11 this all day long. The fact of the matter is
12 this is an intelligent approach. The federal
13 government has adopted it and shown that it
14 has worked. It is successful enough that
15 Senator Schumer himself is going to renew this
16 bill, effective January 1 retroactively.

17 So I encourage my colleagues to
18 understand that we need to help businesses
19 grow and thrive. And equally important, we
20 need to give them the opportunity to put
21 people to work. Because at the end of the
22 day, if we're not putting people to work in
23 New York State, we've failed in our
24 responsibility.

25 I urge a yes vote. Thank you,

1 Mr. President.

2 THE PRESIDENT: Thank you,
3 Senator Alesi.

4 Is there any other Senator wishing
5 to be heard on this bill?

6 (No response.)

7 THE PRESIDENT: The debate is
8 closed. The Secretary will ring the bell.

9 (Pause.)

10 THE PRESIDENT: The Secretary
11 will read the last section.

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

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll.)

16 THE PRESIDENT: Senator Klein, to
17 explain his vote.

18 SENATOR KLEIN: Mr. President, to
19 explain my vote.

20 I want to praise the sponsor of
21 this legislation. I think it's a commonsense
22 approach to protecting and enhancing small
23 businesses and creating jobs.

24 One of the things that we see as
25 far as our national recovery is not enough

1 being done for small businesses. We bailed
2 out the banks, we bailed out the automobile
3 industry, but we still haven't done anything
4 for small businesses who generate jobs.

5 If we're really serious about
6 reducing unemployment, we're going to do tax
7 credits, as is contained in this bill, we'll
8 put a moratorium on red tape and other
9 regulations.

10 So I think this is really a smart,
11 commonsense approach to get our economy moving
12 again and once again getting back to basics
13 and helping small businesses.

14 I vote yes, Mr. President.

15 THE PRESIDENT: Senator Klein in
16 the affirmative.

17 Announce the results.

18 THE SECRETARY: Those recorded in
19 the negative on Calendar Number 2 are Senators
20 Adams, Hassell-Thompson, Huntley, L. Krueger,
21 Montgomery, Parker, Peralta, Perkins and
22 Rivera.

23 Ayes, 51. Nays, 9.

24 THE PRESIDENT: The bill is
25 passed.

1 Senator Libous.

2 SENATOR LIBOUS: Mr. President,
3 before we go on to the next bill I'd like to
4 suggest to all of my colleagues, in the
5 cooperation and spirit of the new year, when
6 we are on the noncontroversial calendar if
7 members would please, on both sides of the
8 aisle, stay close to the chamber. We have a
9 responsibility to be in here and vote. It is
10 not fair to the members who are in here if
11 other members are out milling around. We have
12 a lot of work to do.

13 And I know that, with the inclement
14 weather. That people want to speak, they want
15 to be on the road and get home at a reasonable
16 hour.

17 So let's be fair to ourselves this
18 year so that when we're on the
19 noncontroversial calendar that we will stay
20 close by so that we can get through business
21 rapidly.

22 Thank you, Mr. President.

23 THE PRESIDENT: Thank you,
24 Senator Libous.

25 The Secretary will read now read

1 Calendar Number 3.

2 THE SECRETARY: Calendar Number
3 3, by Senator Ranzenhofer, Senate Print 1892,
4 concurrent resolution of the Senate and
5 Assembly proposing an amendment to Article 7
6 of the Constitution.

7 SENATOR BRESLIN: Explanation.

8 THE PRESIDENT: Senator
9 Ranzenhofer, an explanation has been
10 requested.

11 SENATOR RANZENHOFER: Mr.
12 President, who asked for the explanation?

13 THE PRESIDENT: Who asked for the
14 clarification?

15 SENATOR BRESLIN: I did.

16 THE PRESIDENT: Senator Breslin
17 asked for the explanation, Senator
18 Ranzenhofer.

19 SENATOR RANZENHOFER: Mr.
20 President, this is a constitutional state
21 spending cap which will be put in place --

22 MULTIPLE MEMBERS: We can't hear
23 you. We can't hear.

24 SENATOR RANZENHOFER: The
25 microphone is not working. If you can't hear

1 me, I'll speak a little louder.

2 This is a constitutional state
3 spending cap -- is this better? I won't break
4 into song, I can tell you that.

5 This would have a 2 percent cap or
6 120 percent of the CPI, whichever is less.
7 Right now that would be a little less than
8 2 percent. There's also a provision in the
9 bill where, if there are excess revenues,
10 50 percent of those would go into a tax
11 stabilization fund, the other 50 percent would
12 be returned to the taxpayers.

13 There's also a provision that if
14 there is an emergency declared by the Governor
15 and certified by the Comptroller, that the tax
16 cap could be exceeded. There's also no
17 requirement that you have to go to a tax cap;
18 you could also have less spending than the
19 2 percent that's provided in the bill.

20 As a constitutional amendment, it
21 would require passage by this legislature, it
22 would require passage by the next legislature,
23 in 2013, and then the voters of the State of
24 New York would have a right to decide on the
25 constitutional amendment.

1 THE PRESIDENT: Thank you,
2 Senator.

3 Senator Krueger, why do you rise?

4 SENATOR LIZ KRUEGER: We're
5 seeing whether the microphones work. Can you
6 hear me, Mr. President?

7 THE PRESIDENT: We can hear you,
8 Senator. And we're getting you a microphone.

9 SENATOR LIZ KRUEGER: All right.
10 I'll speak loudly.

11 Mr. President, through you, if the
12 sponsor would yield to some questions.

13 THE PRESIDENT: Senator
14 Ranzenhofer, would you yield?

15 SENATOR RANZENHOFER: Yes,
16 Mr. President, I yield.

17 THE PRESIDENT: The Senator
18 yields.

19 SENATOR LIZ KRUEGER: Thank you.
20 If you can't hear me, I'll try to speak even
21 louder.

22 SENATOR LIBOUS: No, no, Senator,
23 we want to hear you.

24 SENATOR LIZ KRUEGER: Oh, we each
25 have one. Thank you so much.

1 SENATOR LIBOUS: We want to hear
2 you.

3 SENATOR LIZ KRUEGER: Thank you.

4 UNIDENTIFIED SENATOR: Just like
5 Oprah.

6 SENATOR LIZ KRUEGER: Not exactly
7 like Oprah.

8 Thank you very much for your
9 explanation, Senator Ranzenhofer.

10 Senator Ranzenhofer, do you know
11 how many times a bill like this or identical
12 to this has passed here on the floor of the
13 Senate?

14 SENATOR RANZENHOFER: I've been
15 here a few years. It didn't pass during my
16 tenure. But I believe on two other occasions
17 prior to me coming to the Senate.

18 SENATOR LIZ KRUEGER: Thank you.

19 Through you, Mr. President, if the
20 sponsor would continue to yield.

21 SENATOR RANZENHOFER: Yes, of
22 course. Yes.

23 THE PRESIDENT: The Senator
24 yields.

25 SENATOR LIZ KRUEGER: Thank you.

1 And it's true you haven't been here that long,
2 but do you know how many times this chamber,
3 say over the last 25 years, has called for a
4 spending cap?

5 SENATOR RANZENHOFER: Same answer
6 as I just gave you.

7 SENATOR LIZ KRUEGER: I think
8 it's about 24 times that there have been
9 bills -- excuse me. Mr. President, if through
10 you the sponsor would continue to yield.

11 SENATOR RANZENHOFER: Yes.

12 THE PRESIDENT: The Senator will
13 yield.

14 SENATOR LIZ KRUEGER: Thank you.
15 I was advised actually it was many, many times
16 where we then violated the intention or the
17 outline of the bill and actually increased the
18 budget by hundreds of millions, if not
19 billions of dollars, in years where we all
20 said no, we're not going to increase the level
21 of spending. That's not my question, though.
22 It's my editorial comment.

23 In your bill it's my understanding
24 that it would be a constitutional amendment
25 that there could be no increase above the

1 2 percent, or 120 percent or more of the
2 Consumer Price Index per year, and it would
3 cover general funds, special revenue funds,
4 capital project funds, and debt relief. Is
5 there any portion of the budget that would not
6 be included in this cap?

7 SENATOR RANZENHOFER: You
8 correctly identified the four funds that are
9 outlined in the bill.

10 SENATOR LIZ KRUEGER: Mr.
11 President, if through you the sponsor would
12 continue to yield.

13 THE PRESIDENT: Senator
14 Ranzenhofer, will you yield?

15 SENATOR RANZENHOFER: Of course.

16 THE PRESIDENT: The Senator
17 yields.

18 SENATOR LIZ KRUEGER: How would
19 this constitutional amendment apply to
20 authorities spending or raising fees and the
21 equivalent of taxes, quote, unquote, off
22 budget?

23 SENATOR RANZENHOFER: This
24 applies to the four funds that are outlined in
25 the bill.

1 SENATOR LIZ KRUEGER: Mr.
2 President, through you, may I ask another
3 question, please, of the sponsor.

4 THE PRESIDENT: Senator
5 Ranzenhofer, do you yield?

6 SENATOR RANZENHOFER: Yes.

7 THE PRESIDENT: The Senator
8 yields.

9 SENATOR LIZ KRUEGER: So I want
10 to make sure I understand your bill correctly.
11 You could continue to raise funds through
12 outside authorities even if this bill became
13 the law?

14 SENATOR RANZENHOFER: Same answer
15 as I just gave you, yes.

16 SENATOR LIZ KRUEGER: I'm not
17 sure -- thank you, Senator Ranzenhofer.

18 If, through you, Mr. President, the
19 Senator would continue to yield.

20 THE PRESIDENT: Senator
21 Ranzenhofer, do you continue to yield?

22 SENATOR RANZENHOFER: Yes,
23 Mr. President.

24 THE PRESIDENT: The Senator
25 yields.

1 SENATOR LIZ KRUEGER: Senator,
2 how did you determine what the growth
3 benchmark should be for determining the cap?
4 There is no other state in the nation that
5 uses an inflation-only rate to calculate the
6 cap. So I'm curious why you went down that
7 road with your proposal.

