NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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March 12, 2009

11:30 a.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT BRESLIN: The Senate will come to order.

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

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

ACTING PRESIDENT BRESLIN: In the absence of clergy, may we bow our heads for a moment of silence.

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

ACTING PRESIDENT BRESLIN: Thank you.

The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Wednesday, March 11, the Senate met pursuant to adjournment. The Journal of Tuesday, March 10, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

This is an extremely important day, as it happens to be the birthday of one of our members.

Senator Lanza, we all wish you a very happy birthday.

(Applause.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room. Immediately following the Finance Committee meeting, there will be a meeting of the Rules Committee, also in the Majority Conference Room.

Pending the report of the Rules

Committee, may we please stand at ease.

ACTING PRESIDENT BRESLIN: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 11:32 a.m.)

(Whereupon, the Senate reconvened at 11:49 a.m.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, may we at this time return to the order of reports of standing committees.

I believe there's a report of the Rules Committee at the desk, and I move for its acceptance.

ACTING PRESIDENT BRESLIN: Returning to the order of reports of standing committees, there is a report of the Rules Committee at the desk.

The Secretary will read.

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

Senate Print 182A, Senate Budget

Bill, an act to amend Chapter 53 of the Laws of 2008, enacting the Education, Labor and Family Assistance Budget.

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I move we accept the report of the Rules Committee.

ACTING PRESIDENT BRESLIN: All those in favor of accepting the Rules Committee report please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The report of the Rules Committee is accepted.

Senator Klein.

SENATOR KLEIN: Mr. President, may we take up at this time Supplemental Calendar 19A.

ACTING PRESIDENT BRESLIN: Senator Klein, first, the Secretary will read the substitution.

THE SECRETARY: Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 161A and substitute it for the identical Senate Bill Number 182A, Third Reading Calendar 109.

ACTING PRESIDENT BRESLIN: Substitution ordered.

We will proceed to the supplemental calendar. The Secretary will read.

THE SECRETARY: Calendar Number 109, Assembly Budget Bill, Assembly Print Number 161A, substituted earlier, an act to amend Chapter 53 of the Laws of 2008, enacting the Education, Labor and Family Assistance Budget.

SENATOR LIBOUS: Lay it aside, please.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

Senator Klein.

SENATOR KLEIN: Mr. President, can we now take up Calendar Number 109.

ACTING PRESIDENT BRESLIN: We will proceed to the controversial reading of

Supplemental Calendar 19A.

The Secretary will ring the bells.

The Secretary will read.

THE SECRETARY: Calendar Number 109, Assembly Budget Bill, Assembly Print Number 161A, an act to amend Chapter 53 of the Laws of 2008, enacting the Education, Labor and Family Assistance Budget.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT BRESLIN: Senator Libous, why do you rise?

SENATOR LIBOUS: Thank you, Mr. President.

I believe there's an amendment at the desk by Senator Farley. Could we waive its reading and call on Senator Robach, please.

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

Senator Robach, you are recognized.

SENATOR ROBACH: Yes, Mr. President.

This amendment would address the additional funds recently found by the Governor. And this amendment would take an additional $9 million, fully restore the cut that was put in place by libraries, at this time critically important.

I know in my county, and I'm sure across the state, library usage is up, not only for information but even in job search and other items like this. Just this week, I met with people from libraries across the state. We even talked about without some restoration of funding, technological information banks won't be put up.

This would put back the $2.7 million in the recent reduction by the Governor and fully use all the money from the Medicaid offset. In addition, this amendment would address the shortfall to nonpublic schools for items mandated by the state that they perform.

I know all of us in this chamber, on both sides of the aisle, have certainly supported libraries over the years. And I

hope, making this bill a little bit better, we can all support this for libraries, for education, and make sure we're using the recently amended version of an additional $9 million that wasn't out there by the Governor previously.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Robach.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I also rise in support of this. Because if there is an issue that this Legislature, both houses, both sides of the aisle have supported, it's libraries. It's an area that the Legislature has led the role to make sure that they were funded. Because historically, libraries were the first to be cut and the last to be funded.

Particularly as we move around the state and in upstate New York in particular, the libraries are starving. The cities that supposedly started them and supported them are

having huge financial trouble, and the state has got to stand up and take a larger role in this area. And we have been doing that in recent years.

To restore this cut is absolutely essential for the health and welfare of the libraries.

And let me just say something else. When we're looking at this, particularly among the elderly and those people that are concerned about them, this is their access to the information avenues, to the computers. They don't have the computers and everything else that, generally speaking, the younger people do have. So for the poor and for the elderly, this is their information stream.

And the libraries are moving into this area and providing so many things. Just in the area of the tax forms; we're not sending out tax forms, they had to go to the libraries to get them.

And this is an amendment that is very reasonable and one that addresses not only libraries but addresses the nonpublic

schools. And I urge its support. And it's something that we can move forward in a bipartisan way and really support somebody that has always supported us.

Thank you very much, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Farley.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I rise in support of this amendment as well. I second the comments of my colleagues Senator Robach and Senator Farley.

I met with the libraries in my district office, and they were up here the other day. They have all increased their hours because of increased demand on their facilities. People, as was mentioned, are there to get copies of tax forms that were not mailed out this year, and the library was the only logical place they could go find them and have a quiet place to sit down and read them and perhaps even get someone there who would supply them with the help they needed to

understand these complicated forms.

Many people are using the libraries to fill out resumes and doing job searches by using the library computers that they might not have access to in their own homes.

Libraries, as we all know, provide a very necessary function and a very important function in all of our communities. They are the quality-of-life program, from the preschool kids to the elementary school kids who go there for reading programs to the high school kids who go there for their research, for projects and so forth.

In my district, two youngsters on Long Island were winners on the Intel science project. Their use of library facilities for research capabilities was well-known and well-noted in conversations that I've with these young people.

These facilities are most important to us. Restoring the cuts that were made, unfortunately, in the Governor's budget I think would be a good thing for all of us to do.

Also, to put back the funds taken from the nonpublic schools. Now, we don't restore them all here, but about half the restoration that is necessary. I'd like to see all the money put back. Again, these schools provide a necessary function, and they are under stress right now. And some people are having to think twice about sending their youngsters there.

If they're closing -- and some of them are already -- this puts an additional burden on the public schools that the public schools, frankly, are not prepared to take at this point in time.

We need to maintain these nonpublic schools in their current form and in their position in our communities. Again, it's quality-of-life issues that we're talking about here. I don't see any partisanship in this. I think this is a nonpartisan vote and should be supported by every member of this house.

I will proudly vote aye on this amendment, Mr. President, and urge all my

colleagues to vote likewise.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Marcellino.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I want to rise and support Senator Farley and certainly Senator Robach and those who speak on this amendment.

I have a very special place in my heart particularly for libraries. When I was in the fifth grade, I was diagnosed with a severe reading disability. And I had tutors all of my life through school because I had extreme difficulty reading. And part of my learning to read better was involved with the local library, because every Saturday I would meet my tutor in the library and we would spend time going through different sections and doing different programs together, and eventually I became a better reader.

Even today, I have difficulty reading, and some might say it's a mild form

of dyslexia. But the library was a very special place.

And I have spent my entire career in the Senate supporting libraries in a variety of ways, through reading programs for the disabled, through reading programs for those who are accelerated learners, and for children. And as a matter of fact, I started a program with the libraries called the Books Program. And the program is designed to help people read, those who were disabled and those who had difficulties like myself, but those who were also excellent readers.

And its content started with a four-county library system, and that library system was able to help promote this program so that it would teach kids to read for 20 minutes a day. It would not force them to read a number of books, but it was about reading a little bit every day. And it was because of the funding that we were able to put forth through the state budget that offered the affordability for families to help their kids become better readers.

