NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 29, 2011

3:24 p.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask all present to please rise and join with me as we recite the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT GRIFFO: For today's invocation we have Pastor Richard Buccio, from Hyde Park Baptist Church in Hyde Park, New York.

Pastor.

PASTOR BUCCIO: Let's pray.

Our precious heavenly Father, Lord, I am truly thankful, Lord, to be here in the privilege of praying for all of these individuals, our Senators, Lord, that represent New York.

Lord, they have an awesome responsibility, Lord, as they make decisions that impact not only themselves but they impact many people from this great state. Lord, the decisions they make will also impact people in the future.

So, Lord, I ask would You please bestow upon them Your mercy, Your grace, Your love. Lord, give them wisdom beyond their means. I pray, Lord, that they may, as they make their decisions, include You.

Lord, You are the Great Creator. Lord, it says in Your scriptures that You put kings on thrones and You take kings off. Lord, You have appointed these people. So please, Lord, give them the know-how and the ability to do the right thing. I pray these things in my Savior's name, Jesus Christ.

God bless you all. Amen.

ACTING PRESIDENT GRIFFO: Thank you, Pastor.

The reading of the Journal.

THE SECRETARY: In Senate, Monday, March 28th, the Senate met pursuant to adjournment. The Journal of Sunday, March 27th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 19, Senator Lanza moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 108 and substitute it for the identical Senate Bill Number 3870, Third Reading Calendar 244.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Zeldin, I move to commit Senate Print Number 4074, Calendar Number 262 on the order of third reading, and I want to commit it to the Committee on Commerce and Economic Development.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time I'd like to adopt the Resolution Calendar, with the exception of Resolution Numbers 1071, 1087, and 1100.

ACTING PRESIDENT GRIFFO: At this point we will accept the motion to adopt the Resolution Calendar, with the exceptions of Resolutions 1071, 1087, and 1100.

All in favor of passing the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The Resolution Calendar is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a privileged resolution at the desk, Number 1071, by Senator Hannon. May we have it read in its entirety and then please call on Senator Hannon.

ACTING PRESIDENT GRIFFO: I would ask that the chamber come to order as we call

on Senator Hannon for this memorializing resolution.

The Secretary will read first.

THE SECRETARY: Legislative Resolution 1071, by Senators Hannon, Saland, Skelos, Libous, Seward, Klein, and Duane, mourning the death of Dr. Richard F. Daines, distinguished citizen and devoted member of his community.

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

"WHEREAS, Dr. Richard F. Daines of Stanfordville, New York, died on Saturday, February 26, 2011, at the age of 60; and

"WHEREAS, The son of a physician, Dr. Richard F. Daines was raised in Utah and earned a Bachelor of History degree from Utah State University in 1974; and

"WHEREAS, Dr. Richard F. Daines served as a missionary for the Church of Jesus Christ of Latter Day Saints in Bolivia from

1970 to 1972. He received his medical degree from Cornell University Medical College in 1978 and served a residency in internal medicine at New York Hospital; and

"WHEREAS, Dr. Richard F. Daines distinguished himself in his profession and by his sincere dedication and substantial contribution to the welfare of his community; and

"WHEREAS, Serving as a physician in New York City for over 25 years, Dr. Richard F. Daines worked at St. Barnabas Hospital in the Bronx, where he began practicing in 1978. His skills and compassion, coupled with his ability to speak Spanish, made him a valued member of the staff and a favorite among his patients. He became the hospital's senior vice president for professional affairs and medical director in 1994; and

"WHEREAS, From 2002 to 2007, Dr. Richard F. Daines was medical director at St. Lukes-Roosevelt Hospital Center, where he served as both president and CEO. He often worked shifts in the emergency department there to observe firsthand the care patients

received; and

"WHEREAS, In 2007 Dr. Richard F. Daines became New York State's 14th Commissioner of Health. He served in this capacity until 2010. Recently, he joined the New York Academy of Medicine as a visiting scholar; and

"WHEREAS, Commissioner Daines took great pride in the skills and professionalism of his Health Department employees and public health workers at county health departments, traveling to all 62 counties of New York to promote local public health activities, often accompanied by his father, Newel; and

"WHEREAS, Dr. Richard F. Daines' commitment to excellence, and his spirit of humanity, carried over into all fields of enterprise, including charitable and civic endeavors; and

"WHEREAS, A former Scoutmaster and Eagle Scout, Dr. Richard F. Daines would often invite members of Troop 525 to his farm in Stanfordville; and

"WHEREAS, A devoted family man, Dr. Richard F. Daines is survived by his wife

of 36 years, Linda; three children, William, Katherine and Andrew; a grandson, Charles Richard; his parents, Dr. Newel and Jean Daines; and siblings Pamela Johnson, George Daines, Janet Stowell and Peter Daines, as well as many cousins, nieces and nephews; and

"WHEREAS, Armed with a humanistic spirit, imbued with a sense of compassion, and comforted by a loving family, Dr. Richard F. Daines leaves behind a legacy which will long endure the passage of time and will remain a comforting memory to all he served and befriended; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the death of Dr. Richard F. Daines, distinguished citizen and devoted member of his community; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Dr. Richard F. Daines."

ACTING PRESIDENT GRIFFO: Senator Hannon.

SENATOR HANNON: Thank you, Mr. President.

Being a Commissioner of Health in this state requires an extraordinary range of talent and skills and good disposition and energy. And in Richard F. Daines, New York's 14th Commissioner of Health, he certainly brought those qualities to the forefront.

He was fundamentally a good person, as those of us know who had the fortune to work with him. He was a good doctor. In fact, I don't think I've ever said publicly one of his classmates told me that at Cornell he was the top of his class. He never ever said that himself. He was therefore a good student. He was also a good manager, a good executive, having come up both as a practicing physician and as a hospital executive.

It's ironic that we would be bringing this resolution up as we're on the cusp of beginning our budget bills, and at one point in that sequence there will be the health budget.

For Dr. Daines, he brought many emphases to health and the different departments of health that we have in terms of categories. First of all, he had to deal with

what is popularly known as the Berger Commission, which finished its work just before he took office and called for the closing of a number of hospitals, the mergers of others.

And I don't think that he ever imagined that he would be spending most of his time at the beginning commuting between Albany and Buffalo to deal with the seemingly intractable recommendations of Berger in Erie County.

But he also spent a lot of emphasis on such things as childhood obesity. He was known for the video he did in regard to the soda tax. But underlying all of that was a deep concern that the future of the health of the population of this state depended on what we would be doing for the children of this state and their health and whether or not we would stem the tide of diabetes by stemming the tide of childhood obesity.

Sometimes one of the things that happens in government is you work so hard and the tragedy or disaster that people predict doesn't take place. Well, we certainly had a

very genuine scare that there might have been a pandemic when the H1N1 onslaught came about. And the Department of Health and the local counties' departments of health, along with our hospital reporting network, were certainly prepared and worked overtime to make sure that if anything untoward happened in this state that the state would be prepared and the population would be protected.

I could go on and on about the number of other issues we worked on -- HIV testing, the hearings we had around the state on the most esoteric of all financial formulas, called bad debt charity care.

But let's get back to the fact that Commissioner Daines was somebody who seemed to enjoy the job thoroughly, took the advantage of going through the public health departments to visit every county in the state, remembering that he as a Mormon was getting a chance to go through the state where Mormonism had been founded -- and in fact telling us at one point that in his little farm in Dutchess County he found some tombstones that were those of his relatives, so that there was a

full circle to his life.

I'm going to let some other folks make comments, but I just want to acknowledge that we have joining us today on the floor the current Commissioner, Nirav Shah. Also the Deputy Commissioner of Public Health, Dr. Gus Birkhead, along with Maryellen Jacobson, who was Dr. Daines' special assistant and currently serves as the Commissioner's special assistant; Jim Clancy, Claudia Hutton.

And then in the gallery, some of whom might be nodding off because they've been working on the health budget for the past couple of months, Debra Pellerin, from the department; Diane Mathis; Jim Clyne; Wendy Saunders; Mark Kissinger; Carla Williams; Lora Lefebvre; Valerie Grey, who's now with State Ed; Robert Durlak; Barbara Devore; Barbara Wallace; Barbara Dennison; Robert Burhans; and Michael Nazarko.

Thank you, Mr. President. And we're going to keep the resolution open for all to cosponsor.

ACTING PRESIDENT GRIFFO: Thank you, Senator Hannon.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I first got to know and know of Dr. Daines when he was president at St. Lukes-Roosevelt. And honestly, it was -- he was not at all who I expected him to be, in terms of what ideology or positions he might put forward. And what I learned then and what I really got to know when he was Commissioner of Health was that that is what he cared about and what rose above all else in his life of public service was health, and specifically public health.

It is a paradox that some of the issues that I worked so closely with him on were issues that would seem on the face of it that we would approach from completely different places. And yet we -- and mostly because of who -- I would say 99 percent because of who he was -- worked collegially and bipartisanly, as you can see by who's speaking today, to get work accomplished.

And so the ones that, as I say, just seem so paradoxical that we worked on,

for instance, was the Family Health Care Decisions Act. And another was -- and this was years in the making, and Senator Hannon can certainly attest to this one as well -- was our very far-reaching and I think new-day-and-age testing bill for HIV.

And I would say the legacy that we all share is that states around the country now reach out to us and want to replicate that legislation. And it really is a legislative triumph but also an enormous triumph for Dr. Daines, and there are people here who worked on that in the Health Department for years.

I'm going to come back to this and say this again, but he was the Health Department's greatest champion. There was never a meeting with Dr. Daines when he was Commissioner where he did not laud the work of the people in the Health Department. And he would say "I am so fortunate to work with people who care so deeply about the people in the State of New York and how it is that the Health Department can serve them." Every time, every time he talked about that. He was

so proud of the work of the department and the people who worked in the department.

And I'm sure that other people had this experience with him as well, but even when I would talk to him about my personal health issues, he was wonderful. I believe everyone felt they could approach him to discuss every public health issue and every personal health issue.

You know, people here probably know I have my differences with the Scouts. But Dr. Daines was the greatest Boy Scout ever. And I mean that in that his wholesomeness, his good-naturedness, his desire to do service.

And I am very sorry, personally and professionally, for his loss and that I won't be able to reach out to him in New York City. But I have to return and say I am especially sorry for the hardworking people in the Health Department because you all have lost a great, great champion.

And I know that Dr. Daines' faith has carried him to a place where I believe he's happy. And his legacy of public service for our state, in good times and in bad, is a

legacy which will not be forgotten and a great loss to his family and to our state and to public health in our great state.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Duane.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

I think both Senator Hannon and Senator Duane have captured the essence of Dr. Daines.

Sitting here, I think the reference that Senator Duane made to being a Boy Scout was probably very, very appropriate, that he really was the penultimate Eagle Scout.

You know, we eulogize on this floor over years a lot of wonderful people who have done great things, but sometimes the adjectives we use we repeat over and over, and the adjectives that we use sometimes we don't think about. But when I think of Dr. Daines, I know when I look at his staff up there they would probably describe him as a perfect boss, someone who was exceedingly, exceedingly

humble but got his message across.

And when Senator Hannon mentioned that he was first in his class at Cornell Medical School, it was always a mystery to me how someone a few years ago before that could have been a history major in college and then gone on to medical school and graduated number one in their class.

He had all those attributes that, as I said before, we tend to bandy around and sometimes use all too frequently. And when they really mean something, you want to make sure that you convey the importance of those attributes about Dr. Daines.

I never heard him -- I'm sure his staff did -- I never heard him raise his voice. I always saw him as extremely organized and disciplined. I think he exuded a public servant in his honesty, his accessibility. Whenever you called him, you were able to get him very quickly, unlike a lot of other appointed and elected officials.

To me he was, among the people I have seen in my years here in this house, the consummate public servant. The public servant

that we all want to be. The public servant that always went a little beyond where others went and always, always, always stayed with his principles. And as you know, his principles, sometimes in espousing them and articulating them he wasn't successful. But he never compromised. He presented his principles and he presented them in a very articulate way.

And, you know, for a man who kept in wonderful physical condition to pass away at the age of 60 is such a dramatic loss to all of us in this body, to everyone in the Health Department, and to everyone, particularly all citizens of the State of New York.

So I am so much better for having known him. And he will be a very difficult act to replace.

Thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Yes, thank you, Mr. President.

I rise also to certainly join my colleagues to speak about Dr. Daines and the influence that he had on my district. It is a grateful district that remembers Dr. Daines.

When Senator Hannon spoke about the Berger Commission and all that went with the recommendations, one of the hospitals to be closed was Dobbs Ferry Hospital. And Dobbs Ferry Hospital wasn't just a hospital, but it was part of a network. And the network allowed for all sorts of activities throughout the district, through different facilities and St. John's Hospital, to continue to serve everyone in that district all along the river towns.

And when the Berger Commission decided that Dobbs Ferry should go, it took a lot of innovative thinking, it took a lot of community input, but it took the listening ear of a professional who understood how to keep a facility there that housed the Ashikari Breast Center, which is nationally known -- women who are suffering from breast cancer go to Dobbs Ferry Hospital -- how to keep that facility there with urgent care but also to recreate it

so that it could deal with the types of preventative medicine that Dr. Daines and all of us cared so much about.

So instead of having the hospital as we would know it, what it is now is a place where, again, women suffering from breast cancer can be treated very, very well, as well as information on diabetes and obesity and asthma and all the things that hopefully, if we take care of our health now, will prevent premature death and chronic illnesses.

It took a lot to be able to redesign something that meant something going forward for a community within the context of the Berger Commission's recommendations. Dr. Daines was able to do that. And because of that, people will live longer, healthier and more productive lives.

So again, we certainly mourn his loss but thank him for the legacy that he's left.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, could I ask my colleagues to please rise and have a moment of silence for Richard Daines, please.

ACTING PRESIDENT GRIFFO: I would ask all members to please rise in a moment of silent tribute to Dr. Richard F. Daines.

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

SENATOR LIBOUS: Mr. President, I also believe that Senator Hannon will open up this for cosponsorship. So as we normally do, if someone is not interested in cosponsoring this resolution, please let the desk know.

ACTING PRESIDENT GRIFFO: The resolution is open for cosponsorship. If you choose not to be a cosponsor, please notify the desk.

Senator Libous.

SENATOR LIBOUS: Mr. President, there's a resolution at the desk, Number 1087, by Senator Ranzenhofer. I ask that you have it read, its title, and call on Senator Ranzenhofer.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1087, by Senator Ranzenhofer, mourning the untimely death of former Buffalo Sabres professional hockey player Richard Lionel (Rick) Martin, distinguished athlete and citizen, and devoted member of his community.

ACTING PRESIDENT GRIFFO: Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you, Mr. President.

Before I say a few words about Rick Martin, I just want to welcome back to the chamber -- I'm not sure if he's still here or has left -- our new Health Commissioner, Dr. Shah, originally from my hometown. I just wanted to welcome him back to the chamber.

I did want to say a few words about Rick Martin. Rick Martin is the only professional athlete that I ever had a chance to know on a personal level. And it's really unfortunate that he just died recently at a very young age.

Rick Martin really transformed the City of Buffalo when it comes to hockey. In Buffalo, hockey is a very passionate sport. And he came to Buffalo from Quebec, Canada, in the '70s and joined what's probably the most famous hockey line in all of professional hockey, a line called the French Connection. He set all sorts of scoring records, both individually and as a rookie and also over the season.

But more importantly than his hockey accolades, he was a man that was very involved in his community. He was very involved in a number of charitable and community organizations. But probably the thing that I remember most about him is just his smiling personality. He was a fun-loving, joking individual, loved to play golf, was a very successful businessman. And he would

give you the shirt off his back. If there was a community event involving kids or really involving anyone and you wanted him to be there, he would come and give his time.

He also volunteered his time helping the Sabres long after he retired, helping to develop some of the younger players.

But I know when they had a memorial a week ago in HSBC Arena, there were about 2500 people that showed up. And one of the people that spoke was his line-mate, Rene Robert. And the picture that they showed is he had a cigar in one hand and a beer in the other, and just talked about his joking and larger than life and loveable personality.

So again, I just wanted to say a few words about Rico Martin. He was really one of the best hockey players in Buffalo and a real community-minded individual.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Ranzenhofer.

Senator Kennedy.