8 SENATOR RANZENHOFER: The reason
9 I went down that road is because over the last
10 10 years spending has increased 5.54 percent;
11 over the last 20 years, 4.54 percent; over the
12 last 27 years, 5.75 percent.

13 I thought it was important to have
14 a number which was less than that. I thought
15 2 percent was the appropriate number. I know
16 the Governor has talked very specifically that
17 we must immediately impose a state spending
18 cap. So I thought 2 percent was the proper
19 number and was also -- right now it just so
20 happens to be that that number is very closely
21 tied to what the 120 percent of the CPI would
22 be right now. Right now the 120 percent of
23 the CPI would be just under 2 percent. So the
24 2 percent right now matches very closely what
25 the CPI is.

1 SENATOR LIZ KRUEGER: Mr.
2 President, if through you the sponsor would
3 continue to yield.

4 THE PRESIDENT: Senator, do you
5 continue to yield?

6 SENATOR RANZENHOFER: Yes.

7 THE PRESIDENT: The Senator
8 continues to yield.

9 SENATOR LIZ KRUEGER: Thank you.
10 We are going through a period of
11 relatively low inflation, although we
12 historically have had periods of high
13 inflation. But there are also facts that we
14 know from the history of our budget and other
15 states' budgets that costs of some services,
16 like education and healthcare, historically
17 growth at rates that exceed inflation.

18 And then you have a complicating
19 factor -- let's say you had a population
20 burst. Now, we know that in the new Census
21 data we're going to lose Congressional seats
22 because we haven't been growing as fast as
23 other states. I believe we all agree New York
24 State wants to grow our population and not be
25 continually losing a national range war to

1 other states.

2 In your bill, where it's a
3 constitutional amendment -- and again, that
4 means there's almost no way to undo it once
5 we've done it. If we have your model of an
6 inflation-only rate cap but we had a huge
7 population burst or we had a major capital
8 expenditure requirement suddenly one year, a
9 major bridge and highway collapse, we might
10 find ourselves not able at all to just keep up
11 with a minimal continuing level of other
12 services because of the cap.

13 So did you think about what happens
14 if the inflation rate changes, what happens if
15 the population changes, or what happens if
16 something else happens such as a major capital
17 cost that might drain any other part of the
18 budget, actually forcing a major reduction
19 rather than any increase at all?

20 SENATOR RANZENHOFER: Yes, I
21 have. I'm sure there's a question, many
22 questions in there, so let me try to address
23 that as best as I can remember your questions.

24 First of all, one of the things
25 that you point out, very correctly, is that

1 New York is losing or should be losing this
2 year two Congressional representatives.

3 That's a trend that has continued over the
4 last 50 years. In my judgment, and I think
5 it's pretty well documented, that one of the
6 problems that this state is having is that we
7 are continuing to lose population to other
8 states that have better controls over their
9 taxes and spending.

10 So as a result, what's happened in
11 this state is that the spending has gone up,
12 the number of people that are left behind to
13 pay for that spending decreases -- to, as I
14 said, other states which have lower taxes
15 because their spending levels are not quite as
16 high.

17 One of the things -- you had
18 mentioned two examples. One is a population
19 burst. And again, based on the last 50 or
20 even 100 years, I don't anticipate a
21 population burst at this point in time. As a
22 matter of fact, exactly the exact opposite is
23 happening.

24 With respect to your example of a
25 bridge collapse, that's covered in the bill.

1 It does talk about an emergency. And I had
2 mentioned earlier if there is an emergency
3 such as the one that you've just described,
4 the Governor can declare an emergency, that
5 can be certified by the Comptroller, and that
6 can certainly be considered.

7 So the bill provides for that
8 particular hypothetical example which you just
9 gave. It does not address, for good reason,
10 the possible population burst that this state
11 might at some point have, in light of the last
12 100-year history, certainly 50-year history,
13 where this state continually, based upon
14 comparison with other states, continues to
15 lose population year after year, decade after
16 decade.

17 So in order to address -- that was
18 one of the primary motivating factors behind
19 this bill, is to get spending under control so
20 we can therefore control taxes so we still
21 have people here before everybody that is able
22 to decides to leave for states that are less
23 expensive than New York State.

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

1 continue to yield.

2 THE PRESIDENT: Senator?

3 SENATOR RANZENHOFER: Yes, I
4 will.

5 THE PRESIDENT: The Senator
6 yields.

7 SENATOR LIZ KRUEGER: Thank you.

8 And there is a question, but I want
9 to provide some data before getting to the
10 question.

11 I've looked at what happened in
12 some other states that have passed this kind
13 of spending cap or variations on spending cap.
14 Although really no one goes as far as your
15 proposal as far as covering all different
16 types of revenue sources, a 2 percent or
17 the -- or less than 120 percent of the
18 Consumer Price Index. But the state that
19 seems to have gone closest to the model you're
20 proposing is the State of Colorado. And they
21 passed their TABOR bill, Taxpayer Bill of
22 Rights, which effectively capped state
23 spending, and then had to at a later date be
24 completely overhauled in a referendum bill by
25 the people when many Republican legislators,

1 Republican governor and their business
2 leaders, highlighted all the negative impacts
3 that were found on the State of Colorado.

4 At the time they made the decision
5 to pull back on TABOR -- and again, they have
6 I&R in their state, so they had the ability
7 to. We don't have initiative and referendum,
8 so we wouldn't have the ability to go back the
9 way they did.

10 Between 1992 and 2001, Colorado
11 declined from 35th to 49th in the nation for
12 spending on education. As of 2006, the state
13 maintained its low rank among the states to
14 48th in education. Colorado's average
15 per-pupil funding fell by \$600 relative to the
16 national average. Their funding for public
17 health programs plummeted from 23rd to 48th in
18 national stating rankings.

19 Their services for children
20 plummeted in the rankings. The share of
21 low-income children lacking health insurance
22 doubled in Colorado and is now ranked 47th
23 among the 50 states on child health measures.
24 It also affected low-income adults. Colorado
25 fell from 20th to 48th for the percentage of

1 low-income non-elderly adults without health
2 insurance.

3 The business community responded
4 that Colorado was no longer a place where they
5 could grow their businesses. And so in fact
6 Colorado realized that perhaps -- not perhaps,
7 that they had gone too far. They had
8 unintended consequences of the TABOR Act. And
9 no state since then has gone as far as
10 Colorado originally did and reversed itself
11 upon in 2005.

12 Why now here in 2011 should
13 New York assume there are no lessons to be
14 learned from what some of the other states did
15 and then reversed themselves on? Why should
16 we want to put ourselves in a position where
17 these things can happen here but we won't have
18 a go-backwards option or a do-over?

19 SENATOR RANZENHOFER: The simple
20 answer is that I believe that New York State's
21 fiscal condition is so bad that if we do
22 nothing, that it will continue to worsen. And
23 notwithstanding the speech or, you know,
24 information that you just provided, people are
25 leaving the state in droves. And something

1 has to be done in order to keep them here.
2 And I think limiting spending and limiting
3 taxes and trying to create private-sector jobs
4 is the correct method to go. And that's why I
5 introduced the bill.

6 SENATOR KRUEGER: Mr. President,
7 on the bill.

8 THE PRESIDENT: Senator.

9 SENATOR LIZ KRUEGER: Thank you.
10 Thank you very much, Senator Ranzenhofer, for
11 giving me the time and explanation for your
12 legislation.

13 Again, I stand here saying no
14 disagreement, New York State has a spending in
15 relationship to revenue issue. No
16 disagreement we're facing a \$10 billion
17 deficit and we must do the right things for
18 the people of the State of New York. And
19 there are right ways to handle this and I
20 believe wrong ways to handle this.

21 I think a constitutional amendment
22 mandating a specific unchangeable formula for
23 revenue and spending -- this bill is
24 specifically spending -- for spending in the
25 State of New York is a terrible, terrible road

1 to go down. We have seen, from other states
2 who tried it, it wasn't the right answer.

3 And specifically the way this
4 amendment is targeted I believe is not the
5 right answer. It doesn't address the concerns
6 about a population spurt. It doesn't address
7 the possibilities of the need to ratchet down
8 the effect when you're moving out of bad
9 economies into better economies. It doesn't
10 let you smooth over economic changes when
11 looking at a year-by-year basis.

12 There are huge unintended
13 consequences for local government. When you
14 look at the findings specifically from
15 Colorado and other states, what they found
16 when they stopped themselves from being able
17 to increase their spending at the state level
18 was that they created endless numbers of new
19 government, new governments at the local
20 level. Counties, towns, cities were creating
21 new districts, new categories that could in
22 fact increase their revenue because they knew
23 they weren't going to get any more from the
24 state as population grew, as the economy
25 changed, as there was standard inflation. So

1 that what Colorado found was that they created
2 a monster of endless small local government
3 units.

4 Well, the irony is that we know in
5 New York State, we're already the poster child
6 of states who are having that problem. We
7 have too many IDAs, we have too many public
8 authorities, we have too many subdistricts and
9 subsubdistricts within counties and townships.
10 Colorado found that it walked into this
11 problem after they passed their spending cap;
12 we already have to solve that problem without
13 dealing with the spending cap.

