



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

TO THE ASSEMBLY:

I hereby transmit pursuant to the provisions of section 7 of Article IV and section 4 of Article VII of the Constitution, a statement of items to which I object and which I do not approve, contained in Assembly Bill Number 550--C, entitled:

CHAPTER 50

LINE VETO #1

"AN ACT making appropriations for the support of government
PUBLIC PROTECTION AND GENERAL GOVERNMENT BUDGET"

Bill Page 15, Line 20 through Line 27, inclusive

NOT APPROVED

CAPITAL DEFENDER OFFICE

"For services and expenses of the capital defender office to be made available if a chapter reestablishing the death penalty is not enacted prior to June 30, 2005, in an amount no more than is necessary to provide an available appropriation for the fiscal year 2005-2006 equal to \$6,138,500 for capital defense 6,138,500"

This item, to which I object and do not approve, would provide increased funding to the Capital Defender Office if the death penalty is not reestablished this legislative session. On June 24, 2004, the New York State Court of Appeals declared a portion of the State's death penalty law to be unconstitutional and held that the Legislature must enact corrective legislation in order for the death penalty to be imposed. See *People v. LaValle*, 3 N.Y.3d 88, 130 (2004). Immediately thereafter, I proposed legislation to correct the defect identified by the Court of Appeals. The Senate passed my proposed legislation in both 2004 and 2005, but the Assembly leadership has refused to allow the bill to come to the floor for a vote. My Executive Budget proposed full funding for the Capital Defender Office if the death penalty is restored by June 30, 2005, but reduced that funding to 30 percent of the current level absent the passage of corrective legislation. This item would provide increased funding for the Capital Defender Office even in the event the Assembly fails to adopt corrective legislation this session. I strongly object to providing the Capital Defender Office with additional funding for capital defense services in the absence of an effective death penalty in New York State. This item is disapproved.



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

TO THE ASSEMBLY:

I hereby transmit pursuant to the provisions of section 7 of Article IV and section 4 of Article VII of the Constitution, a statement of items to which I object and which I do not approve, contained in Assembly Bill Number 550--C, entitled:

CHAPTER 50

LINE VETO #2

"AN ACT making appropriations for the support of government

PUBLIC PROTECTION AND GENERAL GOVERNMENT BUDGET"

Bill Page 55, Line 49 through Bill Page 56 Line 4, inclusive

NOT APPROVED

DIVISION OF CRIMINAL JUSTICE SERVICES

"provided however, that these funds shall only be
made available if a chapter reestablishing
the death penalty is enacted prior to June
30, 2005"

This item, to which I object and do not approve, represents an unconstitutional alteration of an appropriation contained in the Executive Budget submission and is therefore disapproved.



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

TO THE SENATE:

I hereby transmit pursuant to the provisions of section 7 of Article IV and section 4 of Article VII of the Constitution, a statement of items to which I object and which I do not approve, contained in Senate Bill Number 3669, entitled:

CHAPTER 59

LINE VETO #3

"AN ACT to amend chapter 728 of the laws of 1982 and chapter 710 of the laws of 1983 amending the executive law relating to community services block grants programs, in relation to the effectiveness of such chapters (Part A); to amend the racing, pari-mutuel wagering and breeding law, in relation to revising the amount of the fee assessed for regulatory activities; (Part B); to amend the insurance law, in relation to increasing the service of process fee (Part C); to amend the vehicle and traffic law, in relation to the registration at time of sale of all terrain vehicles and the disposition of fees for registration of all terrain vehicles and to amend the state finance law, in relation to creating an all terrain vehicle trail development, enforcement and stewardship fund (Part D); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending such provisions (Part E); to amend the insurance law, in relation to increasing the licensing fees for certain agents, brokers and reinsurance intermediaries (Part F); to provide for the utilization of utility assessment funds (Part G); to authorize the dormitory authority of the state of New York to provide funding for the Cornell University theory center (Part H); to provide for the utilization of utility assessment funds (Part I); to amend the environmental conservation law, in relation to extending pesticide registration time frames and fees; to amend chapter 67 of the laws of 1992, amending the environmental conservation law relating to pesticide product registration timetables and fees, in relation to the effectiveness of such provisions; and to repeal section 33-0706 of the environmental conservation law relating thereto (Part J); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, in relation to the effectiveness thereof (Part K); to amend the environmental conservation law and the tax law, in relation to expanding the purposes for which the environmental protection fund can be used, in relation to municipal landfill closure projects and state assistance payments for beneficial end-uses and land fill gas management systems, in relation to establishing an environmental justice technical assistance grant program, in relation to municipal assistance for quality communities projects, and in relation to allowing for additional deposits to be made to the environmental protection fund (Part L); to provide for the transfer of moneys from the New York state energy research and development authority (Part M); authorizes the urban development corporation to submit for approval a comprehensive financial plan for such corporation; authorizes the urban development corporation to interchange amounts deposited in certain accounts; provides for the repeal of certain provisions upon expiration thereof (Part N); to amend chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, in relation to extending the empire state economic development fund (Part O); to amend the public authorities law and the economic development law, in relation to reauthorize the New York power authority to make contributions to the general fund and authorize the continuation of power for jobs and electricity savings reimbursement program; and to amend chapter 316 of the laws of 1997 amending the public authorities law and other laws relating to the provision of low cost power to foster statewide economic development, in relation to extending such provisions (Part P); to amend chapter 309 of the laws of 1996 amending the real property tax law and other laws relating to implementation of various state programs, in relation to implementation of certain energy efficiency demonstration projects (Part Q); to amend the public

authorities law, in relation to establishing the New York state foundation for science, technology and innovation act of 2005; and repealing certain provisions of the executive law relating to the New York state office of science, technology and academic research (Part R); and in relation to the authority of the urban development corporation and the dormitory authority to issue bonds (Part S)“

Bill Page 16, Line 31 through Line 37, inclusive

NOT APPROVED

“§ 2. Commencing with the 2006-2007 state fiscal year, and each fiscal year thereafter, the governor shall, in his or her executive budget, as submitted pursuant to article VII of the state constitution, provide appropriations for currently non-appropriated moneys received by the New York state energy research and development authority, under the direct oversight of the department of public service, related to assessments, collected for the purpose of funding public policy energy programs.”

This item, to which I object and do not approve, purports to require the Governor to propose appropriations in his 2006-07 Executive Budget and thereafter "for currently non-appropriated moneys received by the New York state energy research and development authority . . . related to assessments, collected for the purpose of funding public policy energy programs." The State Constitution does not permit the Legislature, by ordinary legislation, to limit the Governor's flexibility in making future budgetary decisions. See *Pataki v. Assembly*, Slip Opinion at 31 (2004). Moreover, the funds to which this item relates are not within the State Treasury or any of its funds or any of the funds under its management.

In addition to these constitutional flaws, I have not been presented with any persuasive justification for subjecting these multi-year funding commitments for energy efficiency and renewable energy resource projects to the annual State appropriation process. These projects, which are essential to maintaining a reliable and secure energy supply that is compatible with the environment, are currently awarded through an open, competitive process that is transparent and accountable, and which enjoys broad support among stakeholders. Accordingly, this item is objected to on constitutional and policy grounds and is not approved.