SENATOR KENNEDY: Thank you,

Mr. President.

I too want to rise in memory of Rick Martin, famous Buffalo Sabre, famous for his work and his talents not just on the ice but in the community.

I appreciate Senator Ranzenhofer putting this resolution forward in memory of Rick Martin. The Buffalo Sabres and Western New York community united in mourning earlier this month, as already articulated, as French Connection winger Rick Martin died of a heart attack while driving in Clarence. Teammates and coaches remember Martin as a fierce competitor, prolific scorer, and an all-around great guy who gave back to the Western New York community.

A Canadian professional ice hockey left winger who played in the NHL with the Buffalo Sabres and L.A. Kings for 11 seasons between 1971 and 1982, he was perhaps the most famous for playing on the Sabres' French Connection line with Gilbert Perreault and Rene Robert.

Martin was drafted fifth overall by the Buffalo Sabres in the 1971 NHL amateur

draft after a junior career with the Montreal Junior Canadiens of the Ontario Hockey Association. He played 685 career NHL games, scoring 384 goals, 317 assists, for 701 points. His best season was the 1974-1975 NHL season when he scored 52 goals and 95 points in only 68 NHL games.

Martin was selected to play in seven consecutive NHL All-Star games, 1971-'72 through 1977-'78. He was selected as the official NHL All-Star First Team Left Wing in 1973-'74 and '74-'75 and official NHL All-Star Second Team Left Wing in '75-'76 and in '76-'77.

Martin holds the Buffalo Sabres franchise career records for hat tricks, four-goal games, 40-goal seasons, consecutive 40-goal seasons, 50-goal seasons -- tied with Danny Gare -- and consecutive 50-goal seasons.

His Number 7 was retired along with Rene Robert's Number 14 on November 15, 1995, flanking the Number 11 of Gilbert Perreault under a French Connection banner. On October 25, 2005, Martin was inducted into the Greater Buffalo Sports Hall of Fame. In 2010,

in commemoration of the Sabres' 40th season, the Buffalo News ranked Martin as number 4 out of the top 40 Sabres of all time. After his untimely death this past month, the Sabres honored his memory by painting the Number 7, the number he wore for most of his career in Buffalo, behind each goal in the HSBC Arena for the duration of the 2010-2011 season.

I'm humbled and honored to speak in honor and in memory of Rick Martin today. Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Kennedy.

Is there any other Senator wishing to be heard?

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President,

there is a privileged resolution at the desk by Senator Hassell-Thompson. May we please have it read in its entirety and please call on Senator Hassell-Thompson before it is approved.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Hassell-Thompson, commending Delta Sigma Theta Sorority, Inc., upon the occasion of its Annual "Delta Days in the Capitol" on March 29, 2011.

"WHEREAS, It is the sense of this Legislative Body to recognize that the quality and character of life in the communities across New York State are reflective of the concerned and dedicated efforts of those organizations and individuals that are devoted to the welfare of the community and its citizenry; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to commend Delta Sigma Theta Sorority, Inc., upon the occasion of its

annual 'Delta Days in the Capitol' on Tuesday, March 29, 2011, to be held in Albany, New York; and

"WHEREAS, This auspicious occasion will bring sisters from the Delta Sigma Theta Sorority together from across the State of New York to address many social concerns. The 2011 conference will focus on the important issue of education, including the need for increased access to higher education, the need for increased funding for STEM education, and the need for increased funding for vocational education and job retraining programs, as well as other critical topics; and

"WHEREAS, Delta Sigma Theta Sorority was founded in 1913 on the campus of Howard University to promote academic excellence, to provide scholarship, to provide support to the underserved, to educate and stimulate participation in the establishment of positive public policy, and to highlight issues and provide solutions for problems in their communities; and

"WHEREAS, Today, Delta Sigma Theta Sorority has more than 250,000 members and

nearly 1,000 chapters worldwide. The sorority uses its five-point programmatic thrust of economic development, educational development, international awareness and involvement, physical and mental health, and political awareness and involvement to create its national program; and

"WHEREAS, Delta Sigma Theta Sorority, Inc., was once led by past national president and acclaimed civil rights leader Dorothy Height. In 1994 and 2004, respectively, Ms. Height was awarded the Congressional Medal of Freedom and the Congressional Gold Medal, the highest civilian awards in the United States; and

"WHEREAS, Upon her death in 2010, Ms. Height was honored by President Obama for her many years of service to our country and the world. Other dynamic women who have served the Delta Sigma Theta Sorority in the capacity of national president include Frankie Freeman, Esquire, the first woman appointed to the United States Commission on Civil Rights, and Congresswoman Marcia L. Fudge; and

"WHEREAS, New York State has been

home to many notable Deltas, including the late United States Representative Shirley Chisholm, New York State Assembly Deputy Speaker Earlene Hooper, New York State Assemblywoman Annette Robinson, Queens Borough President Helen Marshall, and the Honorable Jacqueline A. Berrien, chair of the United States Equal Employment Opportunity Commission; and

"WHEREAS, For 98 years the members of Delta Sigma Theta Sorority, Inc., have used their collective voices to advocate on behalf of their communities. Since 1989, Deltas gather annually in Washington, D.C. for 'Delta Days in the Nation's Capitol,' a three-day conference designed to educate and inspire members about important national issues. At the conclusion of Delta Days in the Nation's Capitol, members conduct meetings on Capitol Hill with their respective federal legislators; and

"WHEREAS, In March of 2003, Delta Sigma Theta Sorority, Inc., became a nongovernmental organization (NGO) and was granted Special Consultive Status as an NGO to

the Economic and Social Council of the United Nations. On a local level, members of Delta Sigma Theta Sorority, Inc., regularly conduct meetings with their local, state and federal political representatives; and

"WHEREAS, It is the practice of this Legislative Body that when an organization of such noble aims and accomplishments is brought to our attention, it should be recognized and applauded by all the citizens of this great Empire State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commend Delta Sigma Theta Sorority, Inc., upon the occasion of its annual 'Delta Days in the Capitol' on March 29, 2011; and be it further

"RESOLVED, That this Legislative Body pause in its deliberations to commend Delta Sigma Theta Sorority, Inc."

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson.

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

For nearly 100 years women of Delta

Sigma Theta have used their collective strength to promote academic excellence, provide scholarships, and to support underserved people throughout this country. As active participants in their communities, the Deltas have sought to educate and stimulate participation in the establishment of positive public policy and have worked to provide innovative solutions to problems.

These women took their civic-mindedness -- those such as Dorothy Height, about whom you've already heard; the first African-American woman elected to the Congress, Shirley Chisholm; and many of the staff that staff us here in the State Senate and the Assembly -- take their civic-mindedness very seriously and have taken it to a new realm and proved to women across this country that they have a strong voice that can be used to change public policy.

You have seen women throughout the corridors today wearing red -- they're here in our gallery -- many of whom are also being honored in the Assembly. And I'd like to ask your appreciation with me today for the work

for nearly a hundred years of the women of Delta Sigma Theta as they carry on in doing the work that many of us don't recognize needs to get done.

We have members today from Bronx, Buffalo, Syracuse, Nassau, Brooklyn, Queens, mid-Hudson, Westchester, and of course Manhattan.

Thank you, Delta Sigma Theta, for being here today. We honor you. And I would like to ask all of my colleagues if you would join me in this resolution as we salute and commend Delta Sigma Theta Sorority, Inc.

Thank you, Mr. President.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Smith.

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

Colleagues, I know that it is not the practice of our house to acknowledge groups that are in our gallery. But if it was the practice, as we know, I would look up at that red that I see and acknowledge the fact that I do have a little red in my sock --

(Laughter.)

SENATOR SMITH: -- and explain to my colleagues that this particular sorority for 98 years is one that has blazed a trail in many areas.

We have, as my esteemed colleague Senator Ruth Hassell-Thompson had just explained, Delta representation from Buffalo and Rochester and Rockland. And I'd be remiss if I didn't say that Queens is in the house as well. And Denise Johnson shouldn't stand up, because they don't allow you to stand up, Denise Johnson, our social action person.

(Applause.)

SENATOR SMITH: She shouldn't stand up at all, because that's not what we're allowed to do in the house. But if they did allow us, Denise, to do that in the house, I would ask you to stand up.

But, Mr. President, these young ladies have done tremendous work over the years. They have done tremendous work for our young men, who, as many of my colleagues know, in particular African-American men are under siege. And you have done some wonderful

things for them.

So I stand here joining my colleague Senator Ruth Hassell-Thompson. And I appreciate the fact that she had not only the intellect and the fortitude, but understanding the importance of who you are.

Also, as you should know, that in our ranks on staff that we do have Selvena Brooks -- who I can't acknowledge as well, because that's not approved on the floor -- who is a part of our team, if you will. A number of staff people. But I stand on this floor of the Senate, I stand on this floor -- Lisa Copeland too, that's right. Copeland and them girls -- I'm not going to start naming names.

(Laughter.)

SENATOR SMITH: However, I will say I stand here today proud to be able to stand and talk on behalf of the Deltas that are here. You are doing wonderful work. God bless you for all that you do. Continue in your work. And we need you. We need you very much.

So thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Huntley.

SENATOR HUNTLEY: Thank you, Mr. President.

I think everything has been said, so I'm not going to repeat all your good deeds because I'm very well aware of them, since you're very active in my district at P.S. 156 and other schools doing great things for our young people.

So I just want to thank you for coming here today. I want to thank you for what you do. And I want you to continue doing what you do. And it looks great to look up and see all the red. One of my colleagues said to me, Ruth Hassell-Thompson -- I'm calling names -- Ruth Hassell-Thompson said to me yesterday, she says, "You wearing your red?" I says, "For the Deltas, I'm wearing my red."

Congratulations. Look forward to seeing you next year.

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Thank

you, Mr. President.

I apologize, because I should be wearing red.

(Laughter.)

SENATOR STEWART-COUSINS: But despite the fact that I am not wearing red, it's worth taking the time to acknowledge the work that you do and all that you mean to all of our communities throughout the state and throughout the nation.

To think that you've been so true to your mission in so many broad way for almost a hundred years is a credit in itself. But when people come and see people like us, women, a lot of times they're sort of inspired: How do you do it, so on and so forth.

And so from us to you, I say back at you. You are our everyday people who understand it's all important and find ways every day to manifest that in your lives. You touch people all over in every walk of life, reminding them that education is the key, reminding that that no matter where they are, they can make a difference, reminding people

to try to do things outside of what people normally expect.

You are our heroes in the community. And I really thank you so much for being the positive everyday role models, excellent and excelling, that inspires our youth everywhere. So thank you so much.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Thank you, Mr. President.

I want to thank the women who are here from Delta. You know, I was happy to know that you all were coming here, because everybody knows that this year I'm trying to find a bride. So I'm pretty sure there's a lot of eligible potential brides up there.

(Laughter.)

SENATOR ADAMS: Let me say this, and clear. One hundred years, 100 years is a long time. And I thank Senator Hassell-Thompson for just taking the moment that we pause, even during this difficult budget time as we talk about the budget and as we talk about how we're going to deal with the

financial balance of our state. These women have walked the halls of the Senate and the Legislative Office Building, have spoken with us. And to keep us grounded, and to keep us real. And we want to thank you for that, you know, just taking time out of your schedule -- many of you are professionals, being away from your place of employment, your place of occupation -- and to come here and to have a real conversation with us.

Because from time to time when we navigate the 87 Highway to come to Albany, we sometimes forget that those lines in the budget, the dollars that we cut, the dollars that we add, the taxes we refuse or the taxes we decide to make, it impacts real people. And for the most part, people are afraid. People are scared. New Yorkers are hurting. And somehow we have to give them faith again. And we can't do it often as State Senators or as Assemblypersons, but it takes everyday folks like yourself that decides that you want to give back in a very real and a very meaningful way.

So I want to thank my colleague

Senator Hassell-Thompson for this moment for us acknowledging a great organization. One hundred years, that's impressive in itself. A lot of people can't stay committed for 100 minutes, and you're able to do so for over 100 years. And we thank you for what you do each and every day.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Excuse me. Senator Libous.

SENATOR LIBOUS: I just wanted to also welcome our guests and echo some of the colleagues of our guests today.

And as Senator Smith said, if we could acknowledge a special group that was here today -- and although the rules don't allow us to, I too want to stand and say that it is an honor to have you come before the house, it's an honor to have Senator Ruth Hassell-Thompson present this resolution. And we too appreciate all the good things that you do on behalf of everybody in this state.

So it's an honor to stand here and say thank you and to join my colleagues in this special resolution.

ACTING PRESIDENT GRIFFO: Thank you, Senator Libous.

It is a day when seeing red is pleasant. We welcome the Delta Sigma Theta ladies here today.

And the question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous, Senator Hassell-Thompson has requested that the resolution be open for cosponsorship. Without objection?

SENATOR LIBOUS: Absolutely, Mr. President.

ACTING PRESIDENT GRIFFO: The resolution is open for cosponsorship. Should

any member choose not to be a cosponsor, please notify the desk.

Senator Libous.

SENATOR LIBOUS: Mr. President, there's a resolution at the desk, 1100, by Senator Little. May we please have it read in its entirety and call on Senator Little for its adoption, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

I would ask for order, please, in the house. The Secretary will read.

THE SECRETARY: Legislative Resolution 1100, by Senators Little, Breslin, McDonald and Farley, memorializing Governor Andrew M. Cuomo to recognize March 29, 2011, as the 100th Anniversary of the New York State Capitol fire.

"WHEREAS, It is the sense of this Legislative Body to recognize significant events which represent turning points in our unique history and which are indelibly etched in the saga of our great Empire State; and

"WHEREAS, It is also the sense of this Legislative Body to call attention to

those historic events in New York State history which serve as lasting reminders of our unique past; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to memorize Governor Andrew M. Cuomo to recognize Tuesday, March 29, 2011, as the 100th anniversary of the New York State Capitol fire; and

"WHEREAS, On March 29, 1911, at 2:15 a.m., a fire broke out in the third floor Assembly library, in the northwest corner of the New York State Capitol building; and

"WHEREAS, Although approximately 125 Albany firefighters, under the leadership of Fire Chief William Bridgeford, responded to the scene, flames burst through the third-floor windows on the western side of the Capitol and shot up through the Great Western Staircase to the fourth floor. Within a few hours, parts of the facade of the Capitol had totally collapsed; and

"WHEREAS, The fire destroyed much of the New York State Library, which was

housed at the Capitol, as well as damaging irreplaceable collections of the State Museum, who was also located in the Capitol at the time; and

"WHEREAS, It was reported at the time that the damages caused by the fire included 600,000 volumes at the library, including valuable genealogical works and relics dating back to 1776. The Senate and Assembly libraries, the Finance Committee room, the chamber of the President Pro Tem of the Senate, the Lieutenant Governor's office, and much of the Senate and Assembly chambers; and

"WHEREAS, In addition, on the fourth floor of the Capitol, the fire severely damaged the offices of the Court of Claims, Bill Drafting Commission, Bureau of Weights and Measures, and many books of scientific and historical interest housed in the State Education Department. Practically all offices below the third floor were seriously impacted by smoke and water damage, including the Executive Chamber; and

"WHEREAS, Miraculously, there was

only one fatality caused by the fire, the 78-year-old night watchman, Samuel J. Abbott; and

"WHEREAS, The fire at the Capitol occurred just four days after the tragically infamous Triangle Shirtwaist Factory fire in New York City which claimed 146 lives. The coincidence of these two devastatingly destructive fires spurred New York to undertake massive reforms in fire prevention and labor, health and safety laws; and

"WHEREAS, It is the sense of this Legislative Body that when events of such historic significance are brought to our attention, they should be recognized by all the citizens of this great Empire State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor Andrew M. Cuomo to recognize March 29, 2011, as the 100th Anniversary of the New York State Capitol fire, and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted

to the Honorable Andrew M. Cuomo, Governor of the State of New York."

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

For the past 15 years I've had the privilege of being a member of the Commission on the Restoration of the Capitol, and it has been truly gratifying to be able to see the amount of work and historic preservation that has been done for this beautiful building and preserving the State Capitol, which is a national historic landmark.

The Capitol is a living monument, and it is a witness to history. Just think for a moment of all the people who have walked through this building, up and down the stairs, and been in this same room -- presidents, governors, dignitaries, previous legislators. But 100 years ago today, this building and this city witnessed a horrific fire. The entire western side of the Capitol was engulfed in flames, some of them shooting 200 feet in the air. And although the

building was believed to have been fireproof, the contents of the building were not.