14 So I could go on. There's an
15 enormous body of research. This is a
16 fundamental, tough, complicated issue of
17 government. We got this bill yesterday in the
18 Finance Committee. Many of us said no notice,
19 need more time. Even if some of my colleagues
20 might end up saying, after they did the
21 homework, maybe there's a right way to do
22 this, maybe they can completely agree with
23 Senator Ranzenhofer, you should not be rushing
24 this kind of bill to the floor for a vote
25 without a very broad public discussion, I

1 would argue public hearings, I would argue
2 bringing in the experts from throughout the
3 nation. A lot has been written, a lot has
4 been tried, and much has failed.

5 So for so many reasons -- not one
6 of which is I don't believe we need to get
7 spending under control. I do. But for many,
8 many reasons, I have to urge my colleagues to
9 vote no on this bill. We should not take an
10 amendment to the Constitution of the State of
11 New York so lightly.

12 Thank you very much, Mr. President.

13 THE PRESIDENT: Thank you,
14 Senator.

15 Senator Robach, on the resolution.

16 SENATOR ROBACH: Yes,
17 Mr. President. Through you, on the bill.

18 I rise to support this measure.
19 And, you know, we're leaving some things out
20 of this dialogue. This is really in direct
21 response to what people want. They're asking
22 for it all across this state. And if
23 anything, we're going to have to actually do
24 this without this legislation in this upcoming
25 budget year.

1 We've all heard the Governor loud
2 and clear. We know what the dollar amounts
3 are. We know what the challenge is of the
4 fiscal situation. And certainly we're coming
5 off an election where many people talked about
6 I'm going to do my part when I get to Albany
7 to control spending. This is clearly just a
8 measure in addition to the short-term measures
9 we're going to have to do to be responsive to
10 people and the public in a long-term way.

11 I listened very intently to Senator
12 Krueger. We tried the other way. We taxed
13 seven times the rate of inflation over the
14 last two years, and the public was outraged at
15 each and every one of us, and it didn't help
16 the economy one bit.

17 I think clearly the history and the
18 outcomes would dictate that we have to move in
19 a different direction. These series of bills
20 are exactly that, following up on promises
21 made during campaigns of knowing, even though
22 it's challenging and no one necessarily enjoys
23 it, that we're going to do the tough things to
24 get our fiscal house in order and move in a
25 different direction, keeping an eye on

1 overburdened taxpayers, working men and women
2 and people on a fixed income.

3 But the beauty about this bill is
4 there will be ample time to discuss it. And
5 at the end of the day, the most important
6 people get to make the decision, the voters of
7 New York State, through this. The frustrating
8 part is it does take a couple of years. But
9 the wonderful part is everybody in your
10 district and my district will get to vote on
11 this bill if this is the direction we want to
12 go to and think that this is the vehicle to
13 get our fiscal house in order.

14 We are at a time when people are
15 challenging decisions everywhere. Amplifying
16 the voice of the people and letting them in
17 can only be good. And I strongly encourage a
18 yes vote on this important bill,
19 Mr. President.

20 THE PRESIDENT: Thank you,
21 Senator.

22 Are any other Senators wishing to
23 be heard on this resolution?

24 Senator Kruger.

25 SENATOR CARL KRUGER: Thank you,

1 Mr. President. Would Senator Ranzenhofer
2 yield for a few questions?

3 THE PRESIDENT: Senator
4 Ranzenhofer, do you yield?

5 SENATOR RANZENHOFER: Yes.

6 SENATOR CARL KRUGER: I guess,
7 you know, confusion reigns here in the chamber
8 today. You pointed out that our population in
9 this state continues to decrease and we keep
10 on losing Congressional seats. How come we
11 increase Senate seats? That's a question.

12 SENATOR RANZENHOFER: Are you
13 talking about New York Senate?

14 SENATOR CARL KRUGER: New York
15 State Senate seats continue to increase while
16 you're saying our population decreases and
17 we're losing Congressional seats. How is the
18 Republican majority able to increase Senate
19 seats?

20 SENATOR RANZENHOFER: I'm not
21 really sure what you're talking about. When I
22 came in in 2009 --

23 SENATOR CARL KRUGER: I'm sure
24 you don't. That's part of the confusion.

25 SENATOR RANZENHOFER: -- there

1 were 61 seats, and there are still 61 seats.
2 Sixty-two.

3 SENATOR CARL KRUGER: Well, okay.
4 That was just a rhetorical point.

5 On your bill.

6 SENATOR RANZENHOFER: Is this a
7 real question or a rhetorical question?

8 SENATOR CARL KRUGER: Yes, this
9 is an on-the-bill question.

10 THE PRESIDENT: Senator, you want
11 to ask the Senator to yield?

12 SENATOR CARL KRUGER: When we
13 want to engage some dialogue --

14 THE PRESIDENT: Senator --
15 Senator Kruger, you want to ask Senator
16 Ranzenhofer to yield?

17 SENATOR CARL KRUGER: Yes, I do.
18 Do you yield for a question?

19 THE PRESIDENT: Senator, do you
20 yield?

21 SENATOR RANZENHOFER: Yes.

22 THE PRESIDENT: The Senator
23 yields.

24 SENATOR CARL KRUGER: Thank you,
25 Senator. When we want to talk about dialogue

1 in terms of spending, and we were to look at,
2 you know, benchmark years -- let's start from
3 1982 to the year '09. And we could pick out
4 years: 12 percent increase in spending,
5 7 percent increase in spending, 10.9 percent
6 increase in spending, and the list goes on and
7 on.

8 How come during those years, in
9 your judgment, we increased spending?

10 SENATOR RANZENHOFER: First of
11 all, I wasn't here serving with you during
12 that time, Senator Kruger. But the point I
13 was making is, and the numbers that I gave
14 before, is that whether you look at the last
15 10-year period, whether you look at the last
16 20-year period, whether you look at the last
17 27-year period, whether there was a Republican
18 governor or a Democratic governor, whether
19 there was a Republican Senate or a Democratic
20 Senate, spending has gone up too much.

21 And as a result of that, as you
22 pointed out in your verbal comments earlier,
23 we continue to lose population. I think that
24 needs to change. I'm not looking here to
25 place blame on the majority from last year.

1 I'm not looking to place blame on anywhere
2 else. What I'm saying is that the citizens of
3 this state want something done about excessive
4 spending. This bill addresses that concern.
5 Plain and simple.

6 SENATOR CARL KRUGER: Thank you,
7 Senator.

8 Firstly, we should not be able to
9 address last year's spending, because the
10 spending cap last year we spent 0.5 percent.

11 THE PRESIDENT: Senator Kruger,
12 is this on the bill?

13 SENATOR CARL KRUGER: Does
14 Senator Ranzenhofer continue to yield?

15 THE PRESIDENT: Senator Kruger,
16 is this on the resolution?

17 SENATOR CARL KRUGER: On the
18 resolution.

19 THE PRESIDENT: You asked if the
20 Senator would yield?

21 SENATOR RANZENHOFER: I'd be
22 happy to yield.

23 SENATOR CARL KRUGER: Thank you
24 very much.

25 Senator Ranzenhofer, when you talk

1 about a 2 percent cap, are you talking about a
2 2 percent aggregate cap on all state spending?

3 SENATOR RANZENHOFER: As I
4 answered the question in response to Senator
5 Krueger, in the bill in Section 2 -- I'm
6 sorry, 3 -- total state spending, which means
7 all state funds, which will include general
8 funds, special revenue funds, capital project
9 funds, and debt service funds.

10 So all state spending is all state
11 spending.

12 SENATOR CARL KRUGER: Two percent
13 cap?

14 SENATOR RANZENHOFER: Yes.

15 SENATOR CARL KRUGER: Now, this
16 bill would not -- again, through you,
17 Mr. President.

18 THE PRESIDENT: Are you asking --

19 SENATOR CARL KRUGER: If the
20 Senator will continue to yield.

21 THE PRESIDENT: Senator, will you
22 yield?

23 SENATOR RANZENHOFER: I'd be
24 happy to continue to yield.

25 THE PRESIDENT: The Senator

1 continues to yield to Senator Kruger.

2 SENATOR CARL KRUGER: Thank you
3 again. Thank you again, Senator Ranzenhofer.

4 So if we're to look at this
5 2 percent cap and we're to say that's the
6 aggregate spending cap on all state
7 categories, let's now try to put a face on
8 that spending cap, with your permission.
9 Two percent spending cap, Senator Ranzenhofer,
10 would that apply to the aggregate amount for
11 health?

12 THE PRESIDENT: Senator?

13 SENATOR RANZENHOFER: Yes. As I
14 said, Senator Kruger, it's all state spending.

15 SENATOR CARL KRUGER: Again,
16 through you, Mr. President, if the Senator
17 will continue to yield.

18 SENATOR RANZENHOFER: Yes.

19 THE PRESIDENT: The Senator
20 yields.

21 SENATOR CARL KRUGER: So when we
22 talk about education, you are advocating that
23 we put a cap of 2 percent based upon a budget
24 that we are already going to decimate -- let's
25 pretend it's this year of taking \$10 billion

1 out of the current budget. You're suggesting
2 that in future years, as we continue this road
3 to austerity, that we continue to limit our
4 ability to cap expenditures at 2 percent. Am
5 I correct?

6 SENATOR RANZENHOFER: As I said,
7 first of all, when you're talking about what's
8 going to happen this year, I think -- and as
9 Governor Cuomo has already said -- without a
10 spending cap, there is going to be significant
11 reductions in spending this year.

12 What I'm looking to do is to make
13 those spending reductions which need to be
14 made, and the public is asking us to make,
15 permanent by way of a constitutional
16 amendment. After it passes this Legislature,
17 after it passes the Legislature in 2013, and
18 then the voters will have an opportunity.

19 If the voters agree with you,
20 Senator Kruger, that there should not be
21 reductions in spending and there should not be
22 a spending cap, then I imagine that they would
23 vote in favor of the position that you're
24 espousing. If the voters feel that there
25 should be a spending cap and that the state

1 needs to get its spending under control and
2 that 2 percent or 120 percent of the CPI is a
3 better direction, I believe that they would
4 choose that path.