So this amendment is a very good one. As Senator Marcellino said, along with the libraries helping our children read, it is a very busy place right now if you visit your local library because many people who are unemployed at this time are visiting libraries, doing job searches, as Senator Marcellino said, on the computers, writing resumes, working with the librarians and trying to change their career path in their lives.

When you lose a job, it is a very difficult time, particularly if you have a family to support and feed, and the library comes through as a place where an individual can get a lift and try to find an opportunity where they can again find full employment. And it's a place of security.

So again, Mr. President, I applaud my colleague Senator Farley, who has been a champion throughout his career, in supporting libraries with this amendment.

ACTING PRESIDENT BRESLIN: Thank you, Senator Libous.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this house has had a very long tradition of being supportive of libraries and doing battle on behalf of libraries even at times when other branches of our government have not been willing to do so.

Certainly Senator Farley has long been a leader in this effort. And during the time that I had the opportunity to serve as chair of Senate Education on the Library Subcommittee with Senator Farley and Senator Oppenheimer, the critical importance of libraries was always at the forefront of our agenda.

We take great pride in the fact that the capital program that's currently in the budget was something that we initiated several years ago. It was an initiative of this house. It was an initiative that we led at the table during the budget conference subcommittee negotiations. And yes, we too led the way for the restorations of funds

during those times when those funds have been cut.

This is merely part of a continuum, a well-deserved continuum. It's part of a continuum which, if you pick up virtually any publication that has offered any information with regard to the impact of this recession on libraries, it will tell you -- I've seen it in several newspaper accounts -- that libraries, as we have been told by the people who work in our libraries, people who volunteer in our libraries, these very critically important institutions become, in fact, far more important during economic downturns.

Their volume increases dramatically -- I won't repeat the reasons why -- but it's simply a fact of library life and a fact of public life and a fact within each and every one of our communities.

This amendment really speaks for itself. It commends itself for passage. And I certainly would hope that we would have unanimous support on behalf of the libraries and the people in our communities who

desperately are seeking additional services during these very trying times for our libraries, and they need the funds to be able to accomplish the delivery of those services.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland.

Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

I too rise in support of this amendment in support of our libraries and other worthy goals, but particularly on the issue of the libraries. Building on what some of my colleagues have already mentioned, I have been a member of the Library Subcommittee of this house when it was a bipartisan subcommittee. And I have been very proud over my tenure in the Senate as, in a bipartisan way, all members of this house, we've stood up for libraries of our state.

Coming from a small town, a rural part of our state, as a number of other of my colleagues on both sides of the aisle, in

fact, coming from rural, small-town districts, the libraries are truly the center of our communities, particularly in a small town or a small city. Because no matter how small the town is -- and I live in a small village of about 500 people. We have a small part-time library. But I can go into that library and receive any resource that I would like because of the great library systems that have been built up here in New York State. And that's something very special, particularly in small towns.

And so it seems to me that it's important for us to support our libraries, continue to support our libraries on the part of the New York State Senate. Because as has been pointed out by my colleagues, at the very time when our libraries have been cut in terms of state resources, it's the very time when the demands on our local libraries have increased. So resources have gone down; demands on our libraries have gone up.

And here we are today, with a budget deficiency bill before us which speaks

to the issue of unanticipated revenues, where we can have an opportunity on a limited basis to fill some holes, some cuts that have occurred. Why not use $2.7 million, as an example, of this unanticipated revenue to support our libraries? I cannot imagine anyone voting against our libraries and this small amount, using unanticipated revenues to support our libraries.

So, Mr. President, I'm fully supportive of this amendment. I hope we can, as we have in the past, in a bipartisan way, come together to support the libraries of New York State at the very time when they desperately need support because of the increased demands.

ACTING PRESIDENT BRESLIN: Thank you, Senator Seward.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President. I also rise in support of this amendment.

I'll tell you briefly just a short story. One night last summer I was in a

library late at night just before they closed, in my district, in Mahopac in Putnam County. And there in the library was a young mother, Hispanic, with her two little children. And she quite clearly did not speak English. But those two small children in this library in Mahopac were teaching their mother how to use a computer in the library.

I'm going to suggest to you that for that family, that was a critically important evening. I'm going to suggest to you that for many of us and for many of our ancestors, our libraries were critically important. They represent, especially during difficult economic times, hope and opportunity.

We are talking here today about, in the scheme of things, a very limited number of public dollars. I'll suggest to you and to my colleagues that to put these dollars into this budget for libraries would be the best money that we could possibly spend during these challenging times.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Leibell.

Senator Carl Kruger.

SENATOR C. KRUGER: Thank you, Mr. President.

I too rise to today in support of the concept and in opposition to the amendment.

I never leave home without my library card. And as Senator Libous pointed out, I too went to Public School 183 in Brownsville, in Brooklyn, and I was held back because of a reading deficiency. And some people would even think I have that reading deficiency to this very day.

But what I do know is I do know that we do have to support our libraries. And we have to support them to the best of our ability.

However, this today, this amendment, does not speak about concept, it speaks about dollars. And if we want to talk about dollars, we have a financial plan. And that financial plan was adopted by this house.

And it was balanced, and it remains in balance. And this deficiency budget would keep it in balance.

It is the belief on the other side of the aisle that we should take our 2008-2009 budget and bring it out of balance and move money that we don't have. I guess, you know, we open up a newspaper or we turn on a TV or listen to a radio and hear all about people that overuse their credit cards or bought a house for more than they can afford. Well, today we don't have the money to implement the suggestions made.

But those suggestions ring well. They send out a very, very clear and compelling message. They say to us as a house, in a very bipartisan way, in our upcoming negotiations we do have to keep very, very much in focus the need for education, the need for libraries, and need to support a generation that will be the leaders of our state and our nation.

So today, in a very bifurcated way, we say we support the concept, we applaud the

dialogue that has been brought to the floor. Unfortunately, we don't have the money to support it and the wherewithal to do it.

So as this process goes forward in the weeks ahead, let's keep in mind that the very concept of libraries and education becomes an extremely cogent argument that we all have to make in a very bipartisan way.

Thank you.

ACTING PRESIDENT BRESLIN: Why do you rise, Senator Flanagan?

SENATOR FLANAGAN: Mr. President, will Senator Kruger yield?

SENATOR C. KRUGER: Yes, I will.

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

SENATOR FLANAGAN: Senator Kruger, I was trying to listen carefully to what you were saying, not in relation to libraries per se --

ACTING PRESIDENT BRESLIN: Through the chair, please.

SENATOR FLANAGAN: If Senator Kruger will yield to a question through the

chair, Mr. President.

Listening to your comments not as it relates particularly to libraries, but rather to the financial plan, you spoke about the unavailability of funds and how that if we don't do this that somehow our fiscal plan will be out of balance.

It's my understanding that the projections in the financial plan had approximately $23 million of the $32 million that are contained in this bill, and that as recent as last Friday, those projections were revised upward to the tune of approximately $9 million.

So how -- this is new money that has supposedly been generated by the New York State Lottery, reflected in an amendment that's been offered by you showing an actual increase of $9 million. That seems to be inconsistent with what you're advocating now.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR C. KRUGER: Thank you, Mr. President. Through you.

In answer to the question, we don't know about it. And the numbers that we have are different than the numbers that you're alleging exist.

The numbers that we have are certified by the Bureau of the Budget. They keep our financial plan in balance. They reflect revenues that have been allocated. And that is the bill that we have before us today.

SENATOR FLANAGAN: Mr. President, would Senator Kruger yield, through you?