The fast-moving fire destroyed the legislative library and much of the State Library, which at that time was the fifth largest library in the country. That night we lost hundreds of thousands of books. When you think of those books, documents, and manuscripts that were part of our history that were lost that night.

But thanks to the many librarians and state employees at that time who rushed back into the Capitol, and in those hours while the fire was still burning, were able to save 7,000 books and 80,000 manuscripts. Included in those manuscripts was an original manuscript of George Washington's farewell address and an original Emancipation Proclamation written in Abraham Lincoln's own hand.

All would have been lost if it had not been for the heroic efforts of the Albany City Fire Department. Responding in the early hours of the morning a little after 2:00, the firefighters fought the flames. And can you

imagine arriving at this building, the size of this building, in horse-drawn fire wagons and a horse-drawn aerial truck? No hook and ladders available at that time.

They fought the fire heroically and had it out in a number of hours. But the fire was so hot that it actually melted some of the columns of the sandstone on the Great Western Staircase. And unfortunately, it claimed one life, the life of Samuel Abbott, who was a 78-year-old night watchman, a Civil War veteran, who was found on the fourth floor of the Capitol clutching his silver-handled cane.

And as was said in the resolution, this horrific fire happened just four days after the Triangle Shirtwaist fire in New York City. And from these tragedies we had legislation that first was introduced in the state, and then became legislation nationally, to ensure better working conditions, better building safety, and better fire safety for people working in buildings such as this.

It took months to clean up the rubble from the Capitol and more than a year to reconstruct the northwest corner of the

Capitol. The legislatures moved down the hill and had their sessions in Albany City Hall.

And while there is no remaining evidence of this fire, it is evident that we shall always remember it. And we will continue to be dedicated and committed to the restoration of this beautiful building.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Little.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President. I just wanted to add a little something to what Senator Little said.

The gentleman who died in the fire, Samuel Abbott, was from Syracuse, New York. He was the night watchman in what we now call the Capitol library area. And those who went through a Capitol tour probably saw that.

While the fire was going on, he ran around the building on that night helping people evacuate -- he was 78 years old at the time -- opening windows and trying to save some of the artifacts. And he was the one that sounded the alarm.

While doing this, he was caught in a room in which a flash fire occurred, and he was tragically killed in the line of duty. His remains were found two days after the fire.

Now, a little bit about Mr. Abbott which I think is interesting. He was a second lieutenant in the Civil War. He was a hero in the Central New York Regiment in which he fought. He was active in the Virginia campaigns, where some of the fiercest fighting of the war occurred. He was admired by both his men and those commanders under which he served.

When he returned from war, he went to work for the Postal Service and eventually rose to become assistant postmaster of the city of Syracuse. Upon his retirement, he relocated to Albany to be near his family, where he worked as a night watchman.

And there was something in the Albany newspapers -- and I believe everything in the newspapers because they're incredible sources of only facts. And what the Albany newspapers reported is that some employees

even today maintain that Mr. Abbott's ghost still makes the rounds in his watchman's uniform on the fourth and fifth floor of the building's west side, jingling his keys, testing doorknobs, and turning out lights.

Now, I haven't seen him yet, but I'm going to keep looking out for Mr. Abbott, because he was one of our finest citizens from Syracuse.

Thank you very much.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

SENATOR DeFRANCISCO: Oh, excuse me, one other thing.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: This is important. This building cost $25 million to build. The fire caused $5 million in damages. $25 million to build.

Right now and for the last 10 years at least, the roof is being replaced on this building. And I understand that the roof cost is around $50 million. The roof is twice as much as this whole building cost to build, in

today's dollars versus dollars a hundred years ago.

So I'm giving this lesson to some young people from Onondaga County who really wanted this information today.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe that Senator Gallivan has a resolution at the desk. He would ask just that the title be read and we move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative

resolution by Senator Gallivan, commemorating the 50th Anniversary of the ARC of Livingston-Wyoming.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, there's a privileged resolution at the desk by Senator Young. May we please have it read in its entirety, and if you could then call on Senator Young before its adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senators Young and Gallivan, celebrating the recovery from critical wounds and homecoming of United States Army Sergeant James Hackemer.

"WHEREAS, It is the sense of this Legislative Body to celebrate the courage and bravery of the United States Armed Forces who have made great sacrifices in fulfilling their mission as part of Operation Iraqi Freedom to ensure our continued role as a nation which embodies the ideals of democracy and as a defender of liberty throughout the world; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to celebrate the recovery and homecoming of Sergeant James Hackemer, who was seriously wounded early in his second tour of duty in Iraq when his vehicle hit several improvised explosive devices in a convoy on its way to Baghdad; and

"WHEREAS, At the time of the incident, Sergeant James Hackemer was serving in the 230th Military Police Company, 95th Military Police Battalion, 18th Military Police Brigade. The 230th Military Police Company worked with the Iraqi police to provide training in securing their country; and

"WHEREAS, Sergeant Hackemer lost both legs and suffered from a massive amount of blood loss and traumatic brain injury in the explosion. He also suffered a stroke during medical treatment and spent more than a month in a coma; and

"WHEREAS, Overcoming dramatic odds, Sergeant Hackemer courageously endured lengthy and difficult therapy and treatments to learn to eat and speak again and to learn to use prosthetic legs; and

"WHEREAS, Residents of this great Empire State must never forget the courage with which members of the United States Armed Forces have served their country and must recognize that no greater debt is owed than that owed to those who have made great sacrifices for this great nation; and

"WHEREAS, The freedoms and security we cherish as Americans comes at a very high price for those serving in the military in times of conflict. It is fitting and proper that we who are beneficiaries of those who risk their lives, leaving their families behind, express our appreciation and eternal

gratitude for their sacrifices and courageous acts; and

"WHEREAS, It is the intent of this Legislative Body to publicly honor those veterans who have made extraordinary personal sacrifices during their military service and who have fought against great odds to recover and return to their families and communities; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to celebrate the homecoming of Sergeant James Hackemer, a native of Gowanda, New York, and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Sergeant James Hackemer."

ACTING PRESIDENT GRIFFO: Senator Young.

SENATOR YOUNG: Thank you, Mr. President, for the privilege to talk about Army Sergeant James Hackemer.

Gowanda, New York, is a very special place because it's a place where neighbors reach out and help each other through good times and in bad. It's also

special because it's unique. Half of the town is in Erie County in Senator Gallivan's district; the other half is in Cattaraugus County, which is in my Senate district.

Sergeant Hackemer was in Iraq in March of 2008. He was in third month of his second tour serving our country when that roadside bomb went off. It blew off both of his legs, caused a traumatic brain injury. And while he was initially being treated, he suffered a stroke which left him in a coma for an entire month. He doesn't remember riding in the vehicle, but he does remember the blast and he remembers that he was being lifted out of the vehicle and there was a soldier standing over him saying "Hang on, buddy."

He was moved to Bethesda Naval Hospital. And at first, while he was in his coma, it was really touch and go. And his family was faced with a very difficult situation because they felt that they may have to make the decision to take him off life support. But soon he began to show some life, there was a glimmer of hope, and he started to respond.

Sergeant Hackemer is the father of two young children, two girls. And on the day that he was moved out of the intensive care unit, his daughter was born. He could not be there, but he was able to listen to the birth through an audio hookup.

So it's been a long haul. He did have to learn how to eat again, how to speak again, how to write again, and his greatest challenge has been learning how to walk again. And he went to Walter Reed Army Medical Center in order to be fitted for his prosthetic legs.

He came home this past weekend, back to Gowanda. And we are very excited because on April 3rd, in just a couple of days, the entire community is turning out to hold a special parade in his honor. There will be a party of the entire community at the Gowanda American Legion.

And so I want to thank you, my colleagues, for voting to support this resolution. I know that Sergeant Hackemer and his entire family and the entire community will be very excited to know that the State Senate took the time to recognize his

sacrifices on behalf of our country.

And so we will be there, and I know that you will be there in spirit too, because we are going to show Sergeant Hackemer how much we are grateful for his sacrifice, how much we are so proud of him, and how much we love him. So thank you very much, my colleagues.

ACTING PRESIDENT GRIFFO: Thank you, Senator Young.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, we will stand at ease for an hour, and we will come back at 5:30 to Room 332 for a Finance Committee meeting.

So the Finance Committee should be in Room 332 at 5:30, and the Finance Committee

meeting will meet, and until then the Senate will stand at ease.

Will you recognize Senator Breslin, please.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

There will be an immediate meeting of the Democratic Conference in the conference room.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Democrat Conference in the conference room.

There will be a meeting of the Finance Committee in Room 332 at 5:30 p.m.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 4:32 p.m.)

(Whereupon, the Senate reconvened at 5:52 p.m.)

ACTING PRESIDENT MAZIARZ: Senator Libous.

SENATOR LIBOUS: Mr. President, there is an immediate, and I say immediate

meeting of the Finance Committee in Room 332.

ACTING PRESIDENT MAZIARZ: Immediate meeting of the Senate Finance Committee in Room 332.

Senator Libous.

SENATOR LIBOUS: We'll stand at ease.

ACTING PRESIDENT MAZIARZ: The Senate will stand at ease pending the report of the Finance Committee.

(Whereupon, the Senate stood at ease at 5:53 p.m.)

(Whereupon, the Senate reconvened at 6:10 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to the order of reports of standing committees, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Senator

DeFrancisco, from the Committee on Finance, reports the following bills:

Senate Print 2810C, Senate Budget Bill, an act authorizing funding for the Consolidated Local Street and Highway Improvement Program; and

2812C, Senate Budget Bill, an act relating to constituting Chapter 18A of the consolidated laws.

Both bills ordered direct to third reading.

ACTING PRESIDENT GRIFFO: Bills reported to third reading without objection.

Senator Skelos.

SENATOR SKELOS: If we could take up the noncontroversial reading of the supplemental calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 278, Senate Budget Bill, Senate Print 2812C --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number

277, Senate Budget Bill, Senate Print 2810C --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

Senator Skelos, that completes the noncontroversial reading of the supplemental calendar.

SENATOR SKELOS: Mr. President, if we can go to the controversial reading of the supplemental calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

Senator Skelos.

SENATOR SKELOS: If we could once again go to the controversial reading of the supplemental calendar.

ACTING PRESIDENT GRIFFO: We are on the controversial reading of the supplemental calendar. The bells have been rung.

The Secretary will read.

THE SECRETARY: Calendar Number 277, Senate Print 2810C, Senate Budget Bill, an act to authorize funding for the Consolidated Local Street and Highway

Improvement Programs.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT GRIFFO: There is a message of necessity at the desk, Senator Skelos.

SENATOR SKELOS: Move to accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

Read the last section.

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

SENATOR KRUEGER: Explanation.

ACTING PRESIDENT GRIFFO: An explanation is called for by Senator Krueger.

SENATOR SKELOS: Mr. President, if I could just make some opening comments.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: This is the beginning of our discussion of the 2011 budget, which I am happy that it is not and certainly our conference has not increased taxes, is cutting government spending, and will set us on the road to the creation of private-sector jobs within this state.

A lot of work has gone into this budget. I certainly want to thank all of our staff for their good work. And also I want to thank Senator DeFrancisco, who chairs the Finance Committee, and members of the committee and all the members that participated on both sides of the aisle on the conference committee process that has brought us to this point.

We're working with Governor Cuomo. We will have an early budget, the first time since 1983, when there was another Governor Cuomo downstairs on the second floor. But most of all, it brings fiscal reality back to this state.

With the completion of this budget,

not only will we be eliminating a $10 billion deficit without raising taxes, we will also bring next year's projected deficit from $15 billion to a more manageable $2 billion, which is less than 1 percent of the entire budget.

Within this budget we will be making permanent the Power for Jobs program and businesses will continue to receive low-cost power in exchange for their commitment to creating and retaining jobs. And I want to thank Senator Maziarz, who chairs the Energy Committee, for his good work.

I'm also delighted of Governor Cuomo's commitment to hosting a summit with all the stakeholders in making UB 2020 a reality, which will bring jobs and hope to Western New York as well as improvements to the other university centers, which are important priorities of the Senate Republican Conference.

So I'm sure there will be more said as we work our way through the budget process. But again, I thank all of our colleagues for

their good work, and I look forward to listening very carefully to the debate as we move forward.

So if we could just take up that legislation, I believe Senator DeFrancisco will handle the debate.

ACTING PRESIDENT GRIFFO: Thank you, Senator Skelos.

Senator DeFrancisco on the explanation.

SENATOR DeFRANCISCO: Thank you.

Senate 2810C is the transportation and economic development Article VII. Basically, what it provides is several things, many of which were in the Governor's original budget and not changed, so they've been out there since January as far as what the Governor had in mind. And many of the items were approved and in this overall budget.

The first one dealt with the CHIPS program and the Marchiselli program, that we concurred with the Governor. And the CHIPS monies are $363.1 million; Marchiselli money, Marciselli money -- depending if you want the Italian pronunciation or not -- was

$39.7 million, for a total of $402.8 million. Extremely important to all bridge and highway recipients throughout the state, very important.

The second part permanently extended the Department of Transportation's single audit program. Again, we concurred with the Governor. We concurred with the Governor to extend suspension of driver's licenses for certain alcohol-related charges. We also concurred with the Governor to permanently extend the suspension or revocation of driver's licenses for certain drug-related offenses and also concurred with the Governor to make permanent provisions relating to the Motor Vehicle Financial Security Act.

Next there was a change. The next section deals with making permanent the general loan powers of the New York State Urban Development Corporation. That's what the Governor's budget wanted to do. We changed it, the legislative budget changed that to authorize the ESDC to issue loans, extending the authorization for only one year

rather than making it permanent, which will provide a little bit more oversight by the Legislature.

Next, we concurred with the Governor, we accepted his proposal to increase the lifetime maximum per eligible business from $1 million to $2 million. And that deals with the Excelsior Linked Deposit Program.

Again, in the spirit of cooperation and bipartisanship, we concurred with the Governor in extending the New York State Higher Education Capital Matching Grant Program. And also, to clarify the state government's cost recovery system, we concur with the Governor. However, we did something else. That provision is basically that the Governor proposed to increase from $55 million to $60 million the cost recovery by the state from public authorities. The Senate further accepted the Executive's proposal to repeal such cost recovery from Industrial Development Agencies. So they will not have that IDA tax going forward.

The Governor would not agree with retroactive elimination of that tax. But the

Senate showed their position by passing a separate bill to in fact do that, to eliminate that IDA tax retroactively. But the budget does not have that retroactive language.

We also concurred with the Governor in permanently establishing the distribution formula for the Community Services Block Grant program.

And there was a provision by the Governor to permanently establish the authority of the Secretary of State to charge increased fees for expedited handling of documents. We did not concur with the Governor on that, we extended that ability for two years, and that's in the budget we're going to be dealing with.

We disagreed with the Governor's proposal to dissolve the Tug Hill Commission, and that will be in the budget.

We rejected the Governor's proposal to eliminate the salary for the chair of the State Athletic Commission, so that salary will still be in the budget.

There are several other concurrences that I can go through in great

detail. And I probably should, rather than doing that, see if there are any specific questions, because some of these areas may not be of interest to discuss or debate on the floor. So I'll stop at this point. And if there are any questions, I'd be happy to try to answer them.

ACTING PRESIDENT GRIFFO: Senator Krueger, why do you rise?

SENATOR KRUEGER: Thank you, Mr. President. I do have a series of questions for the sponsor, so thank you very much.

To start, just to clarify, Senator Skelos, before he turned over the questions to Senator DeFrancisco, pointed out that we are trying to get a budget done on time or even early this year. But of course, for the record, these bills were received with messages of necessity and have only been in print and available to the public and to ourselves for a few hours. And so we do have a series of questions about what's actually in these budget bills and what's not.

But if I might start by asking,

because we're working hard to stay apace, are we expecting any other bills to be brought to the floor this evening? And if so, have we received any other messages of necessity on budget bills from the Governor?

ACTING PRESIDENT GRIFFO: Senator Krueger is asking Senator DeFrancisco to yield.

Senator DeFrancisco, do you yield to questions from Senator Krueger?