5 But I think it's an important step
6 that this Legislature passes to give the
7 voters of this state the opportunity to amend
8 the Constitution so they have some control and
9 they have some say over the type of spending
10 that they want. Because they haven't had any
11 control over the last number of years. And
12 their way of expressing themselves has been to
13 leave the state to go to other states that
14 don't spend as much and don't tax as much.

15 That's the reality of the
16 situation, and that's the problem which we now
17 face and the problem that I think needs to be
18 fixed. And we'll see, if it passes the
19 legislature and it passes a successive
20 legislature and the voters have an opportunity
21 to make that decision, what they feel on the
22 subject.

23 SENATOR CARL KRUGER: Thank you.

24 Once again, through you,
25 Mr. President, would the Senator continue to

1 yield?

2 THE PRESIDENT: Senator, will you

3 yield?

4 SENATOR RANZENHOFER: I'd be

5 happy to.

6 THE PRESIDENT: The Senator

7 yields.

8 SENATOR CARL KRUGER: Thank you

9 again, Senator.

10 So for a moment, if we're to use
11 the model that Senator Krueger spoke about,
12 and that's California --

13 SENATOR RANZENHOFER: I believe
14 she spoke about Colorado.

15 SENATOR CARL KRUGER: Colorado as
16 well as California.

17 In both cases, can you in your
18 judgment, and based upon your own personal
19 knowledge, do you feel that the economies have
20 flourished under the spending cap both in
21 Colorado and California?

22 SENATOR RANZENHOFER: Through
23 you, Mr. President, let me just read you a
24 little bit of literature about what happened
25 in Colorado after they passed their spending

1 cap.

2 It says "Colorado's early
3 experience with TABOR included very rapid
4 demographic and economic growth because of
5 substantial migration, a 30 percent population
6 growth from 1990 to 2000, and the rapid
7 expansion of the electronics and
8 telecommunications industries in the state.
9 Taxpayers saw substantial TABOR refund checks
10 as revenues above the limit were returned to
11 them. The general assembly subsequently
12 reduced personal income and sales tax rates to
13 reduce surplus returnable revenues."

14 So at least the experience in
15 Colorado when it was passed, and for the
16 decade following that, actually produced some
17 pretty significant change which I imagine the
18 legislature was trying to accomplish. They
19 were trying to revive a dormant business
20 industry, which they did. They were trying to
21 limit their spending, which they did. They
22 were trying to lessen their tax burden, which
23 they did.

24 I don't have -- I don't think that
25 Senator Krueger talked about California, so

1 I'm not going to comment on that. But on the
2 specific example that you reference, and what
3 she referenced, at least for the first
4 10 years after it passed, it was a pretty
5 successful program.

6 And more importantly, Senator, I
7 believe it did what the -- you know, what the
8 residents of that state wanted, through their
9 legislature. It reduced spending and reduced
10 taxes. And at least the sense that I have,
11 and I know the Governor has spoken very
12 forcefully about that, the Governor also wants
13 to reduce spending and reduce taxes. I think
14 in his State of the State message he indicated
15 that over the last decade we've lost 2 million
16 people.

17 And that's a real problem. When
18 the spending goes up and there are fewer
19 people left behind to pay it, it just creates
20 a continuing problem which I think this
21 Legislature needs to address. It hasn't been
22 addressed properly. And this is the first
23 step to do that.

24 SENATOR CARL KRUGER: Thank you,
25 Senator.

1 Again, through you, Mr. President,
2 does the Senator continue to yield?

3 THE PRESIDENT: Senator, will you
4 continue to yield?

5 SENATOR RANZENHOFER: Yes, I'd be
6 happy to.

7 THE PRESIDENT: The Senator
8 yields.

9 SENATOR CARL KRUGER: Firstly, I
10 guess, this is a two-part question.

11 Number one, since we're awaiting
12 the Governor's budget and what his spending
13 program would lay out, is this legislation
14 ill-timed?

15 And secondly, if we want to look at
16 Colorado again, notwithstanding the fact that
17 there may have been one particular bump in
18 terms of telecommunications, can you explain
19 why Colorado, because the spending cap
20 virtually destroyed state government, that
21 they had to repeal it?

22 SENATOR RANZENHOFER: What was
23 your first question again?

24 SENATOR CARL KRUGER: My first
25 question was the Governor, how come we're not

1 waiting for him.

2 SENATOR RANZENHOFER: Well, first
3 of all, this -- as I said, we are going to, as
4 you well know, as ranker on Finance and as
5 chairman of Finance last year, that there are
6 going to be some great challenges that we're
7 facing right now. And the Governor is going
8 to propose a budget and this Legislature is
9 going to have to deal with some very, very
10 difficult choices. And that's with whether
11 you have a spending cap or not, that's just
12 the reality that we are going to have to deal
13 with over the next couple of months.

14 My feeling is that we really can't
15 afford to wait any longer. In the statistics
16 that I'd given you earlier, over the last
17 27 years -- again, regardless of who's in
18 charge -- spending has increased well above
19 the rate of inflation, with the results, as I
20 also indicated, that people are just leaving
21 the state.

22 So I think this is long overdue,
23 not too early. And I think it's important to
24 send a very important message to this state
25 that we as a body are serious about getting

1 our fiscal house in order. That's what
2 residents in your district and my district are
3 doing in their own homes. That's what
4 businesses in your district and my district
5 are doing in their businesses. They have to
6 control their spending to survive. And I
7 think the state also needs to take that
8 approach as well.

9 SENATOR CARL KRUGER: Okay. And
10 since you raise the issue of Colorado, how
11 come they rescinded their cap?

12 SENATOR RANZENHOFER: As I said,
13 you know, I'm not -- I've only been in the
14 Senate for two years. I don't know why the
15 legislators in Colorado decided to do what
16 they did.

17 We are at a point in our history in
18 the State of New York that we need a cap. We
19 can't continue to push the spending problem
20 that we have down the road and hope that
21 people will not continue to leave, hope that
22 businesses won't continue to leave. We need
23 to take some action today. And that's why the
24 bill was introduced.

25 SENATOR CARL KRUGER: Thank you,

1 Senator.

2 SENATOR RANZENHOFER: You're
3 welcome.

4 SENATOR CARL KRUGER: Mr.
5 President, on the bill.

6 THE PRESIDENT: Senator Kruger,
7 on the resolution.

8 SENATOR CARL KRUGER: On the
9 resolution.

10 Firstly, when we want to talk about
11 a spending cap and we want to talk about
12 spending and we want to talk about cuts, it's
13 important for us as a Legislature to not look
14 at this as just amorphous numbers, but rather
15 to treat this as cuts and caps that affect
16 people's lives -- affect children and their
17 education, affect poor people and social
18 service needs, that affect senior citizens and
19 people that are sick, that are in hospitals
20 across this state.

21 And if we want to take and put
22 faces on those cuts and those caps, we have to
23 look at them both in good years and in bad
24 years as well. And if we're going to put our
25 fiscal house in order, we can never ignore the

1 human side of the equation.

2 The human side of the equation says
3 that we have a responsibility not to try to
4 hide behind constitutional amendments that in
5 this state are virtually impossible to undo.
6 If we're going to talk about a critical crisis
7 that faces us today, we can't talk about a
8 plan of action that can only be implemented
9 five years from now.

10 If we're going to talk about cuts
11 and what cuts mean, if we're going to take
12 direction from our newly elected Governor,
13 then we have to stop kicking the can down the
14 road and stop the dramatics of looking for
15 quick 30-second sound bites. What we have to
16 look for is a bill, we have to look for a
17 budget, we have to look for a plan of action,
18 and we have to look for a sense of commitment,
19 a commitment that we are here as legislators,
20 on both sides of the aisle, dedicated to speak
21 for the people that necessarily can't speak
22 for themselves: the poor, the sick, the
23 elderly, the infant child.

24 If we put that into the equation,
25 then we can't put a numerical number of

1 2 percent for virtually the rest of their life
2 on how government is going to treat them -- 2
3 percent of the aggregate number, 2 percent of
4 the number that will affect education,
5 healthcare, social services and every other
6 aspect of human life in this state.

7 So today I say that in the period
8 of 24 hours this resolution has been put
9 before our house. It's been put before our
10 house to digest, to evaluate and to vote on.
11 I think that that's a little bit putting the
12 cart in front of the horse. It's giving us
13 not enough time to have honest and clear
14 debate on the issue. But more importantly, it
15 prevents us from dealing with our immediate
16 concerns and our needs as legislators.

17 Caps and spending cuts and a budget
18 in balance is our obligation. And we meet
19 that obligation not by taking constitutional
20 amendments and hoping to hide behind them, but
21 rather taking the real facts of the day,
22 putting a face on those facts, and moving
23 forward with a budget, with the support of the
24 Assembly and the Governor, that makes sense
25 for all New Yorkers.

1 Thank you.

2 THE PRESIDENT: Thank you,
3 Senator Kruger.

4 Are there any other Senators
5 wishing to speak or be heard on this
6 resolution?

7 Senator Saland.

8 SENATOR SALAND: Thank you,
9 Mr. President. I'll be brief. I probably
10 won't need the microphone.

11 I think the reference to Colorado
12 and TABOR is totally inapt. I recall at the
13 time I was actively involved in the National
14 Conference of State Legislatures, which was
15 headquartered in Colorado. I was an officer
16 of that organization. TABOR was the product
17 of I believe a referendum adopted by the
18 people of Colorado, among other things. Not
19 only does it differ in terms of manner in
20 which it presents itself, but in the case of
21 TABOR, it made no provision for a rainy day
22 fund.