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

SENATOR C. KRUGER: Yes.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: Senator Kruger, I'm trying to listen very carefully. If I follow what you're saying, you're making a representation that you don't know about this, and yet you're the one advancing the bill that's being offered as an agreed-upon

piece of legislation that is supposedly supposed to keep our fiscal plan in balance.

You're the chair of the Finance Committee. You're making representations as to the status of the financial plan of the State of New York. And the information that we're getting relative to the Division of the Budget and amendments to the financial plan show an increase in revenue.

So I'm a little disconcerted by the fact that you as the chair of the Finance Committee don't seem to know this.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR C. KRUGER: Yes, Mr. President.

Well, I guess simply put, Senator Flanagan, the Division of the Budget respectfully disagrees with you. The money that you have in your amendment is not reflected in our bill that we have in front of us today.

We have a balanced budget, a balanced financial plan. We intend to close

out that fiscal year of 2008-2009 in balance. Your representation, your amendment, the numbers that you've given to us today would put us out of balance and would ask us to spend money that we do not have as provided for by the Bureau of the Budget.

Thank you, Mr. President.

SENATOR FLANAGAN: Mr. President, through you, if Senator Kruger would continue to yield.

ACTING PRESIDENT BRESLIN: Senator Kruger, would you continue to yield to Senator Flanagan?

SENATOR C. KRUGER: Yes, I do.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Flanagan, through me.

SENATOR FLANAGAN: I'm speaking now to the Lottery money that's contained in this financial plan and this legislation.

Are you representing that there has been no change whatsoever and that we are just putting forth numbers that have been around for months? Or has been there been a change with an increase in revenue coming in?

ACTING PRESIDENT BRESLIN:

Senator Kruger.

SENATOR C. KRUGER: Again, Senator Flanagan -- through you, Mr. President -- if you have numbers that are different than the numbers that are reflected, then we would glad to share those numbers with you.

Right now I reiterate, the numbers that we have brings the financial plan into compliance. Those are the allocations that are made. That's what closes out our year. Whatever numbers you're coming up with is money that we do not have, as per the Bureau of the Budget.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN:

Senator Flanagan.

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

SENATOR C. KRUGER: For one more question.

ACTING PRESIDENT BRESLIN:

Senator Flanagan, Senator Kruger will yield

for one more question.

SENATOR FLANAGAN: If I follow the logic of what you're advocating, then there would be no reason to be doing this bill. Because you're laying out that the financial plan already contained these numbers, that there is no new revenue. So why, then, are we doing any legislation like this, and why is it brought before the body now?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR C. KRUGER: Thank you, Mr. President.

Senator Flanagan, no matter how much you want to twist numbers, numbers don't lie. You are making a representation today, with this hostile amendment, to use money that we do not have. The money does not exist.

You may believe it exists, you may think it exists, but according to the Bureau of the Budget that we use as the basis for determining the soundness of our financial plan, the budget that was adopted by this

house and the budget that went through the process of a month and a half ago, approximately, where we had to make up deficiencies that brought us into balance, that is the financial plan. Your money is money outside of those four walls.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Kruger.

Senator Flanagan.

SENATOR FLANAGAN: Mr. President, I will speak on the main bill itself since we have moved away from the amendment.

ACTING PRESIDENT BRESLIN: We're not there yet.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Will Senator Kruger yield?

ACTING PRESIDENT BRESLIN: Will Senator Kruger yield to Senator Saland, through the chair?

SENATOR C. KRUGER: Yes, I will.

SENATOR SALAND: Thank you,

Senator Kruger. Thank you, Mr. President.

Through you, Mr. President.

Senator Kruger, can you recall when the Governor gave us his budget, what that date might be?

ACTING PRESIDENT BRESLIN:

Senator Kruger.

SENATOR C. KRUGER: I believe -- through you, Mr. President, I believe it was December 16th.

SENATOR SALAND: And can you recall when he gave us his financial plan?

ACTING PRESIDENT BRESLIN:

Through the chair.

SENATOR C. KRUGER: Obviously on that day, with 30-day amendments.

SENATOR SALAND: And if you'll continue to yield.

ACTING PRESIDENT BRESLIN: Will you continue to yield, Senator Kruger, to Senator Saland?

SENATOR C. KRUGER: Yes.

SENATOR SALAND: Can you tell me what the amount of the Medicaid offset was

when he gave us his budget in January?

ACTING PRESIDENT BRESLIN:

Senator Kruger.

SENATOR C. KRUGER: I'm not prepared with those numbers, Senator.

SENATOR SALAND: Well, let me give you a number --

ACTING PRESIDENT BRESLIN:

Through the chair.

SENATOR SALAND: -- and perhaps your aide can be of some assistance.

When the Governor gave us his budget in January, and as part of his financial plan, the Medicaid offset was $23 million. If you want to verify that.

ACTING PRESIDENT BRESLIN: Is that a question or a statement?

SENATOR C. KRUGER: What is the question?

SENATOR SALAND: I'm seeking the amount of the Medicaid offset.

ACTING PRESIDENT BRESLIN: And Senator Kruger has answered he does not have that information available to him.

SENATOR C. KRUGER: I've indicated I do not have that information.

SENATOR SALAND: Let me correct -- thanks to my colleagues. I'm looking for the increase in the Medicaid offset. Which at that time, if you're not aware, I will say that the documents I have seen listed that amount at $23 million.

The Governor -- if I may continue.

ACTING PRESIDENT BRESLIN: You may continue.

SENATOR SALAND: If you know, Senator Kruger, when the Governor gave us his 30-day amendments, did he in any way, shape or form change that increase in the Medicaid offset?

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR C. KRUGER: Once again, Senator Saland, I am not prepared to argue on those issues.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Then on the

bill, Mr. President. On the amendment, excuse me.

ACTING PRESIDENT BRESLIN: Senator Saland, on the amendment.

SENATOR SALAND: The simple fact of the matter is is we received a budget in January from Governor Paterson, at which time he proposed a Medicaid offset that was increased from last year by some $23 million. That was part and parcel of his financial plan. During his 30-day amendments, there was no change to that proposed $23 million increase.

We now find ourselves with a $32 million increase, some $9 million more than is in the Governor's financial plan. These dollars simply were not in the Governor's financial plan. These are $9 million that would be available either to roll into next year or to be used in this year.

And we are proposing in this amendment to put them to an absolutely superb use, by everybody's admission. We all want to

help libraries. By everybody's admission, our dealing with and attempting to assist libraries, particularly in these pressing times, is something that is bipartisan, something that is, as far as I know, virtually universal.

And there's no reason why these funds -- which were not part of the financial plan, these $9 million that weren't in the January budget, that weren't in the January financial plan, that were not in the 30-day amendments but that are available to us now -- should be rolled into next year, but they should be used now for the libraries. And, as has been indicated earlier, they can be used also to offset some of the pain to our parochial schools and yeshivas for the mandated services.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland.

Senator Hannon.

SENATOR HANNON: Mr. President, on the amendment.

I was not going to get into this topic until the main bill, but as Senator Kruger has opened up the questions of financial plan, monies available -- all of which I have found to be a little bit perplexing.

I also want to note that I went to look at the Division of Budget's website and found no mention of an altered financial plan, no mention of this bill, no reason for the change, no recommendations. So the information that flows is truly a puzzle.

But there's a bigger puzzle. There's a bigger amount of money that is available. Not that I would know it through the Division of Budget, but I know it from reading in the press and checking with the sources the press mentions, and those sources being the White House and the President of the United States, and the source also being the Governor of this state.

And I checked on both of their websites as to what's happening to this state in regard to the monies available through the

federal stimulus bill and the monies available to this state, monies which the President of the United States says is already here in the coffers of this state.