SENATOR DeFRANCISCO: We expect to do one other bill tonight, the state operations bill. It's currently in -- it's been printed, it's currently being reviewed. And we expect to get a message of necessity from the Governor on that bill as well.

SENATOR KRUEGER: Thank you.

And, Mr. President, to follow up, do we know if there's a total budget agreement on all the remaining outstanding issues? Even though I understand from Senator DeFrancisco's answer to my last question there are not necessarily budget bills in print, available for us to see on all the other sections of the budget.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes, I do.

And I'll answer it in that there was a budget agreement announced on Sunday by the leadership. And since Sunday at about 4 o'clock or 4:30 when that announcement was made, there has been discussions among the Assembly, the Senate, and the Governor pertaining to the specific language to make sure everyone agreed that the intent of the agreement was accurately reflected in the bills.

So the reason we're doing these three bills this evening is that the language has been agreed to by each of the three houses and is ready to be voted upon.

There are still a few cleanup issues that are being resolved; for example, the table dealing with Medicaid and health, because that's one of the most complicated ones because it had some of the most comprehensive changes.

However, the agreement is there. It's a question of making sure the language

expresses what everyone believes the agreement was supposed to be.

And you have to understand that the staffs of the Assembly and the Senate have literally been working around the clock with virtually no sleep. So the process is going as expeditiously as humanly possible. And we certainly expect the remainder of the bills to be in print for review and also to be voted on, we expect, by tomorrow.

SENATOR KRUEGER: Thank you, Mr. President. If the sponsor would continue to yield.

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR KRUEGER: Thank you. So my understanding is there is a full agreement on the budget, at least in principle, in outline, but not necessarily all the individual bills yet in print.

Is there information that my Senate colleagues from the Majority could share with us in advance of those bills so that we could

see what the specific agreements are between the, so to speak, three leaders in the room?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Well, as you know, Senator Krueger, it wasn't three leaders in the room. Unlike the last two years, we actually followed the law. And we followed the law by following the 2007 Budget Reform Act. And exactly according to schedule, each house had their one-house budget bills done, the joint conference committees were held -- in fact, some of the committees, like the Health Committee, met many times -- publicly discussing some of the most controversial issues.

So this isn't three men in a room. Right now, it's the staffs in the room making sure that the intent of the Legislature and the Governor is accurately reflected in the language.

And rather than going through what's in the other bills that we will go through in great detail when they're formally in print and available to be debated, we have

a bill before the floor right now, and I want to confine my remarks to what this bill pertains to. And I will do the same at the next bill. And as the bills are ushered out, we will discuss anything that Senator Krueger or any other member chooses to discuss.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. I appreciate the sponsor's response.

Again, just for the record, the concern is that there was only an outline of verbal statements and quick summaries from the conference committees and through the mother ship, and we were hoping to actually see the language of agreements before bills showed up.

Because we know, as was raised in the beginning, that there's an expectation that we are going to move very, very quickly through the budget bills. And again, information is knowledge, and it would be better to have more than a couple of hours of information and knowledge before having to make difficult decisions on behalf of the

State of New York.

But to start questioning on this bill before us tonight, I'm going to start with some transportation questions --

ACTING PRESIDENT GRIFFO: So, Senator Krueger, are you asking the sponsor to continue to yield?

SENATOR KRUEGER: Thank you so much. I am asking the sponsor to yield for some questions.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, will you yield to questions on this specific bill?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you.

What the total of All Funds appropriation for the transportation budget, and how is that different from the current year transportation budget?

SENATOR DeFRANCISCO: The transportation appropriations are not in this bill. The language -- this is an Article VII bill showing what the agreement is as far as

what Article VII proposals we accepted, what Article VII proposals we rejected or modified.

There will be a separate appropriations bill, in detail, with each of the numbers that you're looking for, in a subsequent appropriation bill.

SENATOR KRUEGER: Thank you, Mr. President.

The first question I think highlights the dilemma for us in trying to move forward with the budget, that we are being asked to vote on language bills that explains how money is going to be used without actually having seen the appropriation bills yet that show the dollar amount of what they're going to be used for.

SENATOR DeFRANCISCO: May I respond?

SENATOR KRUEGER: Oh, of course. May --

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: I did, by the way, mention in my opening remarks that that part of this bill dealing with CHIPS and

Marchiselli is in the language of this bill, $363.1 million for CHIPS and $39.7 million for Marchiselli.

As far as transportation costs that are related to this particular bill, the language bill, those are the only appropriations in this language bill that are relevant to Article VII issues. So as a practical matter, you do have the numbers that are relevant to this Article VII bill.

As far as the point that the difficulty in trying to deal with one bill at a time, the Governor is extremely interested, as is the Senate leadership, to make sure we have a budget hopefully early. And we're not trying to rush anybody into anything, but we also don't want to be in a situation where we're wasting time today when there are bills in print, with the language in print, to be reviewed and gotten out of the way, rather than having a marathon session to try to beat the clock. And I think it's a very efficient way to do it, and it will benefit everyone by doing it in a timely fashion.

SENATOR KRUEGER: Thank you,

Mr. President. I don't think anybody wants to have marathon sessions that are unnecessary. We just want to ask questions and get answers to them before we actually vote for or against individual budget bills.

And as my colleague so well explained, we're on a language bill -- Article VII, transportation, economic development, environmental conservation -- where most sections of the bill relate to appropriations, but we have yet to have final appropriation language for the bills. It's sort of like when we do the budget each year, spending the money before we do revenue bills explaining where we got the money. So again, this whole process is a little out of order.

If I could just jump to -- does this bill lay out any language for plans to either continue the MTA payroll tax at its current levels or change that MTA payroll tax?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: This bill does not deal with that issue.

SENATOR KRUEGER: Thank you.

Does this bill --

ACTING PRESIDENT GRIFFO: Senator Krueger, do you wish to have the sponsor continue to yield?

SENATOR KRUEGER: Excuse me. I'm going to get the rhythm of that, I promise, Mr. President.

SENATOR DeFRANCISCO: I'm not so sure if we're violating the rules, but I have no problem her asking the question, I'll be happy to answer each one. As opposed to getting permission.

ACTING PRESIDENT GRIFFO: I will allow some latitude in that.

SENATOR DeFRANCISCO: Thank you.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: No, no, I'm usually very good at this. So I will stay focused on going through you, Mr. President.

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: You have to wait for him to answer.

ACTING PRESIDENT GRIFFO: Yes, the sponsor yields, Senator Krueger.

SENATOR KRUEGER: Thank you very much.

What in this bill specifically changes anything in transportation policy or MTA policy, since we have agreed that there's not really money in this bill? Could you go over for me the changes in transportation budget, transportation policy, capital budget or policy, or MTA budget or policy?

SENATOR DeFRANCISCO: Well, nothing on MTA. But when I was going through my summary, there are a few things that the Governor proposed that we modified somewhat. For example, there were certain -- well, actually, that we agreed with.

For example, the Governor suggested the good policy would be to extend suspension or revocation of driver's licenses for certain drug-related offenses. That technically changes the law in that it wasn't permanent before. Now it's going to be permanent. Same with extending suspension of driver's license for certain alcohol-related charges. That's

now going to be permanent in order that the Governor proposes. Permanently extending the Department of Transportation single audit program. That was not permanent; it now is.

So insofar as some of these issues that I've already outlined, there are policy changes insofar as making policies that were in existence, having them extend permanently as opposed to having to be -- a new bill being put forward because of a sunset. So there's that type of provision in this type of budget. And there's a few others that I could go through if you'd like.

SENATOR KRUEGER: Thank you. I appreciate the explanation. Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Senator DeFrancisco just laid out a number of permanent extenders that are built into this Article VII bill. Why is the Legislature taking the position that we should do permanent extenders of changes in the law

as opposed to extenders that match with budget years?

SENATOR DeFRANCISCO: Because it's the right thing to do. The Governor proposed it. And these penalties, for example, in alcohol-related offenses, dealing with suspension of driver's licenses for alcohol-related offenses, drug-related offenses, it is good public policy and it should be extended permanently.

It's just that we agree with the Governor on these permanent extensions. There's simply no reason to have to do it year after year in a budget bill when it's good public policy.

SENATOR KRUEGER: Thank you, Mr. President. If the sponsor would continue to yield, please.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you. Moving into the economic development section of this bill, this is a language bill, as we've already established. And is there

language about the state's economic development plan specifically laid out in this bill? Are we continuing to push for a mission of revitalization in economic development? And how are we planning to do that in the context of these language changes?

SENATOR DeFRANCISCO: Well, there's only -- well, it depends on what's meant by your question. There is something in here making permanent -- the Governor wanted to make permanent the general loan powers of the New York State Urban Development Corporation. We didn't think that was a good idea, nor did the Assembly, so we only gave that authority to ESDC for one year. We thought more oversight by the Legislature made sense.

But with respect to the other major economic development proposals of the Governor, such as the regional economic development organizations, that's not in this bill. That will be in a subsequent bill that we will explain at the time that bill comes out.

SENATOR KRUEGER: Thank you,

Mr. President. If through you the sponsor will continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

I believe that the Senator is referencing Part DD of this bill in what he reviewed on the UDC or ESDC requiring to submit a financial plan to the DOB and go through the documentation of their various accounts. Which I have to say I think is actually a very good thing for us to be doing.

But I'm confused because I don't believe any of this was discussed in the conference committee or the report. Was this part of the economic development conference discussions?

SENATOR DeFRANCISCO: You know, I really can't recall. But I can tell you the reports this year were a lot longer than the last two years and had much more detail. Whether this particular proposal was in the report, I really don't know. Some of the information was probably not, and you may be

right that this might not have been.

SENATOR KRUEGER: Mr. President, if through you the sponsor will continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you. Again, referencing Part DD of this bill specific to economic development, it references a series of separate accounts within ESDC. Are these new accounts we're discussing or simply a review of all the existing accounts?

SENATOR DeFRANCISCO: They are existing accounts.

SENATOR KRUEGER: Thank you.

Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: There's also a Part EE of the bill which is an authorization for an Empire State New Market Corporation. Could the sponsor please explain what that is

to me?

SENATOR DeFRANCISCO: Well, that's a very good question. Because I don't know the answer at the moment, but I'll have to consult with someone who does.

All right, I've been informed that this legislation allows the Urban Development Corporation to create limited liability companies to take advantage of a federal program. Without limited liability programs, we wouldn't be able to take advantage of the federal New Markets Tax Credit program, and that's the purpose for it.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you. And following up on this question of these new market credits and the creation somehow of LLCs in order to take advantage of these federal tax credits, is there any matching state cost associated with the creation of this program or this section of the

Article VII language?

SENATOR DeFRANCISCO: No, there's no required matching funds. And the total amount of the potential tax credits is $30 million.

SENATOR KRUEGER: Thank you.

Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

So we have a new program created within this bill which would hopefully allow us to take advantage of some federal tax credits, I hear to the tune of $30 million, and it would be involving LLCs. Would the Independent Authorities Budget Office have oversight on this program? And would there be the same requirements for transparency and audit by the Independent Public Authorities Budget Office as was created in our Public Authorities Reform Act? And don't ask me to say that again.

SENATOR DeFRANCISCO: Yes, it would be subject to that review. And in

addition, this is technically not a new state program, it's simply allowing us to be able to have the mechanics in place to take advantage of the federal tax credit program of $30 million.

SENATOR KRUEGER: And, Mr. President, if the sponsor would continue to yield.

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

So it's my understanding that this section, Part EE, like Part DD, were not discussed at the conference committee tables. Are there any other sections of this bill that we are seeing tonight that did not come out of conference committee discussions?

SENATOR DeFRANCISCO: You know, I really don't know that. I don't have all the reports in front of me. I'm sure that the reports have been available. They were made public when they were handed up to the joint conference committee. I'm certain that some

of the items that are in the final bills were not discussed by the joint conference committees.

I understand also that the process is not perfect, that I would love to see every single issue before the joint conference committees. However, that did not happen this year. But there was definitely a good faith effort on behalf of the Assembly and the Senate leadership to have open discussions on as many issues as possible that we could during the time frame allotted. And no doubt some of these were not in the committee reports.

Some of the committee reports, by the way, referred them to the general conference committee for discussion, and some of those issues were decided in negotiations by the leaders. And there's no secret about that.

SENATOR KRUEGER: Thank you, Mr. President. Actually, I appreciate Senator DeFrancisco's direct answers to my questions. Again, it highlights my earlier point that it would have been helpful had there been actual

language available for people to see before we actually were moving the new bill to the floor.

And again, for the record, Senate law requires that bills that are being voted on on the floor actually have memos. And I, at least, don't see memos to this budget bill on my desk.

I'm certainly not going to delay the process here tonight. But again, for the record, many of the questions that we want to make sure get asked are because we went through conference committees -- better than some years, not perfect -- we were not provided language agreements between the two houses prior to coming to the floor of the Senate. We are desperately reading the bills literally as we are moving them.

And again, for the record, I -- perhaps it's on other people's desks, but I don't see a memo to this bill here before us.

ACTING PRESIDENT GRIFFO: Senator Krueger, are you on the bill now?

SENATOR KRUEGER: No, I was making a point that there is no memo. Or

perhaps I'll make that a question. Is there a memo for this bill?

SENATOR DeFRANCISCO: No. The way I understand the rules is that the memos that are required are on appropriation bills.

However, the bill that we are discussing right now was on the Internet starting at 1:20 this afternoon. This session started about 6:20 today. There were five hours. The total number of pages of this bill is 45 1/2. And since we concurred with the Governor on so many of the areas -- the Governor's language has been in existence for two months, two and a half months.

So the areas that you have highlighted that you are concerned you didn't have time to read are a small pittance of the amount of these 45 1/2 pages, which all of us could clearly have read in time, in five hours, to be prepared for this. And you're obviously prepared to discuss it by the nature of your questions.

SENATOR KRUEGER: Thank you.

Mr. President, if the sponsor would continue to yield, please.

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Krueger.

SENATOR KRUEGER: Thank you.

Without ceding agreement that not all bills that come to the floor of the Senate need memos because I'm pretty sure all bills need memos -- the next bill that I'm advised we may be taking up tonight, the government operations appropriation bill, can I assume that there will be a memo for that bill before we take it up on the floor?

SENATOR DeFRANCISCO: You can assume that, correct.

SENATOR KRUEGER: Thank you.

SENATOR DeFRANCISCO: And I will do my best to make certain it is on the tables.

SENATOR KRUEGER: Because I want to agree with Senator DeFrancisco that this bill we're discussing now is, for budget bill purposes, a relatively small bill.

But the government ops appropriation bill that we got I believe

around 5:30 this evening was approximately that thick (indicating) in its original format, so a memo certainly would be valuable for being able to improve the questions and the process.

Following back up on my questions on this bill, if the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco continues to yield.

SENATOR KRUEGER: Thank you.

There was some disagreement over the last few weeks around regional economic development councils. How were those issues resolved in this Article VII bill? Have we established the regional development councils, and do we know what source of funding will be used for them?

SENATOR DeFRANCISCO: This is not in this bill, but the regional councils are going to be in place in a subsequent bill. And it's going to be done by executive order, and I think it's $170 million -- 130. A few million here or there. But $130 million, and it's going to be by executive order.

SENATOR KRUEGER: So it sounds like I will go back to those questions at a later time when we deal with the appropriate bill.

I want to thank the sponsor for his answers to my questions, and I believe that several of my other colleagues have additional questions to ask.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger. Thank you, Senator DeFrancisco.

Senator Dilan.

SENATOR DILAN: Yes, thank you, Mr. President. I have two questions regarding the transportation Article VII language --

ACTING PRESIDENT GRIFFO: Senator Dilan, are you asking Senator DeFrancisco to yield?

SENATOR DILAN: Yes, but I first was stating why I'm rising.

-- in regard to two items that were agreed upon at the transportation table that are omitted from the Article VII bill. So I wanted an explanation as to why those items are not in the bill. Specifically, DMV and

private airports and Stewart Airport. So I am asking him will he yield for two questions.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, will you yield to a couple of questions from Senator Dilan?

SENATOR DeFRANCISCO: I will.

ACTING PRESIDENT GRIFFO: Senator Dilan.

SENATOR DILAN: Yes, Senator, specifically DMV Part F in the bill, the bill indicates that the language was intentionally omitted. However, at the transportation table the Assembly and Senate did agree to this language.