23 This particular measure does
24 require that anything that exceeds the amount
25 of the cap be divided both by way of returning

1 one-half to the taxpayers and one-half to a
2 sustained rainy day fund.

3 There was something that to
4 appearances might have appeared to be a rainy
5 day fund, but in effect it was a cash flow
6 mechanism. It was not sustainable. And it
7 did not produce the accumulation of funds to
8 be used in times of need.

9 So I would just rise clearly to
10 clear the record and to say that the use of
11 TABOR in some way, shape or form to discredit
12 Senator Ranzenhofer's resolution simply does
13 not apply.

14 Thank you, Mr. President.

15 THE PRESIDENT: Thank you,
16 Senator Saland.

17 Any other Senators wishing to be
18 heard?

19 (No response.)

20 THE PRESIDENT: Hearing none, the
21 debate is closed.

22 The Secretary will ring the bell.

23 (Pause.)

24 THE PRESIDENT: The Secretary
25 will call the roll on the resolution.

1 (The Secretary called the roll.)

2 THE PRESIDENT: The Secretary
3 will record the negatives and announce the
4 results.

5 Announce the results.

6 THE SECRETARY: Those recorded in
7 the negative on Calendar Number 3 are Senators
8 Adams, Diaz, Espaillat, Gianaris,
9 Hassell-Thompson, Huntley, L. Krueger,
10 C. Kruger, Montgomery, Oppenheimer, Parker,
11 Peralta, Perkins, Rivera, Savino, Serrano,
12 Squadron, Stavisky and Stewart-Cousins.

13 Ayes, 41. Nays, 19.

14 THE PRESIDENT: The resolution is
15 adopted.

16 The Secretary will now read
17 Calendar Number 4.

18 THE SECRETARY: Calendar Number
19 4, by Senator Zeldin, Senate Print 1919,
20 Concurrent Resolution of the Senate and
21 Assembly proposing an amendment to Section 14
22 of Article 3 of the Constitution.

23 SENATOR BRESLIN: Explanation.

24 THE PRESIDENT: Senator Zeldin,
25 an explanation has been requested.

1 SENATOR ZELDIN: Thank you,
2 Mr. President.

3 My colleagues, today we are taking
4 the first steps in a desperately needed
5 process to put the citizens back in control of
6 our state's economic future. No matter what
7 your party, no matter what part of the state
8 you come from, the message we have all heard
9 from the voters are the same: Taxes are too
10 high. Spending is too high. Not all
11 taxpayers have a voice in their government.

12 New York has lost its way. The
13 voters sent us here to represent them with the
14 hope that we will work together to create a
15 better direction for our state. It's time to
16 reestablish their confidence in us.

17 This concurrent resolution would
18 amend the Constitution to institute a
19 requirement of a two-thirds vote of the
20 members elected to each branch of the State
21 Legislature in order to pass any bill which
22 increases, extends, imposes or revives any
23 tax, fee, assessment, surcharge or any other
24 such levy or collection. Passage of this
25 resolution will constitute first passage of

1 this amendment. Whereafter, it will require
2 passage by both houses in the next legislative
3 session, and thereafter would be submitted to
4 the voters. If such amendment is approved and
5 enacted, the result will be that any attempt
6 to impose, increase, extend or revive a tax,
7 fee, assessment, surcharge, or any other such
8 tax levy or tax collection change will require
9 a two-thirds vote in each house of the
10 Legislature to pass.

11 The purpose of this amendment is
12 clear. In a state with some of the highest
13 taxes in the country and the worst business
14 climate in the country, this will reduce the
15 growth in government spending.

16 Limiting the amount of revenue that
17 government can collect will reduce the amount
18 of money that government can spend. It will
19 compel us to do the difficult but necessary
20 work of focusing on the most essential
21 programs and services our citizens need and
22 developing a tax system that generates
23 adequate revenues for these needs without
24 harming our economy.

25 I'm proud that this is a bipartisan

1 effort. The amendment is sponsored in the
2 other house by Democratic Assemblywoman RoAnn
3 Destito, and I pledge to work with her to see
4 that this two-thirds requirement is enacted.

5 Thomas Jefferson once said that a
6 government that's big enough to give you
7 everything you want is big enough to take away
8 everything you have. I believe our action in
9 this Legislature today demonstrates to the
10 public that we are serious about reducing the
11 burdens on our taxpayers and are serious about
12 both challenging and changing the way New York
13 State operates. I urge all my colleagues to
14 join me in support of this measure.

15 Thank you, Mr. President.

16 THE PRESIDENT: Senator Krueger.

17 SENATOR LIZ KRUEGER: Thank you,
18 Mr. President. If through you the sponsor
19 would yield to some questions.

20 THE PRESIDENT: Will the Senator
21 yield?

22 SENATOR ZELDIN: I'd be happy to.

23 THE PRESIDENT: The Senator
24 yields.

25 SENATOR LIZ KRUEGER: Thank you

1 so much, Mr. President.

2 Good morning, Senator Zeldin. We
3 haven't had a chance to meet yet, so welcome
4 to the New York State Senate. I suspect we're
5 going to have many fun debates on the floor in
6 the next session.

7 I'll start with a couple of
8 questions about this bill. Is it your
9 understanding that this constitutional
10 amendment would require that all budget bills,
11 which almost always have increases,
12 extensions, changes or revisions in
13 revenue-raising provisions, that this
14 constitutional amendment would apply to budget
15 bills?

16 SENATOR ZELDIN: Mr. President,
17 yes.

18 SENATOR LIZ KRUEGER: Thank you,
19 Mr. President. If through you the sponsor
20 would continue to yield.

21 THE PRESIDENT: Senator, will you
22 yield?

23 SENATOR ZELDIN: Be happy to.

24 THE PRESIDENT: The Senator
25 yields.

1 SENATOR LIZ KRUEGER: Thank you.

2 And again, it's a different
3 constitutional amendment than the last debate
4 we just had on the floor. But again, I've
5 done some checking out how it worked in other
6 states when they went down this road. Again,
7 through constitutional amendment, just to
8 emphasize, once we make this decision and we
9 put it in our Constitution, we don't really
10 get to reverse it. Or not unless through an
11 extraordinarily complex multiyear process.

12 So under this situation, if your
13 constitutional amendment became the law of the
14 land, and there would continue to be, I
15 believe, good economic times and bad economic
16 times, cycles where there were upticks and
17 downturns, how would we adjust for that in the
18 context of a supermajority, 41 out of 62
19 Senators voting for some specific tax
20 increase, potentially being mathematically
21 impossible to accomplish in this chamber? How
22 would we adjust for the bad times?

23 SENATOR ZELDIN: Mr. President, I
24 believe that if there is a tax increase or fee
25 that is that important, that we -- the

1 requirement of two-thirds of this body would
2 be obtainable. This isn't a requirement
3 imposing a four-thirds requirement, it's a
4 two-thirds requirement. That leaves the power
5 in this body to increase taxes if it wants to.
6 It just makes it more difficult to just tax
7 and spend freely, at will, in the ways that
8 hurt the state.

9 SENATOR LIZ KRUEGER: Thank you.

10 Through you, Mr. President, if the
11 Senator would continue to yield.

12 THE PRESIDENT: Senator, will you
13 continue to yield?

14 SENATOR ZELDIN: Yes,
15 Mr. President.

16 THE PRESIDENT: The Senator
17 yields.

18 SENATOR LIZ KRUEGER: Now, this
19 question is a bit of an assumption that your
20 constitutional amendment passed, as well as
21 Senator Ranzenhofer's constitutional amendment
22 on spending cap.

23 So to follow up with the question I
24 asked about good economic times, bad economic
25 times, and the need for government to be more

1 responsive in bad economic times, have greater
2 ability to raise revenue in good economic
3 times and be a smoother for the people of
4 economic cycle realities. So in the
5 Ranzenhofer constitutional amendment, there's
6 a limit of how much the state could actually
7 keep for a rainy day fund. We would have a
8 constitutional obligation to return at least
9 50 percent, in any given year, of unspent
10 monies to the taxpayer, limiting our ability
11 to save for the rainy day of bad economic
12 times.

13 Now we layer that with, you're
14 right, a supermajority, two-thirds. So that
15 would, under the current size of the Senate,
16 require 41, I believe, of 62 Senators to vote
17 for any specific bill.

18 Do you not see that there
19 potentially is a conflict in planning in
20 government of these two constitutional
21 amendments becoming law together?

22 SENATOR ZELDIN: No.

23 SENATOR LIZ KRUEGER: Thank you.
24 For the record, I disagree with you.

25 Mr. President, if through you the

1 sponsor would continue to yield.

2 THE PRESIDENT: Senator, will you
3 yield?

4 SENATOR ZELDIN: Be happy to.

5 SENATOR LIZ KRUEGER: Thank you.

6 Going back to my point about if
7 budget bills are supermajority bills -- and
8 you answered yes, they would be -- and we look
9 at some of the states that do have
10 supermajority rules on tax and revenue --
11 although, again, your amendment would go
12 further than most other states, I believe,
13 with the exception of California, for covering
14 all possible new revenue sources. Do you see
15 us having a problem with timely budgets,
16 getting it all done by April 1st?

17 SENATOR ZELDIN: No.

18 SENATOR LIZ KRUEGER: Thank you,
19 Mr. President. If through you the sponsor
20 would continue to yield.

21 THE PRESIDENT: Senator, will you
22 continue to yield?

23 SENATOR ZELDIN: I'd be happy to.

24 SENATOR LIZ KRUEGER: I recently
25 looked very carefully at the California model,

1 where they have had a supermajority law in
2 effect. And again, they realized after an
3 extended period of time that their state had
4 enormous problems, far, far worse than
5 anything we see here in New York. Never being
6 able to get their budget done -- I wouldn't
7 even say on time, never being able to get
8 their budget done. Finding themselves in a
9 much, much more drastic deficit situation than
10 here in our state, actually having cities and
11 counties potentially on the verge of
12 bankruptcy, talking about having to pay their
13 state workers with IOUs.