Now, I'm reading from a press release issued by the President of the United States, February 23, 2009. He said: "Beginning Wednesday, February 25th, the first installment included in the Recovery and Reinvestment Act will be available to the states per the following chart." And it says that the state was going to receive, on February 25th, $2.7 billion. That money, according to the President of the United States, is here.

Now, a little while later, the Governor talked about how much he projected we would be receiving from that very act, and he talked about $1.9 billion for the 2008-2009 budget. That's the fiscal year that we're amending in this bill. He talked about $5 billion in the 2009-2010 fiscal year and $4.2 billion in 2010-2011.

I don't know what people are

expected to believe here, but I know throughout this state, as libraries are struggling, schools are struggling, healthcare providers are struggling, social service providers are struggling, and people are suffering, people are really confused. Why a bill like this today, with $9 million in new Lottery money that we didn't know was here last Friday, that we didn't know when we did a deficit reduction act for the second time? What type of budgeting, what type of planning, what's going on for the people of this state?

I say this is a zigzag. If the information isn't available to this Senate, I think we have to look at what Budget is doing to this Senate, where are we going and what can we be saying as the services we should be delivering throughout this state.

Thank you, Mr. President. I'm in support of this amendment.

ACTING PRESIDENT BRESLIN: Thank you, Senator Hannon.

Senator Oppenheimer, on the amendment.

SENATOR OPPENHEIMER: Yes. Thank you very much.

I have to believe that our chair of Finance has the figures and has decided that in order to stay in balance, this is what we must be doing, and not adding things.

But I hope, moving forward -- and it certainly is my hope that the other side of the aisle would appreciate the need of libraries when we move forward into the next budget and we want to remediate the funding that we have seen eliminated in the Executive Budget.

I can only say that for myself, I can't imagine -- I mean, I live in libraries. I say it's my second home. And I subscribe to John Dewey, who I'm probably going to terribly misquote. But he said that education isn't an end in itself, it is life itself. And lifelong learning is what is offered to us by libraries. And I don't think I would be a very happy person if I didn't have libraries.

So I think we are going to do everything, moving forward, to maintain

libraries and at least, at the very least, to maintain them. Because we are all seeing the cuts that are being made on the number of days provided, the number of staff, and it is painful to I think everybody in this room.

So we have to see that we remediate going forward. And I will not be supporting this amendment, because, moving backward, we know what the figures are, we've got them in balance, and we can't throw them out of balance.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Oppenheimer.

Senator Klein, on the amendment.

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

I laud the other side of the aisle on raising two important issues, I think, to all of us, making sure that our libraries and private schools are well-funded. The only problem is, this is not the vehicle to do that.

As a matter of fact, one of the

issues that I'm very familiar with is the mandated services. I think everyone here knows or should know that we mandate private schools to do certain things but we're not giving them the funding to do it. I have legislation which I'm working on with the chair of the Education Committee, Senator Suzi Oppenheimer, to correct that inequity as far as future budgets.

As a matter of fact, the $6.3 million that was talked about today represents current applications for reimbursement that are sitting at the State Department of Education awaiting a new state budget to replenish the fund. That's what we will do, hopefully, on April 1st.

The legislation that I'm working on would go one step further. Because the inequity so far this year, as far as the applications that are sitting at the State Department of Education, is $6.3 million. The way to really correct this inequity is to fund for the past two years, which comes close to $43 million. That's how we can ensure that

our private schools receive the money when the State Department of Education mandates that they do something. So that's one of the plans of the Democratic Majority as far as our April 1st budget.

Again, until then, I think that the proper vehicle would be in the April 1st budget, which we have every intention of doing.

I vote no on this amendment, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Klein.

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, we've heard this back and forth here, but on the last go-around with Senator Hannon, he produced some questions. And I think everybody in this chamber has a fine respect for Senator Hannon and his knowledge. He does a tremendous job. But he asked questions. We don't have the answers. They weren't produced.

Now, Senator Klein came up and said about what we were doing. Well, we got the additional Lottery money, we got some additional aid money. What are we doing with that? When we got the budget back in December, none of this money was ever available. Now we're putting it in, but we're also, according to your memos, are taking it out and you're putting it someplace else.

Does anybody know what's really happening to the money? That's my question. Maybe somebody on Senate Finance on the other side can tell us, because right now you haven't.

You know, to stand up here and say you know, I understand where you're going, but I don't know. Then why are we voting on a bill or anything when we don't know where the money's at?

We have people here on both sides of the aisle that are here for their first year, and they're seeing a volume of books and we're seeing in the paper we saved you money, big, big deal. And then we come back and say:

Where is the money? And, well, we don't know and we don't this. But big write-up in the paper: Look what we did.

I think maybe we ought to go back to grammar school and find out how do we count. Because right now what you're saying doesn't make a damn bit of sense.

ACTING PRESIDENT BRESLIN: Thank you, Senator Larkin.

The question is on the nonsponsor motion to amend Calendar 109. Those Senators voting in support of the nonsponsor amendment please raise their hands.

Announce the results.

THE SECRETARY: Ayes, 28. Nays, 32.

ACTING PRESIDENT BRESLIN: The amendment fails.

Senator Klein.

SENATOR KLEIN: Mr. President, may we now move to the main bill.

ACTING PRESIDENT BRESLIN: On the main bill.

Are there any Senators wishing to

be heard on the bill?

Senator Flanagan, on the bill.

SENATOR FLANAGAN: Mr. President, on the bill.

We obviously have had an interesting dialogue already vis-a-vis the amendment and I think with regard to the more macro aspects of the budgetary process. And we've had our own internal discussions. And the more I listen, the more I worry. The more I worry, the more frustrated I get, because it continues a Paterson -- a pattern, frankly. Paterson, maybe; no pun intended -- but a pattern of a lack of transparency, a lack of open dialogue, a lack of public meetings, and no real public input into the process.

And I'll just highlight a few things, and I do believe they are all related although separate in some respects.

We did a deficit reduction plan, and arguably we did that too soon. Because we should have and probably could have waited to see what the federal stimulus money was. So we may have forestalled some of the actions

that were taken by this Majority, like taking 90 percent of the money that went for SUNY tuition and using it to shore up the General Fund.

Senator Hannon referenced the fact that we've received over $2 billion in cash. We may have been able to fix that problem without having to do anything at that time.

Now we have a deficiency bill, and the chair of the Finance Committee seems to have trouble grasping the numbers and relies on sort of generalizations that come from the Division of the Budget. Frankly, ladies and gentlemen, we don't need to do this bill today. We have to get it done before the end of the fiscal year, but we don't need to do it today.

Now, we've had discussions again about an infusion of cash. Somehow we're changing the revenue patterns here. Not reflected in the financial plan, not reflected on DOB's website. And you know what? It gets more confusing as we go all along.

Now, yesterday there was an

announcement by the legislative leaders -- Senator Smith, Speaker Silver, Governor Paterson. And it was very fun, it was really nice, because the Governor was able to come out and say, Remember all those pain-in-the-neck nuisance taxes that I was advocating for? Well, now we have new money coming in so we don't need to do that.

Now, he didn't remove all of them, but he did remove some of them. And guess how that was done? In secret, behind closed doors, no public discourse, no public leaders' meetings, and no real input from the Legislature. Because it came out as a pronouncement. And here we are talking about deliberations vis-a-vis the budget, and guess what? There are no deliberations.

It's very easy for the leader to come out and say we've now made this decision. Well, frankly, ladies and gentlemen, it hasn't been voted on. And if the Governor comes out and makes that type of statement, along with the imprimatur of the Senate Majority -- what are you doing about environment? What are you

doing about healthcare? What are you doing about education? What are you doing about libraries? Why wasn't it in the pronouncement that we're going to restore $20 million in libraries? Why wasn't there a pronouncement that we were going to get rid of the deficit reduction assessment in the education portion of the budget?