Also, I do have a letter from the U.S. Department of Transportation that if we do not deal with this item we would be out of compliance by October 1, 2011, and we would lose 5 percent federal funding with respect to federal aid for highway funds.

So do we know why this was omitted?

SENATOR DeFRANCISCO: Okay, I'm trying to listen to you and two other people, but I think I got it all down pat.

It's not in this bill, but it will

be in a -- we expect it to be in a subsequent bill tomorrow. So we can discuss that. The language is being refined -- as I mentioned before, some of the language is, and it's not ready yet. So it was pulled out of this bill, it's going to be in one of the other bills.

Secondly, I am trying to figure out, because I was told that memos were prepared on both of the bills that we are discussing tonight, and I got -- well, I can tell you that everybody does have memos on their desks that includes a memo, Senate report on Senate 2812C that we're discussing right now. There is also a memo on -- excuse me, 2810C we're discussing now. There's also one on Senate 2812C.

So everyone does have those. And I mistakenly said that they were not there, but they are.

SENATOR DILAN: I would just, Mr. President, like to indicate that this memo was placed on my desk maybe a couple of minutes ago. So I just want that to be on the record.

SENATOR DeFRANCISCO: Fine.

There was some confusion, but everybody has them now.

SENATOR DILAN: Would he yield to another question?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Dilan.

SENATOR DILAN: Yes, Senator, is that the same case with the $4 million of unused funding for private airports and Stewart Airport?

SENATOR DeFRANCISCO: Yes, that will be -- that money will be in an appropriations bill.

SENATOR DILAN: Another question.

ACTING PRESIDENT GRIFFO: Senator, will you continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Dilan.

SENATOR DILAN: Yes, the reason I'm asking these questions is because at our conference subcommittee table, both these

items were treated as Article VII. Why were they changed to another appropriations bill when we were talking about Article VII language? And we're dealing with an Article VII bill.

SENATOR DeFRANCISCO: I'm just trying to get the real reason here, and I haven't quite understood it myself. And I just want to -- if you'd give me one moment.

All right, the Part F, the language to conform the Vehicle and Traffic Law to federal requirements, will be in a separate Article VII bill. The other issue that you raised concerning the airports is going to be in an appropriations bill.

Now, I think it was more mechanics than -- in view of trying to get this process going, other than trying to confuse anyone, it was the mechanics of getting done as much as we could get done as early as we could get done in this budget. And those items, some items were pushed to another bill or two.

SENATOR DILAN: All right. On the bill.

ACTING PRESIDENT GRIFFO: Senator

Dilan on the bill.

SENATOR DILAN: With respect to the omission of these two items in the Article VII language just seems confusing. And for it to be moved into another area without consultation or letting members of the subcommittee know, I think is wrong.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Dilan.

Is there any other Senator wishing to be heard?

Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Would the sponsor yield, please, for a question.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Senator DeFrancisco, I just wanted to go back very briefly to the MTA payroll tax.

And I know we'd had disagreements

back and forth in terms of what new taxes are and what new taxes aren't. And one of the conversations that we had around the so-called millionaire's tax was that it was a new tax and that was going to be allowed to expire because there are no new taxes.

And I'm just wondering what the rationale is, say, for the MTA payroll tax in terms of not allowing that tax to expire.

SENATOR DeFRANCISCO: You're referring to the MTA payroll tax that was imposed last year or the year before?

SENATOR STEWART-COUSINS: The same as the so-called millionaire's tax. I'm making the analogy because in my mind they're analogous.

SENATOR DeFRANCISCO: The reason is basically this. Number one, the millionaire's tax, both the Governor and the Senate Majority made a pledge that there would be no new taxes. And in making that pledge we wanted to honor that pledge because by extending a tax that expires, we believe that that was imposing a new tax because it's otherwise going to expire.

The MTA payroll tax that was imposed when we had a different majority, your majority, running the government is a $1.5 billion item. Unfortunately, it was not physically -- or it was not fiscally possible to deal with a $10 billion deficit and also eliminate another tax of $1.5 billion. It just couldn't be done. So that's the rationale behind it.

And it was -- you know, it was very -- I think we -- the last couple of years there were $14 billion in new taxes, $14 billion in new spending that we all voted against. And had we not done that, maybe we wouldn't have had to impose an MTA tax if we'd kept spending under control the last couple of years when you were in the majority.

So right now what we're trying to do is get the house in order and hopefully be in a position to have an economy that actually creates more taxpayers paying taxes, and maybe be able to get rid of onerous taxes that were imposed the last couple of years in future years.

SENATOR STEWART-COUSINS: I

appreciate --

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins, are you asking Senator DeFrancisco to continue to yield? Or are you going to speak on the bill?

SENATOR STEWART-COUSINS: No, just on the bill, yes.

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins on the bill.

SENATOR STEWART-COUSINS: I do remember being here last year and the year before and we were looking at several billion dollars, around $32 billion. And I know that as our discussions around this tax, which indeed many, certainly in the Hudson Valley, were very concerned about. But because of the amount of deficit we had to deal with and the recommendations, frankly, of the MTA and others, in order to keep people riding, and transportation being so critical to jobs, it was imposed.

But I remember the difference in terms of the feelings of that and was just wondering, frankly, when the opportunity existed to say goodbye possibly to what people

consider an onerous tax, why that opportunity was not achieved. So thank you.

ACTING PRESIDENT GRIFFO: Senator Kennedy.

SENATOR KENNEDY: Thank you, Mr. President. Through you, Mr. President, will the sponsor yield for questions?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Kennedy.

SENATOR KENNEDY: Thank you.

This is regarding the agriculture portion of this bill. Can you discuss and explain the Share New York Food initiative, please?

SENATOR DeFRANCISCO: Would you please repeat the question?

SENATOR KENNEDY: Sure. Can you please discuss, explain the Share New York, Share NY Food initiative?

SENATOR DeFRANCISCO: Can you tell me what section of this budget bill that's in?

SENATOR KRUEGER: Part U.

SENATOR DeFRANCISCO: All right, I guess I've been told it's in Part U.

We accepted the Executive's proposal to establish the Share New York initiative that would utilize available funds from the upstate agricultural development funds as well as federal funds to improve farmers' market functions and expand access to fresh produce to underserved areas.

SENATOR KENNEDY: Thank you.

The Governor originally proposed --

ACTING PRESIDENT GRIFFO: Senator Kennedy, are you asking --

SENATOR KENNEDY: Mr. President, through you, will the sponsor continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR KENNEDY: Thank you.

The Governor originally proposed $1.2 million in competitive grants. Is this funding included in the budget agreement?

SENATOR DeFRANCISCO: You're

asking if it's competitive grants?

SENATOR KENNEDY: The Governor proposed competitive grants to the tune of $1.2 million. Is that funding included in the budget?

SENATOR DeFRANCISCO: First of all, this was never proposed by the Governor's competitive grants.

There were competitive grants that are going to be in the bill that deals with agriculture, and those competitive grants -- that are unrelated to this -- have been eliminated. And there are grants that are lined out in the budget, in one of the appropriation bills, that list each of the organizations that get those competitive grants.

This was never subject to competitive grants by the Governor. We took his language exactly the way it was in January in his original bill.

ACTING PRESIDENT GRIFFO: Senator Kennedy.

SENATOR KENNEDY: Will the sponsor continue to yield? Mr. President,

through you.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR KENNEDY: Senator DeFrancisco, could you please describe how the grants would work?

SENATOR DeFRANCISCO: Well, the grant money, the way I understand it, is that -- the Governor proposed that these grants would be in the Governor's discretion. We accepted that. And the amount of money isn't really lined out, it's -- how much is going to be available is unknown at this point in time.

SENATOR KENNEDY: Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Kennedy.

Senator Diaz.

SENATOR DIAZ: Mr. President, would Senator Dilan yield for a question or two, please?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield --

SENATOR DIAZ: No, Dilan. Dilan.

ACTING PRESIDENT GRIFFO: Senator Dilan.

SENATOR DIAZ: Senator Dilan.

ACTING PRESIDENT GRIFFO: Senator Dilan, do you yield to a question from Senator Diaz?

SENATOR DILAN: Yes.

ACTING PRESIDENT GRIFFO: Senator Dilan yields, Senator Diaz.

SENATOR DIAZ: Senator Dilan, I need to understand something that you said and I need to understand it clearly. You asked two questions before, and you said that your table, the committee that was dealing to get to an agreement, you said -- if I heard you right, did you say that there was two things that you agreed on and at the last minute were not included in this?

SENATOR DILAN: Yes, what I indicated was that there were two items, one that dealt with DMV, where there's a letter from the U.S. Department of Transportation that we were out of compliance and that if we did not deal with that issue by October 1, 2011, we would lose 5 percent federal funding

for highway funds.

The second issue was with respect to $4 million of unused old money -- yes.

SENATOR DIAZ: That's not the question. The question was, Senator Dilan, the question was that you said that after you and the table agreed to include that, at the last minute it was taken out. It's not in this.

SENATOR DILAN: Well, at what point it was taken out, I don't know. The only thing is that it's not in the Article VII bill. And when we were discussing this at the table, it was Article VII language. So it should be in this bill, and it's not.

SENATOR DIAZ: So, Mr. President, would Senator Dilan yield for a question?

ACTING PRESIDENT GRIFFO: Senator Dilan, do you continue to yield?

SENATOR DILAN: Yes.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: So you are telling this body here that you sat down with a group of Senators, discussed all these details, and

you got into an agreement and it's not here.

SENATOR DILAN: We sat down with the subcommittee, and they reported out to the mother ship that these were the agreements, the agreements were signed by the chairman of Transportation from the Assembly committee and the Senate chairman. And it was reported those two items were in the final agreement, but those two items are not in this bill.

SENATOR DIAZ: Mr. President, would Senator Dilan yield for another question?

ACTING PRESIDENT GRIFFO: Senator Dilan, do you continue to yield?

SENATOR DILAN: Yes.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: So, Senator Dilan, one of those two issues that you said that are not included here, one of those two issues has to do with something about the federal government, we're failing to comply with something and we'll lose what?

SENATOR DILAN: The letter is dated November 5, 2010, from U.S. Department

of Transportation, Federal Motor Carrier Safety Administration, and it's regarding a final determination of substantial noncompliance. The letter was sent to Governor Paterson at that time. And it says: "Thus New York will lose up to 5 percent of its federal aid highway funds on October 1, 2011, the first day of fiscal year 2012, unless New York agrees to exclude CDL drivers charged with disqualifying offenses."

SENATOR DIAZ: Mr. President, will Senator Dilan yield for another question?

ACTING PRESIDENT GRIFFO: Senator Dilan, do you continue to yield?

SENATOR DILAN: Yes.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: So, Senator Dilan, you are telling us that you are worried that the State of New York will lose 5 percent of the allotment from the federal government. Can you please tell me more or less how much, if you know, how much will be 5 percent?

SENATOR DILAN: I've been told that it could be as much as $70 million.

SENATOR DIAZ: Mr. President, would Senator Dilan yield for another question?

ACTING PRESIDENT GRIFFO: Senator Dilan yields, Senator Diaz.

SENATOR DIAZ: And if this is not included -- and we have been promised, Senator Dilan, that it will be included later on. But if we don't deal with this, you are telling everybody here that we are about to lose 5 percent of the federal allotment because we are not including that in this budget?

SENATOR DILAN: That is correct. We have until October 1, 2011, to correct this. But I believe that I heard the chairman of the Finance Committee indicate that they were going to deal with this in another bill. But not in the Article VII where it should be.

SENATOR DIAZ: Mr. President, would Senator Dilan yield for another question?

ACTING PRESIDENT GRIFFO: Senator Dilan, do you continue to yield?

SENATOR DILAN: Yes.

ACTING PRESIDENT GRIFFO: Senator

Diaz.

SENATOR DIAZ: Another thing that you said that I heard -- and you please correct me if I heard wrong -- it's about Stewart Airport losing $4 million, something. What was that?

SENATOR DILAN: It is not only Stewart Airport, it's private airports. And Stewart Airport, Republic Airport. It's $4 million of unused money. If the Division of the Budget agrees to utilize that money, they could use it for those purposes. That was also Article VII language that is not included in this bill.

SENATOR DIAZ: Mr. President, would Senator Dilan yield for another question, please?

ACTING PRESIDENT GRIFFO: Senator Dilan, do you continue to yield?

SENATOR DILAN: Yes.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Do you know in which senatorial district is Stewart Airport located?

SENATOR DILAN: I honestly don't know. I don't know.

SENATOR DIAZ: Would Senator Dilan yield for another question?

ACTING PRESIDENT GRIFFO: Senator Dilan yields, Senator Diaz.

SENATOR DIAZ: So, Senator Dilan, you're telling me that you did your research, you met with your table, you tried to protect the State of New York by -- to comply, you tried to make us comply with the federal guidelines and also protect some airports like Stewart Airport from losing -- from being able to be affected, and now you are worried -- because this is not included, you are worried that they might be hurt?

SENATOR DILAN: Well, I know that the subcommittee unanimously agreed to all the recommendations. There was a report given to what's referred to as the mother ship. We reported it to our conference that that was agreed with. And these two items are omitted from the Article VII language. And that's how the subcommittee dealt with it, and those two items are not in this bill.

SENATOR DIAZ: Would Senator Dilan yield for the last question, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Dilan, do you yield to the last question from Senator Diaz?

SENATOR DILAN: To the final question, yes.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Senator Dilan, what would be your recommendation now to this body?

SENATOR DILAN: What will be my recommendation? I would have expected that this language be in the Article VII language because that's the way it was originally proposed. So I don't know, maybe these bills were printed in a hurry or something, but these items are not here. They should have been here. How they can remedy, that's their choice.

SENATOR DIAZ: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank

you.

Any other Senator wishing to be heard? Seeing none, the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes, I just want to clarify a couple of things and also relieve Senator Diaz's mind and Senator Dilan's mind that are worried about this federal money.

The Article VII bill, there will be another Article VII bill with the language in it to make sure we won't jeopardize the fund. And it was great that we were providing Senator Dilan the opportunity to help us save this money at our conference committees. And he was diligent in helping us. So that language will, guaranteed, be in another

Article VII bill, so there's no need to worry.

Number two, the second issue concerning the airport funds, those airport funds that were agreed upon at the table will be in the appropriation bill. And I've been informed during the discussion here that traditionally that has been in appropriation bills because you're reappropriating unspent money. So rest assured it will be there.

And last, I misspoke on one point. The IDA tax, which I said was no longer in effect prospectively but was in effect retroactively was incorrect. This bill also eliminates the retroactive IDA tax. So I just wanted to clarify that because I misspoke earlier.

Thank you, and I vote aye.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to be recorded in the affirmative.

Senator Diaz to explain his vote.

I remind members we're on the two-minute explanation.

SENATOR DIAZ: Thank you, Mr. President.

I just want to clarify to Senator

DeFrancisco that it was not my intention to put him on the defensive. It was only the worry that we would like the State of New York, in this time of crisis when we need money, that we be sure we don't lose $70 million by somebody forgetting to do something and not including what was supposed to be included.

So I'm voting yes -- no, I'm sorry, I'm voting no. Voting no. Sorry, I'm voting no. But I could assure that it is not my intention to put Senator DeFrancisco or anybody else into the defensive.

ACTING PRESIDENT GRIFFO: Senator Diaz to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 277 are Senators Duane and Diaz.

Absent from voting: Senator Perkins.

Ayes, 59. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 278, Senate Budget Bill, Senate Print 2812C, an act relating to constituting Chapter 18A of the consolidated laws.

SENATOR KRUEGER: Explanation.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT GRIFFO: There is a message of necessity at the desk.

SENATOR LIBOUS: I move that we accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

An explanation has been requested, Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. First of all, this is an Article VIII bill, 2812C, dealing with the merger of state entities. And I have been assured that there is a memo on everyone's desk. And it's very -- that it's a very short memo, it's only one page. It's a relatively uncomplicated bill.

Part A deals with the merger of the Department of Banking, Insurance and Consumer Protection. That was what the Governor was proposing. The Legislature rejected merging the Consumer Protection Board with the Department of Banking and Department of Insurance and instead put the Consumer Protection Board where we believe it was more a more natural merger, namely, with the Department of State.