14 I think most people would agree
15 California is to some degree the example
16 everyone in state government throughout the
17 country wakes up and says, Please, never let
18 me wake up and be a California elected
19 official.

20 California had this model. The
21 people actually rose up this year -- again,
22 through an initiative and referendum vote,
23 which we don't have the option of. So if we
24 became a state that had a supermajority rule
25 for revenue in our Constitution, we again,

1 like my issue with the last constitutional
2 amendment, we couldn't go back. California
3 went back. Their voters said no, we're not
4 going to continue this model, it has brought
5 California to ruin.

6 Given what just happened with
7 California, given the amount of research that
8 has been produced over literally the last
9 year, when this was such a hot debate in
10 California, why do you think it's the right
11 answer for New York given what we have learned
12 about California?

13 SENATOR ZELDIN: Mr. President, I
14 would blame, first and foremost, a
15 dysfunctional legislature in California for
16 the taxing and spending problems. As we've
17 seen here in our own state, we shouldn't be
18 following the models of what's going wrong
19 around the country but maybe what is going on
20 right.

21 I don't think that California's
22 problems is that they're not taxing their
23 residents enough. The tax-and-spend ways of
24 California in many ways are contributing to
25 the problems of that state.

1 There are 16 other states that have
2 this constitutional amendment, California
3 being just one. And it's important that as we
4 look at California -- well, I would have to
5 say in my opinion it's not that California
6 needs to drastically raise their own taxes and
7 more borrowing and more spending to fix that
8 state's economy.

9 I am focused on helping fix the
10 New York State economy, and I would look at
11 the responsibility, first and foremost,
12 amongst the people that are in this
13 Legislature and giving the right to the people
14 that are in our state. If our voters in
15 New York State believe that we shouldn't have
16 this constitutional amendment, it is in their
17 power to vote no. I want to give them that
18 opportunity, and that's why I proposed this
19 bill.

20 SENATOR LIZ KRUEGER: Thank you,
21 Mr. President. If through you the Senator
22 would continue to yield.

23 THE PRESIDENT: Senator, will you
24 yield?

25 SENATOR ZELDIN: Yes.

1 THE PRESIDENT: The Senator
2 yields.

3 SENATOR LIZ KRUEGER: Senator
4 Zeldin, I think you and I share a mutual goal
5 for the State of New York, I think we're just
6 disagreeing on how we get there.

7 In your constitutional amendment --
8 and you answered the question about having to
9 have a supermajority for budget bills because
10 a supermajority for all state revenue bills.
11 Does your constitutional amendment also apply
12 to the Legislature requiring supermajority
13 votes on any local tax proposals that come to
14 us?

15 As we know, other than the property
16 tax, counties and municipalities have to come
17 to us for a vote on every single revenue item
18 for themselves. Would the supermajority rule
19 apply to these bills as well?

20 SENATOR ZELDIN: Mr. President,
21 we're only giving the locals the option. And
22 in that case, it's up to them.

23 SENATOR LIZ KRUEGER: I'm sorry,
24 I couldn't hear, Mr. President. If the
25 sponsor could repeat himself.

1 THE PRESIDENT: Would you repeat
2 your answer, please.

3 SENATOR ZELDIN: We are giving
4 the local governments the option. So as far
5 as giving them the option, it's up to the
6 local voters to decide whether or not to
7 increase taxes.

8 SENATOR LIZ KRUEGER: Mr.
9 President, may I ask another question of the
10 sponsor, please.

11 THE PRESIDENT: Senator, will you
12 yield?

13 SENATOR ZELDIN: I'd be happy to.

14 THE PRESIDENT: The Senator
15 yields.

16 SENATOR LIZ KRUEGER: Thank you.

17 Having heard the answer, I'm afraid
18 I don't understand it. We're giving them the
19 option to say we're sending you a local tax
20 bill, and we're saying do it by supermajority
21 versus not supermajority? Was that the
22 answer?

23 SENATOR ZELDIN: It will not
24 apply to local governments. We are only
25 giving them the option, and it's the local

1 governments that are able to vote.

2 But if I understand your question
3 correctly, you're asking whether or not it's a
4 supermajority vote or a majority vote. And
5 it's a majority vote. It's up to the voters
6 of the local governments to decide whether or
7 not to impose it.

8 SENATOR LIZ KRUEGER: Mr.
9 President, if through you I could continue to
10 question the sponsor.

11 THE PRESIDENT: Senator, will you
12 yield again?

13 SENATOR ZELDIN: Be happy to.

14 THE PRESIDENT: The Senator
15 yields.

16 SENATOR LIZ KRUEGER: Thank you.

17 I'm sorry if I'm having trouble
18 understanding. Let's say a sales tax. We
19 have, almost yearly, a process where counties
20 send us requests for a sales tax increase.
21 They can't do it without coming to us. They
22 can't pass almost any kind of revenue-raiser
23 for themselves without coming to us. And I
24 don't believe there was anything in this
25 constitutional amendment that changed that.

1 So the locality can decide they
2 don't want to ask us to raise their sales tax
3 or ask us not to raise something else they
4 traditionally have come to us. I understand
5 that. But if they want to raise their
6 taxes -- let me rephrase. Nobody ever wants
7 to raise their taxes. If they need to balance
8 their budgets through a revenue increase, they
9 do have to currently come to us. I don't see
10 anything in your constitutional amendment that
11 would change that reality.

12 So where would the option come as
13 to whether we treated their tax and revenue
14 proposals as an option, a supermajority or
15 not?

16 SENATOR ZELDIN: This bill does
17 not affect your hypothetical. So I'm trying
18 to answer your hypothetical. And because it
19 does not affect your hypothetical, it's still
20 a majority vote. We're giving the option to
21 the local voters to vote on it.

22 SENATOR LIZ KRUEGER: Mr.
23 President, if through you I could continue to
24 ask a question of the Senator.

25 THE PRESIDENT: Senator, will you

1 yield?

2 SENATOR ZELDIN: Yes, I will.

3 THE PRESIDENT: The Senator
4 yields.

5 SENATOR LIZ KRUEGER: But just to
6 continue my train of thought, let me just --
7 not a question, first -- make a statement.

8 I actually don't think that is what
9 the constitutional amendment's impact would
10 be. I believe, as I read it, it would require
11 us to do local tax bills as supermajority.

12 So in light of our disagreement on
13 that, which is okay, have you gotten an
14 opinion from the Attorney General about what
15 will this constitutional amendment would do,
16 what the impact would be, and how broad its
17 interpretation would be constitutionally?
18 Because that is a role of the Attorney General
19 on constitutional amendments.

20 SENATOR ZELDIN: Mr. President,
21 the Attorney General is aware of the bill. As
22 I'm sure you know, he has 20 days to offer an
23 opinion. He has not offered an opinion. Due
24 to the 1951 advisory opinion of the Attorney
25 General at that time, this body is authorized

1 to act. Our Attorney General has not provided
2 an opinion, but our body is going forward with
3 the proposal today.

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

7 THE PRESIDENT: Senator, would
8 you yield to one more question?

9 SENATOR ZELDIN: I'd be happy to.

10 SENATOR LIZ KRUEGER: Thank you
11 very much. See, I told you this was fun.

12 I do politely argue that we should
13 really wait for the Attorney General to give
14 us his response before this august body
15 decides to vote on something, again, so
16 dramatic in its impact on the State of
17 New York. We have no rush to have to do this.
18 Obviously, we know it requires votes in both
19 houses in two different sessions of the Senate
20 and Assembly. We are only in our first couple
21 of weeks of the beginning of this, the first
22 of two sessions. And of course starting in a
23 week and a half, we delve into budget and need
24 to deal with all these issues absent an actual
25 passage or not passage of a constitutional

1 amendment.

2 So I would urge everyone, think
3 about why we maybe want to wait to find out
4 the Attorney General's opinion. But that's
5 not my question.

6 Would your constitutional amendment
7 impact the passage of tax expenditure or
8 credit bills which reduced revenue through the
9 tax system to the State of New York, a la
10 Senator Alesi's earlier bill that we debated
11 on this floor? Or does it apply to all
12 revenue for the State of New York, including
13 tax credits and expenditures, having to be
14 passed through supermajority?

15 SENATOR ZELDIN: First, to answer
16 your question, the answer is no.

17 But to clarify one thing with
18 regard to your statement involving the
19 Attorney General, we have provided him with
20 the bill. He has declined to give us an
21 opinion. And I can only speak for myself. I
22 was elected to represent the people of the
23 Third Senate District. I work for them and
24 not the New York State Attorney General. And
25 I'm not going to wait for him to come up with

1 an opinion at some hypothetical time in the
2 future.

3 He was given the opportunity, he's
4 declined to give us an opinion and we should
5 go forward on our own independently,
6 representing the voters of your districts as I
7 want to do with mine.

8 SENATOR LIZ KRUEGER: Mr.
9 President, on the bill.

10 THE PRESIDENT: Senator Krueger,
11 on the resolution.

12 SENATOR LIZ KRUEGER: Thank you
13 very much. I appreciate the sponsor's
14 patience and back-and-forth dialogue.

15 I think he's right, none of us work
16 for the Attorney General. We are elected by
17 our constituents to represent the interests of
18 them and, I would argue, all 19 million
19 New Yorkers. We are also obligated to follow
20 the Constitution of the State of New York and
21 I hope take it very, very seriously when and
22 if we make a decision to amend the
23 Constitution of the great State of New York.