Yesterday, the Speaker made some pronouncements -- again, comments, publicly -- essentially saying we don't really need to go through this public portion of this whole process. Essentially telling everybody the budget committees, the budget conference committees, those things that we passed into law a couple of years ago, they're just not going to happen. Maybe he didn't say that directly, but that's the translation.

So we don't have any input. In many respects, you don't have any input. The public certainly doesn't have any input. And it just belies underlying problems with this process.

And, you know, when we talk about

reform and we're talking about letting people know what's going on here in Albany, it's actually more secretive than it's ever been. It's more isolated, it's more of three men in a room than it's ever been.

I don't have any level of comfort, and I don't think any one of us could go back to our districts and say, I know exactly what's going on in the budget. Oh, yeah, we've got rid of a few of those taxes. But you know what? Nobody said anything about higher ed, nobody said anything about how we're going to fix the problems at SUNY, because nobody is talking about it.

I don't believe we should be doing this bill today. It would be very easy to vote for this bill. I'm going to vote against it. Because we don't know what the whole process is, we don't know what the negotiations are, we don't even know if there are any negotiations. And until we see some light of day -- not in this chamber, but all around in this Capitol -- I don't think any one of us should be supporting what's being

advanced today.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Flanagan.

Senator Volker.

SENATOR VOLKER: Mr. President, I have to say I was a bit shocked yesterday when I saw a comment by a very good friend of mine, the Speaker of the Assembly. And he is a good friend of mine; I've known him my entire career. And he said that there was really no reason for conference committees because everybody involved was Democrats.

And I was thinking to myself, imagine if when we started the conference committees -- and by the way, the conference committees were started by this house. I don't know if anybody remembers that. But under Joe Bruno, we began the conference committees -- with some objections, by the way, from the Division of Budget under George Pataki. The Pataki people never really were excited about the fact that legislators were getting involved in all this business of

money.

And in fact, there were times when I personally had several personal confrontations with the Bureau of the Budget. And I won't get into that, because we're not going to take the time to do that. But actually the Public Protection Conference Committee was known as a rebel committee that sometimes would go around the rules, get directly to the Governor. And I'm not just talking about the Senate Republican, I'm talking all about the Assembly Democrat also.

But what I'm saying to you is, what happened to the conference committees? It's not so surprising, Carl, that you're really a little confused about where the dollars are. I don't believe the Bureau of the Budget is telling us the whole story.

That's ridiculous. We're the Legislature. After 2004, when we fixed the budget problem relating to the 2001 problem -- and by the way, this Legislature -- not the Governor, this Legislature, and there were Democrats and Republicans -- fixed this state

so well that we got out of a terrible problem we were in because of 9/11. California is still suffering from it. It's no secret they're in a terrible mess. Yeah, they do have some sort of a star that runs the state. I'm not so sure who he is, but he gets great press.

We got very bad press because we got blamed by all kinds of people for taking tough steps. But it was the Legislature -- and it always has been the Legislature, not governors, that have taken the steps to make budgetary decisions.

What's happening here is, unfortunately, we are not on our way toward any conference committees. And if what we hear is correct, the Speaker of the Assembly says we don't need them, that to me is a process for disaster.

I just think that what we need to do is forget all the rhetoric, get ourselves together, Republicans and Democrats, stop all the rhetoric. We do have some money, we know that. I mean, we must have some money.

Charlie Schumer said we have it. And if Charlie Schumer says it, it's certainly got to be true.

It's time, I think, that we stopped doing what we've been doing here, playing a cat-and-mouse game, and started seriously dealing with this fiscal crisis, together, in conference committees, in the open.

And Frank Padavan and I, after we had the so-called Brennan Commission, the famous group that wanted to help New York City and so forth -- personally, I never thought that they cared about any of us upstate. But Frank and I got together, and we helped make some changes. And people laughed at us. Those changes, many of them, are still in effect, by the way. And we want to make more changes to make this Legislature more a democratic operation.

We can't do it if we get bills like this out of the clear blue without the information behind it. What we need to do is get back to the old system where everyone gets together and makes decisions with conference

committees and in the open.

ACTING PRESIDENT BRESLIN: Thank you, Senator Volker.

Senator Winner, on the bill.

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

You know, frankly I'm a little surprised why we're doing this bill. I really haven't quite figured it out. I mean, we're twisting ourselves in a pretzel here for the purposes of trying to allocate $9 million. And at the same time, as Senator Hannon so aptly pointed out, we just put in the bank $2.07 billion that we got from the federal government, which is revenue that we received during this fiscal year.

So here we are, trying to allocate $9 million surplus from the Lottery in this legislative proposal when we're sitting on $2.07 billion in the bank. Which is a clear surplus for this fiscal year.

So at the end of March, we're going to have a pronouncement from the Division of the Budget that we have a $2.07 billion

surplus. And yet at the same time we have that surplus, we're all -- you're all in a snit over trying to give $9 million to libraries and mandated private school purposes. I mean, why is that?

We have a deficit reduction plan that taxed students in this state by diverting their tuition to the General Fund rather than utilizing it for purposes at SUNY, and we have a $2.07 billion surplus at the end of March.

Now, I know you want to pocket that money so you can spend it for next year for whatever purposes you want. But you're going to have to go home and justify and defend why it's okay, with a $2.07 billion surplus, to tax students, deprive libraries of money and nonpublic schools of funds for their mandated services. I think that's going to be a tough sell for some of you.

And as it relates to the overall budget negotiations, as Senator Flanagan so aptly pointed out, I mean, here we are violating the whole spirit of budget reform where we all got out here earlier on, a few

years ago, and said that we're going to clean up our act, we're no longer going to have any kind of late budgets like we had for 20 years, we're going to have conference committees, and we're going to have openness and transparency.

And now we have three New York City Democrats in a room deciding what is going to happen for this entire state without any input, coming out and announcing yesterday that the reason why we have to do this behind closed doors is because we don't want to offend anybody when we don't help them.

Now, I don't know what the rationale is that the Governor and the legislative leaders have for suggesting that, you know -- as we have also indicated -- that we should get rid of some of the fun taxes that were advocated erroneously by the Governor in the first instance. But I think they need some explanation as to why you got rid of those and why you still have a hospital assessment tax, a home care assessment tax, why you want to tax retroactively all of the Empire Zone businesses in Senator Aubertine's

and Senator Valesky's and my district, why you want to get that money back from those businesses that in good faith made investments and produced jobs and are trying to grow in this state.

I don't know why we want to still increase the beer and wine tax. I don't know why we want to have gas taxes still in this budget. But as of the announcement of yesterday, it appears that, well, we got rid of some bowling taxes and some taxes on haircuts and cable television. Those seem to be the favored areas that the Majority wants to eliminate a special burden on. But all these other folks are still in the tank, as far as I can see.

And I think you've got some real 'splaining to do to these folks as to why you got rid of those and didn't get rid of these. Particularly when you're sitting on $2.07 billion for a surplus for the end of March.

I think this bill is unwise to be doing at this time, and it's clearly

unnecessary. It's clearly not needed. And for us to sit here and say that our financial plan is going to be out of whack by diverting $9 million when we got $2 billion in the bank is so ridiculous that -- you know, I just think that we're trying to fool the people here that we're doing some real meaningful work on this budget, when anybody who really knows what this process is about knows different.

ACTING PRESIDENT BRESLIN: Thank you, Senator Winner.

Senator Libous, on the bill.