The Legislature also was concerned about the separate roles of Banking and Insurance. Although the two are going to be consolidated, the departments consolidated, we added language to make these separate divisions so that we can have a regulatory firewall between Banking and Insurance.

I've been informed that the savings

from this part of the bill in consolidation is only $200,000, but the assessment savings from banks and insurance companies because of the merger is going to be a $2 million savings.

Part B is the merger of the Department of Correctional Services and the Division of Parole into the Department of Corrections and Community Supervision.

We modified the Governor's proposal to allow the merger of these departments into the Department of Corrections and Community Supervision and reduced the number of Board of Parole members from 19 to 13 by having the Board of Parole maintain its current authority and include language to ensure that the board would not be hampered in any way by the new entity.

And basically there will be an annual report required as well with regard to the number of parolees that are charged with violations of parole and the outcome of those violations.

That savings is estimated at 6 million this year and, in the following year, $8 million.

Part C, the merger of Division of Criminal Justice Services with the Office of Victim Services and Office for Prevention of Domestic Violence and State Commission on Corrections, the Legislature rejected that. That was going to be a $477,000 projected savings, but we thought that these were such disparate organizations that had such separate functions that it made little sense for that amount of savings to have the consolidation, and the Governor agreed.

Part D, the merger of the Foundation for Science and Technology and Innovation -- that's NYSTAR -- we modified the Executive proposal to merge NYSTAR and ESDC by creating a separate division for NYSTAR in the Department of Economic Development to ensure the retention of the technical personnel who made NYSTAR the great program that it is. But despite rejecting the entire proposal, there still will be $1.9 million in savings.

And lastly, agency reorganization, the Sage Commission, we modified the Executive's proposal that permits the Governor to examine further changes and further

consolidations.

And I'd be happy to answer any questions, and I promise I will not be defensive in answering those questions.

ACTING PRESIDENT GRIFFO: Senator Smith.

SENATOR SMITH: Yes, thank you very much, Mr. President. The explanation is accepted, and I'd like to just speak on the bill.

ACTING PRESIDENT GRIFFO: On the bill, Senator Smith.

SENATOR SMITH: In particular, with regard to the Banking Department and the Insurance Department merging, one, I want to congratulate the Governor on his critical analysis of two agencies that weren't merging. I think the savings that will result from the merger will be worthwhile to us as legislators and consumers.

I also want to congratulate you, Mr. President, also as chair of Banking, and Mr. Seward, as chair of Insurance, for the work that your committees have done on this particular merger.

Three items I do want to cite that I thought the Governor at least yielded to, one was there was some concern with regard to overreaching into the Attorney General's authority for investigations as well as subpoena items, which he then changed in his 20-day amendment.

Secondly, there was obviously -- many of us have concerns about mortgage fraud and foreclosure issues, which he has assured will be addressed with this merger.

And then thirdly, obviously, his deciding not to have Consumer Protection merged within Banking and Insurance.

So I think this is a good bill, Mr. President, as you and Mr. Seward as well helped shepherd it, and I encourage my colleagues to vote yes on it.

ACTING PRESIDENT GRIFFO: Thank you, Senator Smith.

Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President.

One of the mergers that is proposed in this bill and that was proposed originally

by the Governor was a merger between the Parole and Corrections. And these two entities, I had certain concerns. I had serious concerns, since I believe that the mission and the functions of these two entities are separate.

This final version of the bill is a vast improvement over the original proposal. It does a few things. It has an independent budget line for Parole separate from DOCS. There's at least three instances in the language that give a certain level of autonomy to the Parole Board. It even allows for the creation of community-based programs for former offenders to actually reintegrate into society.

So I am -- I will be voting in the affirmative on this bill. This was one of my concerns, and I'm glad that it was addressed.

But as ranking member of the Crime Victims, Crime and Corrections Committee, I will remain vigilant in making sure that as we go forward after this merger has been achieved that the -- certainly the savings are important, but I believe that most important

is to make sure that these two entities, which have missions and functions which are separate, remain independent of each other.

So even if we achieve the savings that we're saying we're going to achieve, the two entities should continue to be independent and their functions should be separate. I believe this bill does that. And I will be voting in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Rivera.

Is there any other Senator wishing to be heard?

Senator Diaz.

SENATOR DIAZ: Would Senator DeFrancisco yield for a question, please.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Senator DeFrancisco, Part A, when you merge the Department of Banking, the Department of

Insurance and the Consumer Protection Board into the Department of Financial Services, would this affect the authority and the power of the Attorney General?

SENATOR DeFRANCISCO: Senator, we don't. We rejected the Consumer Protection Board being put in with the new Department of Financial Services that includes Banking and Insurance.

We merged the -- the final bill merges Consumer Protection with the Department of State. And it will not affect the authority of the Attorney General at all. It's just how the former organization is now going to be operated, Consumer Protection would be in the Department of State.

SENATOR DIAZ: Thank you.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Diaz on the bill.

SENATOR DIAZ: Because we are here merging and cutting in the name of saving money for the state, to the state, I would like to first congratulate you, Senator Griffo, because you've been doing a great job

as the President.

And at the same time, I wonder whatever happened to the Lieutenant Governor. Because he was here every day, and after you merged everything too, and you took away the power, he disappeared.

ACTING PRESIDENT GRIFFO: He shrunk.

SENATOR DIAZ: Maybe the next step will be to eliminate the office of the Lieutenant Governor, we save money.

So I'm voting no.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

Seeing none, debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Seward to explain his vote.

SENATOR SEWARD: Yes, thank you,

Mr. President, very briefly.

This year's budget-making process created quite a challenge for the Legislature and the Governor, closing a $10 billion deficit. But with every challenge comes an opportunity, an opportunity to make changes that will benefit the people of the state. And this consolidation and merger piece that we are now passing is such an opportunity for the people of the state, to save dollars and also improve services for the people of New York.

Zeroing in on the Department of Financial Services -- working very closely with you, Mr. President, as chair of the Banking Committee, as we brought together the Insurance and Banking Departments -- quite frankly I had some initial concerns of the original proposal in terms of being overreaching and not in the best interests of either the people or the industry in those two areas.

This legislation before us is a much improved product after much consultation with the Governor and the Legislature. I'm

pleased that the Legislature includes some specific legislative intent recognizing the fact that it is necessary for our regulatory system to be responsive, effective, and innovative in order to compete in this global marketplace.

And I see this legislation as being a first step, a big step toward our ultimate goal of transforming and modernizing the regulation of insurance, banking and other financial products in New York State.

So, Mr. President, I am very pleased to vote aye.

ACTING PRESIDENT GRIFFO: Senator Seward to be recorded in the affirmative.

I'd ask that we continue to keep some quiet in the house, please, to hear the speakers.

Senator Farley to explain his vote.

SENATOR FARLEY: Thank you, Mr. President.

I rise as somebody who's been involved with the Banking Committee and banking in New York State for over three decades. And I want to salute you,

Mr. President, who worked very hard on this issue. It was a very controversial one and one that was very much a cornerstone of the Governor's platform and one that he was very interested in in consolidation generally.

This is a massive consolidation. And I think that many of the things that the Legislature did, and particularly the Senate, in its hearing and so forth, to improve this consolidation, number one, I just want to speak to the Division of Consumer Protection which was part of that. It was something that I felt was very poorly designed, from the point of view that Consumer Protection was going to get its funding from fines that it could get from cohabiting with Insurance and Banking, and kind of weird. So they have moved that over to the Department of State at the suggestion of several of our members, and I think that was a very good idea.

Also, there's been a -- the state-chartered banks are our lifeblood. They fund our Banking Department. And in there is an area that is going to promote the state charter, encourage them to come back, that I

know that -- to return to the state charter.

And I know that you, Mr. President, as chairman of the Banking Committee, and myself as vice chairman, are going to work very hard to promote the banking system and keep New York State the financial center of the world.

I vote aye.

ACTING PRESIDENT GRIFFO: Senator Farley to be recorded in the affirmative. Thank you.

Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes, I just -- something occurred to me as I was listening to the debate on both of these bills, and that is it was obvious the depth of the knowledge of the Transportation Department part of the budget, the transportation part of the budget that Senator Dilan had in expressing his concern whether or not a very serious issue was actually included. And it was explained that that was included -- it's going to be included in another Article VII bill.

Similarly, with the last bill, Senator Rivera obviously had an in-depth knowledge of the Parole Department and the Corrections Department and was able to analyze the budget bill as it came out, to express his point of view.

And I think what this demonstrates is how important following the 2007 Budget Reform Act is and how important it is for everybody to be involved in the process by these conference committees. That it's really very -- it's very important, and I'm very pleased to see that it happened. As ranking member on the Finance Committee last year, I knew nothing about anything until the final budget surfaced.

So hopefully we can continue this process in future years, follow the law. And I think it's healthy for all members of this body.

Thank you very much.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to be recorded in the affirmative.

Senator Marcellino to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President.

I would just like to point out -- I will be supporting this bill. I'd just like to point out that the Committee on Investigations, which I chair, held a joint hearing with the Banking Committee and the Insurance Committee, and many of the recommendations that came from that public hearing are incorporated in these two bills that we have been voting on today and others that will come.

So I am very pleased that we were able to contribute to the budget process. I will be voting aye.

ACTING PRESIDENT GRIFFO: Senator Marcellino to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 278, those recorded in the negative are Senators Diaz and Duane.

Absent from voting: Senator Perkins.

Ayes, 59. Nays, 2.

ACTING PRESIDENT GRIFFO: The

bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we now go to the reading of the noncontroversial calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 139, by Senator Fuschillo, Senate Print 3452, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 182, by Senator DeFrancisco, Senate Print --

SENATOR DeFRANCISCO: Will you lay that bill aside for the day?

And I thank Senator Dilan for pointing out some deficiencies in the bill.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 226, by Senator Golden, Senate Print 2209, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 226 are Senators Duane, Hassell-Thompson, Huntley, Montgomery, and Parker.

Ayes, 57. Nays, 5.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 244, substituted earlier today by Member of

the Assembly Cusick, Assembly Print Number 108, an act to amend Chapter 395 of the Laws of 1978.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on April 1.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous, that concludes the noncontroversial reading, with Calendar Number 182, Senate Print 2903A, by Senator DeFrancisco, laid aside for the day.

SENATOR LIBOUS: Thank you, Mr. President.

At this time we are going to just stand at ease momentarily, and then I would expect very soon I will be calling a meeting of the conference committee. But that's not going to take place yet, so if we would just stand at -- what did I say, the conference

committee? Well, it's a new committee we created under the rules yesterday. Didn't you read it?

(Laughter.)

ACTING PRESIDENT GRIFFO: The Senate will stand at ease pending an announcement.

(Whereupon, the Senate stood at ease at 7:39 p.m.)

(Whereupon, the Senate reconvened at 8:05 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will please come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Finance Committee in Room 332, and the Senate will stand at ease.

ACTING PRESIDENT GRIFFO: Immediate meeting of the Senate Finance Committee in Room 332.

The Senate will continue to stand at ease.

(Whereupon, the Senate stood at ease at 8:06 p.m.)

(Whereupon, the Senate reconvened at 8:21 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we go back to the reports of standing committees.

ACTING PRESIDENT GRIFFO: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Finance, reports the following bill direct to third reading.

Senate Print 2800E, Senate Budget Bill, an act making appropriations for the support of government: STATE OPERATIONS BUDGET.

ACTING PRESIDENT GRIFFO: Without objection, the bill is reported to third reading.

Senator Libous.

SENATOR LIBOUS: Mr. President, there is a supplemental calendar. If we could

take up the bill on the supplemental calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 281, Senate Budget Bill, Senate Print 2800E, an act making appropriations for the support of government: STATE OPERATIONS BUDGET.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT GRIFFO: There is a message of necessity at the desk.

SENATOR LIBOUS: Mr. President, I move to accept the message of necessity, please.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The

message is accepted.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

SENATOR LIBOUS: Mr. President, at this time could we now take up the controversial supplemental calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

SENATOR BRESLIN: Explanation, please.

ACTING PRESIDENT GRIFFO: We're going to let him read first, Senator Breslin, and then an explanation has been called by Senator Breslin. Senator DeFrancisco will be ready.

THE SECRETARY: Calendar Number 281, Senate Budget Bill, Senate Print 2800E, an act making appropriations for the support of government: SENATE OPERATIONS BUDGET.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: This Senate

Bill, 2800E, is summarized in a memo that is on everybody's desk. And it basically provides for the operations of government, it's the appropriations bill for the operations of government.

Generally speaking, this bill has in it approximately a billion dollars in cuts, accomplished primarily by the Governor's proposed 10 percent across the board cuts for all state agencies. The Department of Corrections and Community Supervision was cut $253 million; State University, $118 million; CUNY, in parity with SUNY, $55 million; State Police, $52 million; Children and Family Services, $27 million; Public Health, $19 million; Parks, Recreation and Historic Preservation, $12 million; General Services, $12 million; Environmental Conservation, $10 million; Temporary and Disability Assistance, $6 million; Criminal Justice Services, et cetera, $8 million; Law Department, $11 million; Audit and Control, $14 million; and others, approximately $87 million. That totals $684 million.

Savings achieved in other funds:

State University, $116 million; Mental Hygiene, $159 million; Transportation and Motor Vehicles, $76 million. Basically, around a 10 percent cut across the board.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

Senator Breslin.

SENATOR BRESLIN: Yes, through you, Mr. President, will the sponsor yield for a question or two.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you.

About 5:15 we received the 700-page Print D version of this bill of operations. And we're now on E, I believe, is that correct?

SENATOR DeFRANCISCO: Yes.

SENATOR BRESLIN: We had an opportunity, albeit a little tight, to review D. Through you, Mr. President, can you tell

us the differences between D and E?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: There were two things that were changed from Print D to E. There was $16 million more added to SUNY, and a series of Governor's reappropriations were put in this E print of the bill. Ninety-nine percent of the bill is the Governor's original budget, because the Legislature agreed to go with the 10 percent cuts that he had proposed in his budget.

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR DeFRANCISCO: But I misspoke, it was $60 million restored to SUNY.

SENATOR BRESLIN: Would the sponsor continue to yield.

That was the first question, can you tell us what that $60 million was for?

SENATOR DeFRANCISCO: It was basically for the teaching hospitals that are throughout the State of New York.

SENATOR BRESLIN: The SUNY --

SENATOR DeFRANCISCO: SUNY teaching hospitals.

SENATOR BRESLIN: Again, would the sponsor continue to yield?

ACTING PRESIDENT GRIFFO: Will the sponsor yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields, Senator Breslin.

SENATOR BRESLIN: In this operations budget, from the original proposal of closing 3500 beds in the prison system, it's now been increased to 3700 beds. Can you tell us what the additional savings will be for those incremental beds?

SENATOR DeFRANCISCO: I can't tell you what the additional savings is, but the procedure for those closures is really left to the discretion of the Governor. And if I knew what the 3500 beds savings was, I could probably give you a good estimate what

3700 is. But I'll get that number as soon as counsel -- as soon as you're ready here. It's $72 million. Whoever said it is correct.

SENATOR BRESLIN: Through you, Mr. President, the additional 200 beds results in a savings of $72 million?

SENATOR DeFRANCISCO: The total is $72 million. There was no additional money associated with the additional 200 beds. That's the estimate of what the intent is to try to close the additional 200 beds. DOB will -- well, the Governor ultimately will make that decision and DOB will tell us what the ultimate savings might be.

SENATOR BRESLIN: And again through you, Mr. President, will the sponsor continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR BRESLIN: In another area, the Judiciary budget has been cut by $170 million. Can you tell us, because of the extreme importance of the Judiciary and what it does and what it performs, if any of those

cuts are substantive cuts that would affect either programs or judges' ability to rule on decisions in a proper and fair and timely way.

SENATOR DeFRANCISCO: Well, first of all, the total cuts to the Judiciary is $170 million, and $100 million of that was a voluntary cut that the Judiciary graciously agreed to do.

The Governor indicated that he felt that the Judiciary should cut 10 percent like the other state agencies and left it up to the Judiciary, since it's a separate branch of government, to determine where those cuts should be.

The Judiciary has submitted to the Governor and to the Legislature a proposal as far as where that's going to go, how they will make the cuts. And that is being reviewed as we speak. That information will be part of the Judiciary budget when it's presented hopefully tomorrow.