24 The Constitution actually gives the
25 Attorney General the structure by which to

1 help us evaluate the constitutionality of any
2 actions we take in the Legislature, and in
3 fact is there to help guide us to understand
4 what the intended and perhaps unintended
5 consequences are of making dramatic changes in
6 our Constitution.

7 So I'm not suggesting any of us
8 work for the Attorney General. But speaking
9 only for myself, I'd very much like to make
10 sure that if we're going to change our great
11 Constitution for the great New York State,
12 that we know we are in fact meeting
13 constitutional responsibilities and not having
14 bill language that may not in fact reflect the
15 impact that it would actually have on our
16 Constitution.

17 Because again, once you change the
18 Constitution, you don't get a fix-it
19 opportunity, as we do on the floor of the
20 Legislature when we can amend bills over and
21 over again.

22 I'm particularly concerned about
23 the last answer to my last question. This
24 would apply to raising revenue and creating
25 new streams of revenue, but this wouldn't

1 apply to tax expenditures and credits when we
2 would be reducing revenue to the State of
3 New York. It particularly concerns me that we
4 wouldn't have to meet the same obligation to
5 not look at cutting revenue to the State of
6 New York.

7 Because in light of the
8 constitutional amendment on a spending cap,
9 where the options for increasing revenue by
10 definition would be now limited by a
11 supermajority and by a maximum cap per year,
12 the concept that we could continue to reduce
13 revenue to the State of New York willy-nilly,
14 so to speak, by creating additional tax
15 expenditures and credits -- which historically
16 have been the fodder of special-interest
17 lobbyists to make sure they get their deals in
18 through the Legislature, usually without a lot
19 of attention paid, usually not within the
20 context of a broader budget discussion.

21 And now, through these two
22 constitutional amendments, if they became law,
23 we would be tying our hands for revenue and
24 spending but not for giving deals to special
25 interests. I think fundamentally, on that

1 issue alone, I would have a problem voting for
2 this constitutional amendment.

3 But I don't need to stop there.
4 Because again, it's nice to believe we're not
5 as dysfunctional as California, we're not as
6 likely to shift into gridlock, we're not as
7 likely to fall into chaos with greater and
8 greater deficits. But our history here in
9 New York isn't that good either. We just
10 haven't gone down the road that California
11 went, because we don't have a two-thirds
12 supermajority requirement on revenue.

13 And I would argue, especially given
14 our history, the current realities, our
15 bipartisan commitment to work with a new
16 Governor to fix the problems and get things
17 done the right way, this is absolutely,
18 absolutely the wrong time in history for
19 New York State to choose to voluntarily make
20 the mistakes of other states.

21 I emphatically urge my colleagues
22 for a no vote on this bill today.

23 Thank you, Mr. President.

24 THE PRESIDENT: Thank you,
25 Senator Krueger.

1 Senator Bonacic.

2 SENATOR BONACIC: Thank you,
3 Mr. President.

4 I would just like to thank Senator
5 Alesi and Senator Ranzenhofer and Senator
6 Zeldin for delivering the message of the
7 Republican Majority this year.

8 The past two years have been brutal
9 in terms of excess spending and excess taxes
10 when middle-class families were struggling
11 with high unemployment and people were losing
12 their houses. The attitude towards small
13 businesses was actually hostile, a hostile
14 environment.

15 And our message today, by three
16 Senators and my colleagues for the resolutions
17 that they're putting forward, are very simple.
18 Taxpayers need protection from what has
19 happened these past two years.

20 Now, I don't fear a constitutional
21 amendment because I respect the wisdom of the
22 people. They're going to vote. If they think
23 it's in their best interests, they'll vote for
24 it. If they made a mistake, there will be
25 another constitutional amendment and they'll

1 change it.

2 But remember, we represent the
3 people. They are our bosses. We're not
4 smarter than them. And we should always
5 respect the wisdom of the people. So all this
6 fear about constitutional amendments and we're
7 smarter than the people to do the right
8 thing -- they're paying our salary. They're
9 paying for all these programs. So believe me,
10 we should trust them. Because we're all still
11 here, they trust you to keep being their voice
12 for the next two years.

13 As to job creation, there is a
14 philosophy that is going on in this country
15 that is a clash. Where are we going with
16 America? Are we going to be an entitlement
17 culture? Are we going tax and spend more and
18 let government control our lives? Or are we
19 going empower individuals, empower people and
20 small businesses to create wealth, make them
21 our partners, be friendly with them and let
22 them lead the way?

23 And I believe that's the way to go.
24 That's the way our conference believes. So we
25 want to be more friendly to business. We want

1 more tax credits. We want to help our
2 partners, unlike the attitude and the policies
3 we've seen in the last two years.

4 Now, on Senator Alesi's resolution,
5 there were many of my colleagues on the other
6 side of the aisle that voted yes. And I thank
7 you for that, for learning from your mistakes
8 and trying a different way.

9 I saw on Senator Ranzenhofer's
10 resolution there were more nos, because of
11 fear of the Constitution. And I would hope,
12 on Senator Zeldin's resolution, we all get
13 behind him to support the taxpayers because we
14 all trust the wisdom of the people.

15 We have tough challenges ahead of
16 us, whether you're in the majority or whether
17 we're in the majority. We have challenges.
18 We have to work together and take the best
19 minds that we have here to get us out of this
20 fiscal crisis. I think our Governor is right
21 on with this drastic talk, because we are at
22 the cliff and there will be no tomorrow if we
23 don't get our house in order.

24 Thank you very much, Mr. President.
25 I support Senator Zeldin's resolution, and I

1 thank him.

2 THE PRESIDENT: Thank you,
3 Senator.

4 Any other Senators wishing to be
5 heard on this resolution? Senator Kruger.

6 SENATOR CARL KRUGER: Thank you,
7 Mr. President.

8 Through you, Mr. President, would
9 Senator Zeldin yield for a question?

10 THE PRESIDENT: Senator, would
11 you yield?

12 SENATOR ZELDIN: Yes,
13 Mr. President.

14 SENATOR CARL KRUGER: Thank you
15 so much.

16 The issue of the Attorney General
17 having this resolution for study, review and
18 comment, how long has he had it?

19 SENATOR ZELDIN: Mr. President, I
20 believe it was Friday.

21 SENATOR CARL KRUGER: Friday.
22 And today being Wednesday. So he's had two
23 working days to review it and to issue an
24 opinion. Is that -- through you,
25 Mr. President.

1 THE PRESIDENT: Senator, do you
2 yield for a question?

3 SENATOR ZELDIN: I would yield.

4 SENATOR CARL KRUGER: Thank you.

5 So then he's had two working days
6 to review it and issue an opinion? That's my
7 question. Is that correct?

8 SENATOR ZELDIN: He's had it
9 since Friday. However you want to break it
10 down with holidays and weekends, he's had it
11 since Friday, Mr. President.

12 SENATOR CARL KRUGER: So that's
13 two working days, not including today, in
14 order to have formed an opinion.

15 Now, through you, Mr. President,
16 one other question.

17 THE PRESIDENT: Senator, one more
18 question, do you yield?

19 SENATOR ZELDIN: I'm happy to
20 yield.

21 THE PRESIDENT: The Senator
22 yields.

23 SENATOR CARL KRUGER: Thank you
24 again, Senator.

25 The Judiciary budget, does your

1 resolution include the Judiciary budget?

2 SENATOR ZELDIN: Mr. President,
3 I'm not aware of the Judiciary budget
4 increasing taxes. If the Judiciary budget was
5 going to increase taxes, it would be my intent
6 that it would be included. But I'm not aware
7 of the Judiciary budget increasing taxes.

8 SENATOR CARL KRUGER: Thank you,
9 Senator.

10 Through you again, Mr. President,
11 Senator Zeldin, do you continue to yield?

12 THE PRESIDENT: Senator?

13 SENATOR ZELDIN: I'd be happy to.

14 THE PRESIDENT: The Senator
15 yields.

16 SENATOR CARL KRUGER: Thank you.

17 The Judiciary budget includes a
18 substantial list of fees. Are fees included
19 in your resolution?

20 SENATOR ZELDIN: Yes.

21 SENATOR CARL KRUGER: So
22 consequently we would say that we would need a
23 supermajority -- or, in the alternative, that
24 the issue of fees to the court system could be
25 virtually hijacked by twenty Senators in this

1 room. Is that correct?

2 SENATOR ZELDIN: Mr. President,
3 it would apply to new fees.

4 SENATOR CARL KRUGER: It would
5 apply to new fees.

6 Again, through you, Mr. President.
7 So what about increases in fees?

8 THE PRESIDENT: Senator, do you
9 yield?

10 SENATOR ZELDIN: I'd be happy to
11 yield.

12 SENATOR CARL KRUGER: Thank you.
13 What about increases in fees?

14 SENATOR ZELDIN: That would be
15 included.

16 SENATOR CARL KRUGER: Again, so
17 that I can understand this, we can all
18 understand it, through you, Mr. President, if
19 the Senator would continue to yield.

20 THE PRESIDENT: Senator, do you
21 yield?

22 SENATOR ZELDIN: I'm happy to
23 yield.

24 THE PRESIDENT: The Senator
25 yields.

1 SENATOR CARL KRUGER: Thank you.

2 So that I can understand this, in simple
3 terms, your resolution applies to all branches
4 of government, including the Judiciary?

5 SENATOR ZELDIN: Mr. President,
6 if -- as far as the budget goes -- and the
7 language of the bill is very simple. And
8 regardless of how that new tax or that fee is
9 packaged, where it's coming from, just to be
10 very clear, the two-thirds requirement is
11 going to apply to any tax, fee, assessment,
12 surcharge or any other such levy or collection
13 with regards to increasing, extending or
14 reviving, as I said in the language.