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

I, like my colleagues on this side of the aisle, are somewhat frustrated with this process. And it's funny, because I heard that for years from people who sat on this side of the aisle.

I find it amazing that yesterday the two leaders and the Governor came out from a press conference and proclaimed that we're going to reduce taxes by $1.2 or $1.3 billion.

And you really have to stop and think about the ridiculous taxes they talked about, that someone would even impose those or think of imposing them in the first place. On movie tickets, on haircuts. This has to do with, you know, everyday lives of everyday people. And they came out and proclaimed that the process -- they would reduce taxes.

And then they said right after that that they would put a budget together, as my colleagues mentioned, behind closed doors.

Senator Kruger, the chairman of the Finance Committee, who I have great respect for, got up and referenced many times today the Division of the Budget. And, ladies and gentlemen, the people of this state have no clue to what's going on here with the Division of the Budget or what's in this deficiency bill or what's going on with the budget process or, as Senator Hannon said, and others, the billions of dollars that the federal government has given us, given this state, to stimulate the economy. It's a stimulus bill.

And they have no clue. There have been no plans. You know, I guess maybe behind closed doors -- I can't see behind those closed doors -- they're discussing this.

But it's disgraceful. It's a disservice to the taxpayers. This is not about us; this is about the people we represent. And the leaders and the Governor are ignoring them. They're basically saying -- I mean, for the Speaker to say that, well, we're all Democrats, we can get along -- well, guess what, Mr. Speaker? There are Republicans that live in this state and conservatives and independents and blanks and people who aren't registered as Democrats. And they have great ideas too. Maybe even better ideas. And you'd better start sharing your ideas with them.

You know, we're dealing with people's lives. We're dealing with -- the issue on the floor is about libraries and education, and we're dealing with mental health services, and we're going do that all behind closed doors.

Now let me tell you what is really amazing to me. The other side of the aisle for years would sit over here, and Senator Krueger, if you are in the -- she is in the chambers. Mr. President, Senator Krueger is here -- would for years get up and share with us how she never had enough time to read the bills. She would share with us how you're doing things behind closed doors.

And they said that they were going to reform the house when they took over. Well, they've taken over, and it's gotten worse. It's gotten worse. We went from conference committees last year to behind closed doors. We went from conference committees, where issues were discussed in the open by legislators in the Assembly and the Senate, from both political parties, from both sides of the aisle, that were elected by the people, discussing the issues that affect the people. And now we've got three men from one region of the state, New York City.

And I like New York City. I visit there. I know it's part of the state. But

we've got three men from New York City. Mr. Silver, the Governor, and -- in all due respect -- the leader of this house don't know about where I live in upstate New York. They visit, yes, but they don't know about what's important to the people there.

We need open representation. We need a conference committee process that was voted on by -- in law. It was voted on in 2007, unanimously, by everybody in this house, because we wanted every member to have a say, because every one of us represents people in this state. And every one of us voted unanimously for that because we felt that the process had to be open and one where we would share ideas, because that's what we're here to do.

And, Mr. President, there's no sharing of ideas. I have no idea what they're doing, nor do my constituents have any idea as to what they're doing. Every once in a while they come out of this room and they have a press conference, like they did yesterday, and tell us that they eliminated taxes that they

imposed upon us in the first place.

So, Mr. President, this bill and the amendment that we tried to put forth in this bill was very important to the lives of people in my district and in your district and in everyone's district in the state. And particularly I speak for upstate New York, as many do in this room. Right now, in the budget process, upstate New York has no voice. And that's terrible.

ACTING PRESIDENT BRESLIN: Thank you, Senator Libous.

I would remind the house to keep their ideas directed on this particular bill and not beyond it. We are debating this bill.

Senator Hannon.

SENATOR HANNON: I'd like to speak on the bill. And I'd like to speak on the same topics as Senator Libous did, because those topics are exactly germane to this bill, to the budget process of this state, and to the welfare of the residents of this state as to what they can expect to get.

Now, Senator Libous spoke about the

conference committees. I read in the paper this morning that the leaders said they wanted to bypass the individual practice we have had of passing a bill or resolution in each house and skip the conference committees because they want to act speedily.

I think that is a total disservice to what we have as a mission, as a sworn duty, to make our best judgment for the people of New York State.

Conference committees are not easy. Making a one-house budget is not easy. Making a one-house resolution is not easy. But neither is the job of being a Senator or Assemblyman or Assemblywoman. It's our obligation to make these allocations of monies and make the policy choices that come about.

And we've had the fact that today we're doing a minor change in the budgeting while we really should be having the Majority pass a bill or a resolution as to what they think the budget ought to be. You've failed in your duty.

If we then also skip conference

committees, you've also failed in your duty. They're not easy. I've had a chance to be the cochair, with the Assembly Health chair, when I was Health chair last year and for the prior 15 years. I would be there, and the conference committee would be made up of a majority of majority members in each house and the minority members from each house.

And so there would be the cross-debate as to what each individual -- people weren't voting as a bloc, they weren't voting as a party, they weren't voting as a house. They were talking about their duty, what they saw for the topic of that conference committee.

It's not easy. And people would directly tell me they thought I was wrong, I could explain back, we would have changes in policy, things would evolve that we didn't think of when we went through all of the hearings that the budget committees have during the month of February. It's an invaluable process. And the people who benefit? The people of New York. And to skip

that is a travesty.

And then, I have yet to get an answer. Where is the money from the stimulus bill? I talked about the $2.07 billion, because that's cash that the President of the United States says is here. But we also know there's a lot more coming.

The Governor, February 14th, says that the stimulus bill will include at least $24.6 billion in funding for New York. Where is it? Where is the resolution? Why do we have to have reductions in services?

Somebody said to me a little while ago they were surprised there were closings of hospitals in Queens. Well, there will be a lot more. Because there are things in this proposed budget by the Governor for the next fiscal year that will lead to more closings. Not intentionally, not that you'd want to do it. You'll be caught. But that can be avoided if you have the discussions in public.

I can go into the merits of that, but probably, you know, that would be something if you actually had a budget bill or

a budget resolution on the floor.

But this is a budget bill. This deals with the whole budget. It's germane. The fact that we have a process in statute and we're not following it, that's germane.

And I think we ought to have these debates. We haven't had it. We have a budget office -- and I just checked, got the laptop, just checked. None of this is mentioned on the website of the Division of Budget. How would you know what the fiscal plan is today? What do they do, send out a fax at the end of the day and change it?

People in this state deserve to have education, healthcare, transportation, police protection. And they can only do it if people can make budgets. By the middle of May, school districts are supposed to put their budgets up for a vote. How do they know how much money they're supposed to receive? We're supposed to be in a process of getting this done. We're way behind.

ACTING PRESIDENT BRESLIN: Thank you, Senator Hannon.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

You know, when I look at this legislation, in and of itself it's not harmful. It does accomplish something, and it moves government forward. But there is a bigger issue that's out here that we're trying to address today. And that is the process and what is to come, how we're going to face this big $15 billion deficit. And if this is a microcosm of what we're going to do, this state is in trouble. And I will tell you why.

We have had four public hearings of the so-called bipartisan rules reforms. I praised the Majority Leader every time for doing this. These four public hearings, there was one universal message from about 50 people and groups that testified, and all the good-government groups. Openness, transparency, that's what we need in Albany.

Now, I judge people by their actions, not their rhetoric. Newspapers are writing that the Majority Leader is not ready

for prime time. They're writing that the new Senate Majority is not ready for prime time. Because there is a learning curve. There's always a learning curve when you have the responsibility of running government. That's not a criticism, that is a fact of life.

This is the danger. We have a Governor who inherited the position whose staff has left him. So he is in trouble on a learning curve in developing a budget that meets this crisis.