SENATOR BRESLIN: And hopefully through you, Mr. President, one last question.

From the D print to the E print, there was mention of additional

appropriations. Can you tell us what those appropriations were?

SENATOR DeFRANCISCO: They were reappropriations of prior funds from prior years, not new funding.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Through you, Mr. President, can you tell us the amount?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: It's cuts across every single -- excuse me, reappropriations across every single agency. They weren't cuts, they were actually reappropriations added to this budget.

No new spending associated with those. These are reapropps for projects that were already in the pipeline.

SENATOR BRESLIN: And again through you, Mr. President, can you tell us the purpose or use of those funds?

SENATOR DeFRANCISCO: I can't give you a total breakdown of every reapropp, but these were dollars that were authorized in

prior budgets that were not spent. And if I'm not mistaken, some of those items were going to simply be swept, and the Governor agreed to reappropriate them so that they could be used by each of the respective agencies.

SENATOR BRESLIN: One last through you, Mr. President, if the sponsor would yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Breslin.

SENATOR BRESLIN: Can you give us any additional information on those appropriations -- detail the numbers, the amounts?

SENATOR DeFRANCISCO: There are hundreds of reappropriations, and they all are contained in the budget bill. I can't give you a summary chapter and verse because of the extensive number of them. But again, it's nothing new, no new money, no new projects. It was things that were appropriated in prior years and each one of them appears in the actual budget bill.

SENATOR BRESLIN: Thank you,

Mr. President.

Thank you, Senator DeFrancisco.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

Is there any other Senator wishing to be heard?

Senator Stavisky.

SENATOR STAVISKY: Would the Senator yield for a number of questions --

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR STAVISKY: -- on the higher education part of the budget?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Stavisky.

SENATOR STAVISKY: It's sort of difficult because this is the first I've seen of the budget. So if it's already in there, I apologize for the repetition.

First let's start with SUNY. There's been talk of a rational tuition plan proposed by the trustees of the State University of New York. Is there anything in the budget that talks about the rational

tuition plan for the future?

SENATOR DeFRANCISCO: No, that was not placed in the budget. There was no agreement on doing that between the Governor and the two houses.

SENATOR STAVISKY: If the Senator will continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: So there's no provision to increase tuition either at the State University of New York or at the City University of New York?

SENATOR DeFRANCISCO: That is correct.

SENATOR STAVISKY: In 2005 we authorized an increase in tuition for out-of-state students, and that apparently was never implemented. Can you tell me what happened to that authorization and whether the increase in tuition for out-of-state students has ever been collected?

SENATOR DeFRANCISCO: The authorization was there. And whether it's --

it's up to SUNY whether to implement that authorization. I quite frankly don't know whether they did or didn't. But the authority was there back several years ago, it may have been 2005. And it was up to SUNY whether to actually implement it. I don't know whether they did or didn't.

SENATOR STAVISKY: If the Senator would continue to yield.

ACTING PRESIDENT GRIFFO: Will the Senator continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Can you tell us what the appropriation is for SUNY and CUNY and how this compares to the Governor's original funding proposal?

SENATOR DeFRANCISCO: The only change is the one that was mentioned before, that there's an additional $60 million for SUNY teaching hospitals.

SENATOR STAVISKY: No, there's been cuts --

ACTING PRESIDENT GRIFFO: Senator

Stavisky, are you asking the Senator to continue to yield?

SENATOR STAVISKY: Yes, I am.

Senator, haven't there been cuts in both operating aid for the four-year institutions or base aid -- well, community colleges are in the budget -- but the operating institutions? There have been a lot of cuts.

SENATOR DeFRANCISCO: Right, but -- I'm sorry, I misunderstood you. I thought you meant whether there was any additional funds.

It's on page 9 of the memo, the Legislature restores the $60 million for the SUNY hospitals, restores $135 million for the acquisition of Community General Hospital by State University Hospital at Syracuse. And we restore $4.1 million to the Long Island Veterans Home.

Other than those restorations, the budget is as the Governor proposed. Whatever the cuts were that he proposed are in there.

SENATOR STAVISKY: If the Senator would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: Of the proposed cuts, how will the various branches of the State University be affected, whether it be Stony Brook or the University at Buffalo or SUNY Albany, New Paltz?

SENATOR DeFRANCISCO: We can only determine in the budget process what money is spent and what money is available for spending. As far as how those cuts are absorbed, it's really up to the SUNY board of trustees, the CUNY board of trustees and the respective chancellors, and those are policies they're going to have to make.

Obviously no one is happy, including the chancellors of these organizations. But there's nothing much we can do at this point to lessen the burden. They have to make the best decisions from an educational standpoint with the funds available.

SENATOR STAVISKY: Now, I'm sure -- if the Senator would continue to

yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: I'm sure you're familiar with the Central New York Cord Blood Center.

SENATOR DeFRANCISCO: I am very familiar with the inability to have that move forward over the last five years, yes.

SENATOR STAVISKY: If the Senator would continue to yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR DeFRANCISCO: Yes.

SENATOR STAVISKY: In 2007-2008, I believe, there was an appropriation of approximately $10.5 million, and there have been appropriations in subsequent years in the $200,000 to $300,000 range, approximately. What's happening to that money? What happened to the $10 million, and what has happened to the other appropriations for the blood center?

SENATOR DeFRANCISCO: The problem is the dollars for that project -- by the way,

the Cord Blood Center is similar to a blood bank, but it happens to have umbilical cord blood that's from the umbilical cords after births, which is a rich source of stem cells that have cured people. In fact, in my district, someone went to the Duke Hospital in North Carolina to get cured by these stem cells.

It's been held up for the last five years, the $10 million has not been spent. For whatever reason, we can't seem to get it off the ground. SUNY hasn't made it a priority. Apparently they're now interested in moving forward and making it a priority, and hopefully that will happen.

That capital money is not in this bill but it's going to be reappropriated, from what I understand, in a subsequent capital bill.

SENATOR STAVISKY: If the Senator will continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Stavisky.

SENATOR STAVISKY: Since the

$10.5 million appropriation has been sitting there for the past close to five years now and it doesn't seem anything seems to be happening, wouldn't it be useful to use that for some of the Upstate Medical Center expenses?

SENATOR DeFRANCISCO: Absolutely not. I think a priority -- everyone is being cut in this budget in a proportional way as best we can in accordance with what the Governor thinks is the best judgment.

It seems to me that that dollars is a small pittance of an investment to save some lives of people that could use that blood bank, the average citizen that doesn't have money to store privately their umbilical cord cells.

So I think it's a question of priorities, and quite frankly I'm just very upset that it hasn't happened yet. So it's a question of priorities, and I think that's a very important thing for the state to have such a center like they do in states like North Carolina.

SENATOR STAVISKY: Obviously I'm

not being critical of the concept or the appropriation.

If the Senator would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: Let me switch to the City University of New York.

I have been asking about the $40 million sweep from the Governor's Executive Budget that was allocated by the Governor for the midyear tuition increase for the City University of New York. Has that $40 million been restored to the budget? I cannot find it.

SENATOR DeFRANCISCO: That $40 million was scheduled dollars that was actually not swept, it was money that would have come from a tuition increase. But since we rejected a tuition increase, those dollars are not available and therefore were not swept, they were simply eliminated from the budget.

SENATOR STAVISKY: If the Senator

would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR STAVISKY: This appropriation, though, was put into the Executive Budget by the Governor, so presumably the allocation is there, it was going to be used, and it was taken out of the budget. Isn't that correct?

SENATOR DeFRANCISCO: Not really. Because that was anticipated revenue that he put in his budget on the theory that there was going to be a tuition increase. Since there was no tuition increase, that anticipated revenue was not correct or it was not realized by not providing the tuition increase, so it had to be taken out.

SENATOR STAVISKY: If the Senator will continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR STAVISKY: It's my understanding that the CUNY trustees have

approved an increase, though, in tuition.

SENATOR DeFRANCISCO: That I'm not aware of.

SENATOR STAVISKY: All right, let's continue on the subject of the City University.

SENATOR DeFRANCISCO: I've just been informed a more complete answer. I didn't know the answer. But I'll tell you what the answer is, that that was authorized but it was not allowed to be implemented. And as a result, even though it was authorized, it's not going to actually take effect. That's the best answer I can give.

SENATOR STAVISKY: If the Senator will continue to yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: I'm at a loss to understand how it was not -- it was authorized by the trustees. But it would be implemented, presumably, in our budget, the allocation would be in our budget.

SENATOR DeFRANCISCO: The tuition increase was scheduled for the spring.

However, the authorization to spend the funds from a tuition increase was not granted. Now, whether CUNY actually goes ahead with the increase or not, they may have a -- there may be money that's out there, but they're not authorized to spend that money. So it would be a tuition increase that would be put in a pot someplace without authorization to spend.

SENATOR STAVISKY: If the Senator would continue to yield on a different area.

ACTING PRESIDENT GRIFFO: Does Senator DeFrancisco yield?

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: The press reports that there is only a 2 percent reduction in the state budget. Do you consider education to be from kindergarten through grade 16, through college?

SENATOR DeFRANCISCO: Do I consider that?

SENATOR STAVISKY: K through 16, as we like to talk about it.

SENATOR DeFRANCISCO: I think education is a lifetime opportunity and a lifetime goal that we all should have. In fact, I'm learning things from you at this moment.

SENATOR STAVISKY: And I from you. It must be that Syracuse education.

Therefore, my question -- if the Senator will continue to yield --

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR STAVISKY: Higher education has been subject to a 10 percent cut, which to me is disproportionate to the rest of the budget. If education is only going to be cut a small amount, higher education has been singled out for excessive cuts. Would you agree with that?

SENATOR DeFRANCISCO: Yeah, I think that's probably true. I would agree with you.

And, you know, there are some -- I'm not speaking for the conference, but there are some who believe that a rational tuition

increase is something that ought to be done. Unfortunately, it did not become part of this budget. And hopefully, in order to provide the funds necessary for a strong higher education, that something like that -- that's even asked for by students -- will ultimately become part of the law of the State of New York. But unfortunately not part of this budget.

SENATOR STAVISKY: Two more questions, if the Senator would yield.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR DeFRANCISCO: Yes.

SENATOR STAVISKY: The budget before us talks -- in relation to the City University of New York, they refer to fiduciary funds. And yet this is not the case with the State University, where they are subject to sweeps, periodic sweeps. And the question has been if the State University -- let me ask you this. Has the State University of New York funding been put into the fiduciary funds, or is it in another part of the budget, another part of the state?

SENATOR DeFRANCISCO: It hasn't changed.

SENATOR STAVISKY: It hasn't changed.

So the tuition money -- if the Senator would yield.

SENATOR DeFRANCISCO: Yes.

SENATOR STAVISKY: This tuition money, then, will not go to the campuses; is that correct?

SENATOR DeFRANCISCO: I'm sorry, I missed that.

SENATOR STAVISKY: The tuition that's collected by SUNY does not go to the individual campuses the way -- for the State University, which is funded differently. The City University, as you know, is in the local assistance part of the New York City budget, so they are not subject to the 10 percent budget cut and the tuition goes to the campuses.

The State University, the complaint has been that tuition money should go to the campus where it's collected. Is there anything in this budget that helps the tuition

money wind up at the campus where it's collected?

SENATOR DeFRANCISCO: All the tuition money stays with the campuses.

As far as the sweeps are concerned, in prior years SUNY authorized the sweeps. The sweeps were in prior budgets. There's no sweeps here in this budget. It's just that they're not getting the funds that they believe that they're authorized.

SENATOR STAVISKY: "Sweep" was not the right word for me to use.

Lastly, if the Senator will yield.

SENATOR DeFRANCISCO: Yes.

SENATOR STAVISKY: NYHELPs, which is part of the Higher Education Services Corporation, is the student loan program, which been very helpful to students. And yet there are funding reductions in the NYHELPs program. It's an acronym for the Higher Education Loan Program.

There are going to be students who will not be able to take advantage of the NYHELPs program, where student loans are somewhere in the 8.5 percent range, rather

than going to a private bank where the loan rates are in double digits.

How many students are going to be affected by the cuts to the NYHELPs program?

SENATOR DeFRANCISCO: Did you ask how much?

SENATOR STAVISKY: How many students.

SENATOR DeFRANCISCO: It depends on who had applied for what amount of money, depending on how many students would be affected. But we simply adopted the Governor's proposal.

And, you know, it's not a good thing. I'm not going to stand here and attempt to justify or say it's acceptable that this is happening. But I can't say it's acceptable that education funding is going down and teachers are being laid off. Or that different other bad things are happening in the budget.

The fact of the matter is, just like a family, a family that loses a job or some of its income, the family has to cut back, and the state does as well. So I could

go through every area of the budget and say that this is not a good thing, including SUNY, including NYHELPs. But it isn't going to change the fact that we have to do what we have to do this year.

SENATOR STAVISKY: Thank you, Senator, for your responses.

On the bill very quickly.

ACTING PRESIDENT GRIFFO: Senator Stavisky on the bill.

SENATOR STAVISKY: What we've seen is the state support for higher education being reduced year after year. In the last twenty years or so, we've gone from somewhere around 65 percent of the cost borne by the state to below -- coming close to 40 percent now. And I think it's time that we remember that education starts perhaps in pre-K and continues and certainly should include college.

I'm very troubled by what I think are disproportionate cuts to higher education. I know it's a difficult time, but at the same time I think we've got to be mindful of the students in college.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Stavisky.

Senator Huntley.

SENATOR HUNTLEY: Yes, Mr. President. Will the Senator --

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Huntley.

SENATOR HUNTLEY: He's so kind. Before I ask him, he's up. Thank you.

I would like to know, in the mental health on the joint committees, I did not see anything that talked about the lawsuit that -- the disabled advocates versus Paterson. As you know, there was a lawsuit for about $42 million or more.

Now, I want to know what happens if the state loses the appeal in the Second Circuit and needs to comply with the court decision. Where will the $42 million come from? I don't see it anyplace, so I was just wondering.

SENATOR DeFRANCISCO: What I'm told -- I wasn't familiar with this, the

dollars, but I was told that $40 million is in the budget as a reserve to take care of that lawsuit if unsuccessful.

SENATOR HUNTLEY: So the money has been appropriated for that.

SENATOR DeFRANCISCO: It's there. It's in there, like Prego.

SENATOR HUNTLEY: Because I didn't see it. That's why I'm asking.

SENATOR DeFRANCISCO: It's in there. I've been assured that it's in there.

ACTING PRESIDENT GRIFFO: Senator Huntley, are you asking Senator DeFrancisco to continue to yield.

SENATOR HUNTLEY: Through you, Mr. President, would he continue to yield.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR HUNTLEY: The 600 beds, how did the Senate arrive at a cap of 600 beds? Mental health, I'm talking about.

ACTING PRESIDENT GRIFFO: Senator Huntley, can you speak up, please, into the mike.

SENATOR HUNTLEY: How did the

Senate arrive at a cap of 600 beds? The Governor's original proposal did not call for a cap. So I wondered how you arrived at the mental health at 600 beds. Because there was no cap.

SENATOR DeFRANCISCO: What it is, I think the cap is for the protection of people in need of beds. Because the Governor's proposal just indicated that there would be cuts in numbers of beds without giving an amount of beds. The purpose of the cap was to make sure it would not go beyond that number and that there was some control so that it wouldn't be 1200 beds.

So the cap, I think, is to the advantage of those who may need those beds at some time in this next year.

SENATOR HUNTLEY: So there's no cap for the beds.

SENATOR DeFRANCISCO: There is a 600 --

SENATOR HUNTLEY: Well, there's a -- yes. But I think what happened is the Governor's original proposal did not call for a cap.

SENATOR DeFRANCISCO: Right. And that's the point. The point is his proposal was he could close beds. Closing beds could mean 600, 1200, 1500. The cap was in order to make sure there was a limit as to how many beds could be closed.

SENATOR HUNTLEY: Okay. So the purpose of the closure is to get the 10 percent.

SENATOR DeFRANCISCO: The purpose of the closing of beds, right, is to reach for that 10 percent or thereabouts in savings. But again, the Legislature wanted to make sure there was a limit as to the number of beds that could be closed.

SENATOR HUNTLEY: I --

ACTING PRESIDENT GRIFFO: Senator Huntley, are you asking him to yield?