15 So I could be asked dozens and
16 dozens of more questions about hypothetical
17 sources of new taxes and fees, and my answer
18 to every question is going to be yes, if it
19 fits inside this language, whether it comes
20 from the Judiciary budget or some state
21 agency, to answer all the other hypotheticals
22 that may be out there, the answer very simply
23 is yes.

24 SENATOR CARL KRUGER: Thank you,
25 Senator.

1 Again, for the final question.

2 Through you, Mr. President.

3 THE PRESIDENT: Senator, do you
4 yield for one more question?

5 SENATOR ZELDIN: I'd be happy to.

6 SENATOR CARL KRUGER: A big issue
7 facing this state is the issue of
8 hydrofracking. Are you aware of that?

9 SENATOR ZELDIN: Yes.

10 SENATOR CARL KRUGER: And one of
11 the issues in terms of that is the regulation
12 and control by DEC of that process. Are you
13 aware of that?

14 SENATOR ZELDIN: Yes.

15 SENATOR CARL KRUGER: And again
16 through you, Mr. President, if the Senator
17 would continue to yield.

18 THE PRESIDENT: Senator, will you
19 yield again?

20 SENATOR ZELDIN: I'd be happy to
21 yield.

22 SENATOR CARL KRUGER: So,
23 Senator, one of the proposals -- in fact, the
24 legislation calls for that those that would be
25 doing the drilling would have to pay

1 substantial fees in order to fund a DEC
2 special fund to control and to monitor
3 hydrofracking. Would this be included in your
4 resolution?

5 SENATOR ZELDIN: If it's going to
6 be a statute that's going through this body,
7 then the answer would be yes. If it's a
8 regulatory fee, the answer would be no.

9 SENATOR CARL KRUGER: As a
10 corollary to that question, again, through
11 you, Mr. President, if the Senator would
12 continue to yield.

13 THE PRESIDENT: Senator?

14 SENATOR ZELDIN: I'd be happy to
15 yield.

16 THE PRESIDENT: Senator Libous,
17 why do you rise?

18 SENATOR LIBOUS: Since I happen
19 to know about a lot about hydrofracking
20 because it's in my district, and I would like
21 to be very fair, if Senator C. Kruger would
22 like to address any of those any of those
23 questions to me, I'd be happy to help out.
24 Because hydrofracking is a very important
25 issue that's facing the state, and I do know a

1 little bit about it.

2 SENATOR CARL KRUGER: I
3 appreciate that. And I will offer the
4 question up to you in a moment if I could just
5 ask Senator Zeldin to respond.

6 SENATOR LIBOUS: Thank you,
7 Mr. President.

8 SENATOR CARL KRUGER: The
9 legislation that would in fact empower
10 hydrofracking includes that provision. Would
11 your resolution interfere with that process?

12 SENATOR ZELDIN: Respectfully,
13 I'd like to yield to Senator Libous. Two
14 minutes.

15 SENATOR CARL KRUGER: Okay, thank
16 you.

17 THE PRESIDENT: Senator Libous.

18 SENATOR LIBOUS: Thank you,
19 Mr. President. Thank you, Senator Zeldin.

20 Senator Kruger, it wouldn't. It
21 all depends on what the Legislature decides to
22 do when it comes to that issue. The
23 department, the department could impose,
24 through regulation, fees that would address
25 the companies that are going to do the

1 drilling or the fracking.

2 None of those issues have been
3 established at this point in time because
4 obviously we do not permit for hydrofracking
5 because of a moratorium that was passed in
6 this house and in the other house.

7 This resolution, this resolution
8 would only affect those tax increases that the
9 Senator had talked about. It would not have a
10 negative effect on any departmental fees or
11 anything that the governor decides to put in
12 the budget as a fee, just like they do now.

13 No, it wouldn't have an effect.

14 SENATOR CARL KRUGER: Again,
15 Mr. President, if the Senator would yield for
16 a question.

17 THE PRESIDENT: Senator Libous,
18 would you yield.

19 SENATOR LIBOUS: Mr. President, I
20 would be honored to.

21 THE PRESIDENT: The Senator
22 yields.

23 SENATOR CARL KRUGER: Without
24 being the expert that you are on the issue,
25 I'm just trying to understand --

1 SENATOR LIBOUS: I didn't say I
2 was an expert, Senator. I said I knew a
3 little bit about it.

4 SENATOR CARL KRUGER: Well, okay.
5 That makes you an expert as far as I'm
6 concerned.

7 Firstly, that bill was vetoed, am I
8 correct?

9 SENATOR LIBOUS: Yes, it was.
10 But then there was an executive order by
11 Governor Paterson, Mr. President, that put a
12 moratorium on any fracking. And I believe --
13 and I don't want to speak for Governor
14 Cuomo -- I believe he also carried out that
15 order until he could take a look at the issue.

16 SENATOR CARL KRUGER: Okay.
17 Thank you very much, Senator. Thank you.

18 THE PRESIDENT: Thank you,
19 Senator.

20 Any other Senators wishing to be
21 heard on this resolution?

22 (No response.)

23 THE PRESIDENT: The debate is
24 closed, and the Secretary will now ring the
25 bell that is not functioning today.

1 (Pause.)

2 THE PRESIDENT: If the Senators
3 will take their seats, we'll get ready to
4 vote.

5 The Secretary will now call the
6 roll on the resolution.

7 (The Secretary called the roll.)

8 THE PRESIDENT: Senator Young, to
9 explain her vote.

10 SENATOR YOUNG: Thank you,
11 Mr. President.

12 Historically, New York State has
13 prided itself on being a leader, a leader in
14 innovation, a leader in technology, a leader
15 in opportunity and prosperity. We were number
16 one. We were the Empire State.

17 Unfortunately, right now, we are
18 the leader for all the wrong reasons. We are
19 the leader in the country for having the
20 heaviest tax burden. We are the leader in
21 spending. We spend more on Medicaid, we spend
22 more on education, and we get poor results
23 despite all of that spending. We are number
24 one in people fleeing this state because of
25 the heavy tax burden. We are number one in

1 having the worst business climate in the
2 country. Right now we are number 50 out of
3 50 states.

4 That has to change. And now we do
5 have that opportunity to change that. So I
6 want to thank my colleagues, Senator Zeldin,
7 Senator Ranzenhofer, Senator Alesi, for having
8 the foresight and the tenacity to put in this
9 legislation, because we can lead the way as a
10 state once again.

11 These are all things that our new
12 Governor has spoken about. These are things
13 that he has prioritized. And so now is the
14 time to seize this moment. Now is the time to
15 change our business climate, to get people
16 back to work, to have career opportunities so
17 that our young people will not have to leave
18 after they graduate just to find a job.

19 And by putting in place these types
20 of measures -- a job growth program, putting
21 in place a two-thirds majority in order to
22 raise taxes, putting in place a constitutional
23 spending cap -- then we can restore hope,
24 opportunity and prosperity to the state again,
25 to the people of this state. That's our

1 responsibility. We should be accountable to
2 the people. And I will be voting yes.

3 Thank you, Mr. President.

4 THE PRESIDENT: Senator Young in
5 the affirmative.

6 The Secretary will now announce the
7 results.

8 THE SECRETARY: Those recorded in
9 the negative on Calendar Number 4 are Senators
10 Adams, Diaz, Espaillat, Gianaris,
11 Hassell-Thompson, Huntley, L. Krueger,
12 C. Kruger, Montgomery, Oppenheimer, Parker,
13 Peralta, Perkins, Rivera, Sampson, Serrano,
14 Squadron, Stavisky and Stewart-Cousins.

15 Ayes, 41. Nays, 19.

16 THE PRESIDENT: The resolution is
17 adopted.

18 (Applause.)

19 THE PRESIDENT: Senator Libous,
20 that completes the controversial reading of
21 the calendar.

22 SENATOR LIBOUS: Mr. President,
23 thank you.

24 And Senator Zeldin,
25 congratulations -- could we have some order?

1 Could we have some order in the chamber?

2 THE PRESIDENT: (Gaveling.)

3 SENATOR LIBOUS: Senator Zeldin,
4 congratulations for passing your first bill.
5 I'm sure there will be many more.

6 (Applause.)

7 SENATOR LIBOUS: Is there any
8 other business at the desk?

9 THE PRESIDENT: There is none.

10 SENATOR LIBOUS: Mr. President, I
11 now hand up the following committee
12 assignments and ask that such assignments be
13 filed in the Journal.

14 THE PRESIDENT: So ordered.
15 Senator Libous.

16 SENATOR LIBOUS: Mr. President, I
17 would also like to hand up the following
18 committee assignments. Senator Skelos, in
19 consultation with Senator Sampson, has some
20 additional assignments to hand up, and I ask
21 that they be filed.

22 THE PRESIDENT: So ordered.
23 Senator Libous.

24 SENATOR LIBOUS: Mr. President, I
25 believe Senator Hassell-Thompson would like to

1 be recognized.

2 THE PRESIDENT: Senator
3 Hassell-Thompson.

4 SENATOR HASSELL-THOMPSON: Thank
5 you, Mr. President.

6 I would just like to announce that
7 immediately following session there will be a
8 Democratic conference meeting, immediately.

9 Thank you.

10 THE PRESIDENT: Immediately after
11 session, there will be a Democratic
12 conference.

13 Senator Libous.

14 SENATOR LIBOUS: Mr. President,
15 there being no further business, I move we
16 adjourn until Monday, January 24th, at
17 3:00 p.m., intervening days being legislative
18 days.

19 THE PRESIDENT: On motion, the
20 Senate stands adjourned until Monday,
21 January 24th, at 3:00 p.m., intervening days
22 being legislative days.

23 (Whereupon, at 1:40 p.m., the
24 Senate adjourned.)

25