So who is left? Sheldon Silver is left. If we're going to do three men in a room from New York City, I will tell you what will happen, because I have watched Sheldon Silver for many, many years. And if you're going to abdicate your responsibility as a Senate Majority and let Sheldon Silver do this budget, as well as the Governor -- because he needs an on-time budget to elevate himself to the people -- this is what you will get.

As the architect of the budget that is coming, you will have no debate. And he said in the newspaper we have a crisis, we

have to move quickly, we're all Democrats, we'll get it done. That's what he said in a newspaper yesterday. What he's really saying is: I am now, for the first time, with the Governor's office, with the Senate Majority and the Assembly Majority, I'm going to call the shots -- because I have the institutional knowledge, I have the staff, I have the expertise.

And that is dangerous. Because you will not have a discussion of priorities. Whether you agree with the priorities that the other elected officials have to offer or not, there will be no discussion. There will be darkness. There will be tax-and-spend policies that will favor the metropolitan area -- will not only hurt upstate, will hurt the Island, will hurt the mid-Hudson, will hurt the Senators and their representatives from all the other areas outside New York City, if you abdicate your weighing in on the budget process.

Now, the conference committee, when the Republicans were in control, sometimes it

happened, sometimes it didn't. But you had five people weighing in that you could watch on television and have an exchange of ideas.

We are going in a very dark area the way we are proceeding. Not the way we're proceeding on this side of the aisle, but the way the Senate Majority is proceeding. And I am concerned. I have hope for the Majority Leader. I have hope for the new Democratic Senators that are in control, that are talented, that are intelligent.

And when you abdicate your voice to this process and let Sheldon Silver be the shadow governor, we are all in trouble, everybody outside New York City. And you will do a disservice to this institution, become more dysfunctional, and make a mockery of this whole Rules Reform Committee because your actions belie your credibility.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Bonacic.

Senator Marcellino, on the bill.

SENATOR MARCELLINO: Thank you,

Mr. President. On the bill.

We have a budget reform law, which has been stated. I'll go back to it again, but we seem to be ignoring that particular process. I don't know if we're allowed to ignore it because we make the laws, but I guess that's going to happen. And I don't think it's a good thing. I agree with my colleagues, I think it's a bad idea.

I want to steal a line from my colleague Joe Griffo, and I'm going to refer to the three men in a room as the unholy trinity. This is the Lenten season, so we're going to refer to them as the unholy trinity in a room.

This is wrong. They're doing things behind closed doors. And to go back again, and to quote an old movie, Cool Hand Luke, what we have here is a failure to communicate. Nobody is talking to anybody. Nobody is talking to anybody here. Our chairman of Finance doesn't know the numbers. We can't get an answer as to what's happening with $2 billion in stimulus money that's

already supposed to be here. According to the President of the United States, it's here.

There's $9 million in this bill that we're talking about now that wasn't there when we did the deficit reduction bill. What happened to that? Where is that going? That's extra money. We can't get an accounting for that. This bill is allocating this money to what, where, and who? I don't know.

Senator Klein said the amendment wasn't the appropriate vehicle to do it. He said, We're going to take care of that. He says, Trust me, we're going to take care of that. Well, that sounds like, gee, I'll respect you in the morning. Or, you know, the check is the mail.

(Laughter.)

SENATOR MARCELLINO: Ladies and gentlemen, I contend what we are doing to this budget process is what Client 9 did to that young lady in that hotel in Washington.

(Catcalls.)

SENATOR PARKER: Mr. Chairman.

ACTING PRESIDENT BRESLIN:

Senator Parker, why do you rise?

SENATOR PARKER: Point of personal privilege.

When I came to this chamber, I was always told that we're Senators and as Senators we act in a particular way. And that in a debate, while we may disagree, both on a partisan basis as well as ideology, that we in fact engage ourselves as Senators.

And that means that we, even in the context of that debate, speak to each other in a kind of way that gives respect. In the same way that we disagree and have an adversarial relationship vis-a-vis the process and our positions on the particular issues.

I think it is out of order for someone to in fact, to in fact create a dialogue that in fact implies that people here are involved in some kind of prostitution or some kind of immoral act. It is absolutely out of order.

I am personally offended by it. I demand an apology. I think that is not the

way that Senators in this state should be treating each other in our conversations.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT BRESLIN: Thank you --

SENATOR LIBOUS: What is his point of personal privilege?

ACTING PRESIDENT BRESLIN: Senator Libous. Senator Libous --

SENATOR PARKER: Point of order. Sorry, point of order.

ACTING PRESIDENT BRESLIN: Thank you, Senator Parker, for your comments.

And I would remind everyone here that we can be disagreeable without being personal, and that we have respect -- we can disagree without being disagreeable.

So, Senator Libous, why do you rise?

SENATOR LIBOUS: I was asking what the Senator's point of personal privilege was. I was a little confused with his statement.

ACTING PRESIDENT BRESLIN: I

think we can move on from here, Senator Libous, thank you.

SENATOR LIBOUS: Thank you.

ACTING PRESIDENT BRESLIN: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President. I will try and stay in the confines of your admonition.

I think this debate has really been very, very good, very constructive. Because we're trying to block out a process, and we're trying to look at the law as it exists and trying to give some advice. Whether people take that advice is up to them.

One of the things that has been upsetting for me -- I tend to think that I'm an institutional person -- is the fact that the Division of the Budget, in my estimation, has exceeded its authority. The Division of the Budget has for many, many months now been driving the bus without any, without any concern about policy.

Now, some people say, Ah, why are you concerned about policy? Well, because

it's the policy piece that affects people. The policy that we make deals with our constituents and how we use the resources to affect their lives.

So that is one concern, that we as a Legislature have allowed something to take place, an agency to exceed its authority, and everyone kind of has folded their hands and not really have spoken out on that.

My second concern is that -- and this conference and many other people beyond has really said the Governor needed to resubmit his budget so that we know with specificity how the stimulus money affects other things in the budget.

Case in point, great confusion on state aid, elementary and secondary schools. How does the DRA, deficit reduction assessment in the formula -- are we using that money to eliminate deficit reduction? Are we doing anything? Are we putting money back into the foundation formula?

In higher education, are we going to ensure that the State University -- they

assessed their own students, with the support of the students -- will be able to function properly after being, from the last budget, last budget, being cut $210 million? And we should know that.

Community colleges right now are making up their budgets. They have no idea what we're doing with the base aid. Are we going back to the 2008-2009 base aid formula? So these are critically important items.

Why are we doing this deficiency budget now? It could wait and make sure that we have some symmetry here to deal with the main budget, the integration of the stimulus money, and do it in some sort of way that makes sense.

We hear today that the libraries are going to get their money, that they are indeed an important institution in our communities. Well, sometimes, the way we've done business here, people say: Show me the money. Let me see it. Let me see it in the budget.

And so I think -- and my last

remark is this, to Senator Hannon. The committees, the conference committees, are in state law. They're in the Budget Reform Act that we did. Go ahead, pass a budget without the conference committee, and we've committed an illegal act that is attackable by a lawsuit.

You can't just deny the law. If it's in the law, you've got to do conference committees. You can't turn your backs. And shame on us as lawmakers to even suggest by a slip of the tongue that we're not going to do conference committees. When we make the laws, we've got to abide by the laws.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator LaValle.

Ring the bell, please. Instruct all members to come to the chamber.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

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

SENATOR ROBACH: Yes, Mr. President.

I am going to vote yes for this bill because I think it does some good things for people in New York State and moves it in the right direction. But I want to explain my vote because I don't want it to be misconstrued.

People made some great comments over here. And you know what, the process is not only germane, it's critically important to where we got to today.

And I think if we were in conference committees, if there was a different process, if it wasn't three men in a room making these decisions, we would have used the full amount of money that's available, that I think everybody knows is available, that's been said by the Governor, been said by others at other meetings --

SENATOR LIBOUS: Mr. President,

can we have some order in the house? I'm having difficulty hearing my colleague.

ACTING PRESIDENT BRESLIN: Keep the noise down. Anyone wishing to talk with someone else please leave the chambers.

SENATOR LIBOUS: Thank you.

ACTING PRESIDENT BRESLIN: Thank you.

SENATOR ROBACH: -- to restore that money, especially for libraries and maybe other things that are critically important to us in our constituency. That is the process.

Another one of my colleagues talked about being offended. I'm offended that the people in my district and the people in this state don't have an opportunity to know what's going on.

Times are changing. People are paying more attention. They want openness, transparency, better government, and want to know what goes on. Here we are at one of the most challenging times, and we're moving in the opposite direction, even after an election in a time when people talked time and time

again how we have to open up government.

While I'm going to vote yes for the bill, we really can collectively do much better. And we owe it -- whether you're from upstate or downstate, people need to know why we're making these tough decisions, how we're getting to where we're at, and we're doing it and it's right.

It is outrageous for the Speaker of the Assembly or for anyone, anyone in elected office to say we don't need a process, people don't need to know how we get to the decision. It's outrageous. And everybody in this chamber should be as excited and disappointed as I am.

And again, it is germane. We've got to do this. I'm going to vote yes. But let's not let, as we go to the final version of the budget, this cancer spread and effect bad outcomes in the final version of the budget. If we do, we will be sorry, and people will take notice and not let it go.

Thank you, Mr. President. I vote in the affirmative.

ACTING PRESIDENT BRESLIN: Thank you, Senator Robach.

Senator Klein.

SENATOR KLEIN: To explain my vote, Mr. President.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Klein.

SENATOR KLEIN: You know, I think it's important that we set the record straight on what we're doing here today. Today we're doing a deficiency bill.

In my four years in the Senate, even when the other side of the aisle was in the majority, we did deficiency bills. We also did deficiency bills when I served in the Assembly. So there's nothing that we're doing here today that is unusual.

Certainly the proper forum to talk about the budget, especially reform, I believe should take place all the time. But to say that the Majority Leader of the Senate is opposed to conference committees and transparency is just inaccurate. To say what the Speaker of the Assembly -- where I served

for 10 years, and some members served at the same time, it's a completely different legislative body.

We are here in the State Senate. And the Majority Leader of the State Senate has made himself very clear that he intends to go to conference committees and have transparency in our budget process. As part of some of the reforms that were outlined, I agree. I think we need even more reforms as part of not only our budget process but our entire process in the Legislature.

One of the things that I think we need to do to really, truly show the residents of the State of New York how we craft a budget is to have regional budget hearings in areas of the state. Let's show our constituents, the people that elect us, how we craft a budget in New York State.

And also I think it's the best way to determine regional needs. Have our not-for-profits, have our volunteer firefighters, have our school districts come and talk about and advocate for themselves how

we can best craft a budget in New York.

So again, I think what we did here today is certainly nothing out of the ordinary. Anything that we do as the budget process proceeds will be open and transparent.

And I just want to make one additional point. As I raised earlier on, an issue that's important to me is making sure that private schools get equitable funding. That is something that will be done by the Majority Conference.

And by the way, the reason why there is a deficiency is because of the budget that was passed by the other side of the aisle last year.

So again, I look forward to an open debate, not only on budget issues but all other issues too, in the months and years ahead. And, Mr. President, I vote yes on this deficiency bill.

ACTING PRESIDENT BRESLIN: Thank you, Senator Klein.

Senator Libous.

SENATOR LIBOUS: Mr. President,

in all due respect to Senator Klein, I have to stand up because there seems to be, as one of my colleagues said, a communication issue here.

And on the bill, Mr. President, as was mentioned by Senator Klein about the intent of the conference, I can only read from a press account, that "instead of going through the regular process of each chamber issuing a one-house resolution, sort of a blueprint of what each chamber would like to see, Speaker Silver, Senate Majority Leader Malcolm Smith, and David Paterson have agreed to try to bypass the one-house resolution and go straight to a three-way negotiation."

And then it goes on to say that "we're all Democrats." And it goes on to say -- and reference the Majority Leader by saying "Smith denied this move to a three-way deal is because his conference can't agree."

Now, Mr. President, there seems to be a miscommunication. And, Senator Klein, I have great respect for you. You have always been a gentleman and upfront. And if indeed

we are going to conference committees, I would applaud Senator Smith and I would publicly say good for him.

But there seems to be great confusion. And the confusion, at least from reading press accounts, is that we are not going to --

SENATOR KLEIN: Stop reading press accounts.

SENATOR LIBOUS: Well, I -- that's the only way we can get our information, or the people of this state can get its information, because right now everything is being done in secret.

I vote aye.

ACTING PRESIDENT BRESLIN: Thank you, Senator Libous.

Announce the results.

SENATOR PADAVAN: Mr. President.

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

SENATOR PADAVAN: Mr. President, let me supplement what you heard from Senator Libous.

April 1st is a matter of two and a half weeks away. If there are going to be conference committees, they should have been appointed, structured, and well on their way to doing their work. With all due respect to your comment, Senator Klein, I don't see any of that happening.

So to suggest here that the Majority Leader is in favor of conference committees belies the fact. There's nothing happening in that regard.

The other part of your comment, this is a deficiency budget. And every year we have a deficiency budget, and that's normal. There are years we had a supplemental budget. Why? Because things are fluid. You make predictions during the year as to what revenues will be. Estimates are provided by various agencies, particularly the Bureau of the Budget. And so you need those vehicles to respond.

But what's unique this year is something that I have never seen, nor has anybody in this chamber ever seen, a massive

infusion of money from the federal government under a stimulus plan. And I won't repeat all the things you've already heard. That is a significant difference and should guide us in what we were doing today and what we are doing today.

So I suggest to you that yes, this is something we've always done. But it's being done today in an environment where needs have been identified and where monies are being provided in amounts never before heard of.

I vote aye.

ACTING PRESIDENT BRESLIN: Thank you, Senator Padavan.

Senator Maziarz, to explain his vote.

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

I was going to make the point that Senator Padavan made, that it's March the 12th. If we're going to have conference committees, we'd better hurry up.

And then Senator Klein said we're

going to have regional budget hearings. Well, it is March the 12th. I think we should hurry up.

But I want him to know that I think that's a great idea, Senator Klein. I agree with you. We're not going to have them? Regional budget hearings are very important. And I would offer to host one in Western New York, in Niagara County, where we could talk about the impact that the New York State Power Authority has on the New York State budget.

Thank you. I vote in the affirmative.

ACTING PRESIDENT BRESLIN: Thank you, Senator Maziarz.

Announce the results.

THE SECRETARY: In relation to Calendar Number 109, voting in the negative: Senator Flanagan.

Those Senators absent from voting: Senator DeFrancisco.

Excused, Senator Alesi.

Ayes, 59. Nays, 1.

ACTING PRESIDENT BRESLIN: The bill is passed.

Senator Klein.

SENATOR KLEIN: Mr. President, I move that we lay the calendar aside for the day.

ACTING PRESIDENT BRESLIN: Calendar 19 is laid aside for the day.

Senator Klein.

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

ACTING PRESIDENT BRESLIN: No, Senator Klein, the desk is clear.

SENATOR KLEIN: There being none, I move we adjourn until Monday, March 16th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT BRESLIN: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Monday, March 16th, at 3:00 p.m., intervening days being legislative days.

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