SENATOR HUNTLEY: I'm sorry. Through you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR HUNTLEY: Will you yield?

SENATOR DeFRANCISCO: Yes.

SENATOR HUNTLEY: How do you know

the 600 will get you there?

SENATOR DeFRANCISCO: All I can tell you is that in this case we relied on what the Division of the Budget indicated would be enough beds in order to reach that percentage. And we're relying on that number.

SENATOR HUNTLEY: Okay. Would you yield for another question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR HUNTLEY: I want to go back to the $42 million for the lawsuit. Could you exactly tell me where that is in the budget? Because I have not been able to find it. And I'd like to know where it is so I could --

SENATOR DeFRANCISCO: It's in the local assistance portion of one of the other bills -- the local assistance bill will have those dollars spelled out. And you'll see those hopefully tomorrow, if that bill is ready.

SENATOR HUNTLEY: Okay. Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Huntley.

Is there any other Senator wishing to speak? Seeing none, the debate is --

Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President. On the bill. I just want to talk a little bit about the higher education portion of the budget.

This year I think the committee worked very hard, very diligently in creating a new process that allowed every member to go through both the SUNY and the CUNY budget line by line. And I think the committee members learned a lot about what was in the bill and what was not in the Governor's legislation.

That was followed by a series of conference committees that many people participated in. And when we reached a final decision -- and Senator DeFrancisco talked about the things that we added back into the budget -- with one dissenting Assembly vote, it was unanimous.

During our deliberations in the conference committees, I talked about over the

last four budgets that the State University had lost $1.5 billion, it's leaner by $1.5 billion including this. Our house, this majority, this majority fought very hard to get a higher amount in the budget to deal with a problem for the State University hospitals. And two of the hospitals, without additional support, could be in great trouble.

So in this budget that's $60 million. Along with other relief that will represent another $28 million in pension relief for the three hospitals, it adds $88 million. In our one-house bill we had put in $115 million. But the process is very fluid. It's a give-and-take. The Assembly's number-one priority was also the hospitals, under the amount that the Senate put in. Again, we put in $115 million, the Assembly put in some $60 million.

The other priority that was identical was that we restore money for our community colleges. When we finished, we were below the amount that we had really targeted in our one-house budget bill.

But I would say some of the other

issues that came up -- and we discussed it openly in the conference committee, and we discussed it when we passed our one-house bill -- was things like maintenance of effort and Senator Stavisky's question about the fiduciary fund, that we wanted to make sure there was a wall around that so it could not be invaded. We actually had language and had hoped to get that language into the budget.

Senator DeFrancisco talked about and I talked about openly in the conference committee was rational tuition policy. This house brought up rational tuition policy, but quite honesty time ran out, so we could not do that. We have other needs. We talked about City University -- that could be on the table when we discuss rational tuition policy -- UB 2020 and other related things.

From my perspective as chairman, I have great hopes -- sometimes hopes are dashed, but I'm optimistic that we will address these very issues that have been brought up. They were discussed thoroughly in the conference committee, they were voted upon by the conference committee, what was on the

table that Senator DeFrancisco talked about. And as I indicated, one dissenting Assembly vote.

I think, given the resources and the budget deficit that we had, we plugged some holes for the hospitals, to save those hospitals, with the community college and some other items both for SUNY and CUNY.

So with that, Mr. President, I think that Senator DeFrancisco did a really terrific job in talking about the questions that Senator Stavisky asked him. I just wanted to round out, as the chair, to bring all the members up to date as to where we are.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you very much.

Through you, Mr. President, if the sponsor would please yield to a question.

ACTING PRESIDENT GRIFFO: Will the sponsor yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Krueger.

SENATOR KRUEGER: Thank you.

As I am combing through the memo and the legislation, I come across a section on miscellaneous items; it's page 7 in the memo. Can you explain what the special emergency appropriation of $100 million and the special federal emergency appropriation of $1 billion are and will be used for?

SENATOR DeFRANCISCO: What page are you on?

SENATOR KRUEGER: Page 7 of the memo, miscellaneous items, third bullet from the bottom.

SENATOR DeFRANCISCO: I've been informed that the $100 million is a dry appropriation, that it's the authorization in case of emergency to spend for that emergency. However, there's no cash behind it.

Is that correct? That is correct.

SENATOR KRUEGER: Thank you, Mr. President, if the sponsor would please yield to an additional question.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you.

A year ago when we were dealing with the budget and we were on the other side of the aisle, we were asked in debate why we were hiding this billion dollars of special federal emergency appropriation money. In fact, Senator Young was on record in the press that we received a billion dollars in unrestricted federal funds which we could be using to help our dairy farms as well as restore other funds to other programs.

So I guess now that we're on the reverse side of the aisle, I'm curious to just get a clarification. Can we use this billion dollars for other programs that we're apparently cutting, in fact, 10 percent across the board at this time?

SENATOR DeFRANCISCO: We cannot.

SENATOR KRUEGER: We cannot. So thank you, sponsor. And we could not a year ago.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank

you, Senator Krueger.

Senator Hassell-Thompson.

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

I think some of the questions that I'd like to ask probably would be better asked of Senator Nozzolio, perhaps, if that's appropriate.

ACTING PRESIDENT GRIFFO: Senator Nozzolio has not spoken, and the rules of the Senate do not allow that. So I would --

SENATOR DeFRANCISCO: I would yield the floor to him. I'm getting kind of tired anyways.

(Laughter.)

SENATOR DeFRANCISCO: I'll try to answer it. And if I can't, maybe he can help me.

SENATOR HASSELL-THOMPSON: Through you, Mr. President, if the Senator would then yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank

you.

Senator DeFrancisco, I listened to the answers that you gave when Senator Breslin asked you about the bed closures, the additional 200, and you talked about what the savings would entail. And I just -- was there an exact procedure by which these prison closures were agreed upon by the Senate Republicans?

SENATOR DeFRANCISCO: You mean a procedure by which facilities would be closed?

SENATOR HASSELL-THOMPSON: Yes.

SENATOR DeFRANCISCO: The budget language does not have any particular procedure. It leaves it in the control of the Governor.

But I know I was at the news conference where the budget agreement was announced on Sunday at about 4:30, and the Governor at that news conference indicated that he wanted to do it with the consultation of the Legislature and also make it geographically fair. And there was sort of his word that that's the way it would go.

But according to the actual

language, the language really leaves it up to the Governor.

SENATOR HASSELL-THOMPSON: So am I correct -- through you, Mr. President. So am I clear, then, Senator, that the language is unclear to you in terms of what that process would be, that there's a promissory on the part of the Governor to include the Legislature but there's no real language that spells out how that's going to happen?

SENATOR DeFRANCISCO: The language is very clear. It leaves it to the total discretion of the Governor. But his announcement indicated that was a procedure he expected to follow.

SENATOR HASSELL-THOMPSON: Okay. So you don't know who will be involved in the process other than the Governor himself.

SENATOR DeFRANCISCO: The Governor, if he chose to close whatever prisons he wanted to close, he could do that. But I would expect, in view of the trust I believe that's been established during this budget process, and everybody trying to work together, both houses, I would imagine that he

would be true to his word that he would involve at least the legislative leadership in those decisions.

SENATOR HASSELL-THOMPSON: One of the things that --

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, are you asking Senator DeFrancisco to yield?

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. Through you.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR HASSELL-THOMPSON: One of the things that was very clear in each of the prison closures that I've been involved in in the years that I've been here is that the community has a major stake in these closures. Is there any indication that the community will be involved in any way in this process of a closure?

SENATOR DeFRANCISCO: No, there's no language to do that. And -- but there is

some economic development money that is going to be in one of the other budget pieces, I think. I know it's going to be in. I don't think it's in this budget.

And that economic development money is in order to help those communities attract businesses and jobs to try to offset some of the economic problems that those communities might experience.

SENATOR HASSELL-THOMPSON: Through you, Mr. President, if the Senator will continue to yield.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you.

I'm a little bit confused, and I think I'm not the only one in here perhaps who is. But we're talking about the closure of prisons and we've increased the numbers of beds that are going to be included in that by an additional 200. It's unclear what factors

will be used to determine which prisons will be closed, how many will be closed. This totally is being left up to the discretion of Governor. And what did you get for all that?

SENATOR DeFRANCISCO: We got an on-time, early budget. And we got a commitment from the Governor that he would discuss the process and what prisons were to close with the legislative leaders, and he gave his word that it would be geographically balanced.

And for that, we're going to have the first early budget in my tenure and I assume in the tenure of everyone here -- most people here, I should say. Most people here. So, you know, that's what we got for it.

SENATOR HASSELL-THOMPSON: Okay. Current law requires both 12 months' notice and the development of an adaptive reuse plan prior to these closures. Now, over the next year, will the Executive be required to abide by this statutory condition?

SENATOR DeFRANCISCO: No. That's changed -- the one-year notice, is that what you're referring to?

SENATOR HASSELL-THOMPSON: Mm-hmm.

SENATOR DeFRANCISCO: That in this budget is changed -- as soon as they stop talking -- 60 days, correct? Sixty days.

SENATOR HASSELL-THOMPSON: So through you, Mr. President --

SENATOR DeFRANCISCO: For this year only. For this year only.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson is requesting the sponsor to yield.

SENATOR DeFRANCISCO: Yes. Yes, I would yield to any questions without having to ask me every time.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR HASSELL-THOMPSON: Again, I guess the more questions I ask, the more confused I get. And that's not usual for me. So I publicly admit that. But I think --

SENATOR DeFRANCISCO: Maybe you should listen more carefully, because I think I'm very clear.

SENATOR HASSELL-THOMPSON: I'll

try. I'll try. Speak into your mike and I'll try.

But in the meantime, what I think what the confusion is, not necessarily what you're saying or not saying, is necessarily that we fought so hard last year to save two upstate prisons, Ogdensburg and Moriah. And if the next year the commissioner were to give 60-day notices that Ogdensburg and Moriah Shock were going to close, what recourse would Senator Little or Senator Ritchie have to save these prisons under this budget agreement?

SENATOR DeFRANCISCO: We all happen to be residents of the same state that has a fiscal crisis at the moment. It's not a matter of recourse, it's a matter of trying to get the budget in place and closing beds that have to be closed.

We trust the Governor's word that it's going to be geographically balanced and a process by which economic development dollars will be provided to create more jobs in whosever district it's put in. And there is a level of trust that this is going to be done fairly. Maybe last year there wasn't a level

of trust with the prior governor. There is with this governor. And that's all I can tell you.

And all of us are concerned about our parochial interests, but there's a state problem here that we're trying to correct. And with the Governor's word that it will be geographically fair and that there will be economic development money to try to offset that. That's what we have in the budget, and we believe that's a good approach and that's the best approach to get this budget done in this fashion.

And I hope I spoke loudly enough and into my mike so you could hear me.

SENATOR HASSELL-THOMPSON: Okay. Through you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

SENATOR DeFRANCISCO: Yes.

SENATOR HASSELL-THOMPSON: Let me ask you this, then, Senator DeFrancisco. It's been said by one of the members who has prisons in his district that 20 prisons across the state virtually sit next to one another.

Let me ask you about a stretch of prisons that are virtually next to each other across upstate New York. That's geographically across upstate New York.

In Senator Gallivan's district there's Collins medium facility, Gowanda medium facility, Buffalo medium facility, Wendy medium security. In the district of Senator Nozzolio is Attica maximum security, Wyoming CASAT facility, Livingston medium county, Groveland medium facility, Orleans medium security facility, Butler medium security, Five Points maximum -- and I can go on and on and on.

And I can go to Senator Griffo's district: Mid-State medium security, Marcy medium security. In Senator Farley's district, the Hale Creek CASAT facility in Fulton County, the Mount McGregor medium secure facility. In Senator Seward's district, the Summit shock facility, Greene medium facility, Coxsackie medium facility. In Senator Little's district, Washington medium security; Great Meadow maximum. In Saland's district, Hudson medium security

facility.

Now, under this budget currently written, could the commissioner close any one of these facilities with as little as 60-day notices and still be geographically fair?

SENATOR DeFRANCISCO: It's not up to me to make those determinations.

But I believe that what -- number one, last year the last closures happened to be in only Republican districts. So I'm happy to hear that you are concerned about only those prisons in Republican districts this year, because we are concerned about all districts throughout the state.

As far as geographically balanced, I think the general population centers in the State of New York are upstate and the New York City metropolitan area. I would think geographically balanced would mean, to me -- it's my definition -- upstate and downstate. But the Governor has not committed to any of those, and any of these prisons could be fair game.

Lastly, at our table and in our one-house budget we proposed consolidating

administrations of various prisons in order to save money, rather than close prisons. And unfortunately the Assembly did not believe that was the right way to go, and it didn't happen.

SENATOR HASSELL-THOMPSON: On the bill.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson on the bill.

SENATOR HASSELL-THOMPSON: There is nothing in the language of this bill that protects any prison anywhere. And I'm not questioning the veracity or the integrity of the Governor's word or whatever that means.

But what I am saying, that the prisons upstate are maximum and minimum security prisons, and the prisons downstate are work release programs. They don't fit into the same category. That's number one.

Number two, if this is the case, why does this budget -- which has been negotiated, admittedly, by the Republicans. Everybody is taking credit for this on-time, very committed budget-saving budget. How does it give you any legislative oversight or

protection for prison closures for the next 12 months? And also, have you heard from NYSCOBA about your agreement in any of these approvals?

It amazes me that communities who have so much at stake, who have built their townships around these prisons, are going to have -- are going to be the most devastated and take the greatest loss. And yet on a word, and not words that are written in stone, are we making a commitment to allow prisons to be closed.

I think it's disingenuous of you, Senator DeFrancisco, to suggest to me that -- particularly since the work that I've done has always been in Republican prisons. So to even to infer or to imply that I have no concern about the entire State of New York is totally unfair and inappropriate for you to make toward me. You may make that to almost anybody else in these chambers. But I think that I have demonstrated, in the years that I have stood here in this place and represented the people who are in those prisons -- because they happen to live in my district, which is

interesting. But more than that, I have cared about the townships and the communities that were built around the prisons. And I've gone to those communities, spoken with townships, with municipalities, and heard the stories and have spoken with teachers, with store owners, with people who when those prisons are closed, will have nowhere to go.

Those correction officers can be -- based on their seniority, can be -- on a bump system can be placed anywhere in the state that there's a job for them. But for the people who are stuck there, who came there, who built their lives around those prisons, they're going to be devastated.

And there is nothing that is demonstrated in this budget or in the budget plan that goes forward that says that there are any protections for those prisons or for the people in those communities.

So it saddens me --

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

SENATOR LIBOUS: Would the Senator yield for a question.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, would you yield for a question from Senator Libous?

SENATOR HASSELL-THOMPSON: Certainly, Senator Libous.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Senator, I believe your passion. I really do. But where was your passion in 2009 when you controlled this house and my prison closed? And they only had 60 days -- because that's what was changed in the budget -- they didn't give them a year, and I now have 260 acres of open space, and it's closed. And yet I didn't see this same concern and passion from you when I stood on the floor and talked about the closing of my prison.

Now, I believe you're sincere. But yet the rules change. The --

SENATOR HASSELL-THOMPSON: Are you asking a question?

ACTING PRESIDENT GRIFFO: You've yielded to Senator Libous to ask a question.

SENATOR HASSELL-THOMPSON: Well, ask a question.

ACTING PRESIDENT GRIFFO: Senator Libous is posing his question, Senator Hassell-Thompson. Please be patient.

SENATOR HASSELL-THOMPSON: Okay. I'm waiting for --

SENATOR LIBOUS: Mr. President, she's right. I asked her a question, and sure, I would yield for the answer.

SENATOR HASSELL-THOMPSON: The answer to your question, Senator Libous -- through you, Mr. President -- from the moment your prison began to close, I began to work, because I was on the committee. I wasn't the chair of the committee, but I was on the committee. And I actively began to look at what kind of legislation we needed to do in order to keep prisons from closing without notice.

I happened to -- at the time your prison closed, there was conversation about closing Fulton, which is in my district. And so we had something in common, Senator Libous.

And if you will remember the

history accurately, you will know that that was the moment that I began to have conversations with Betty Little and some of the other Senators in these chambers about the prisons that are in their district. And that's when we began to do the work that culminated in the bill that we passed last year.

SENATOR LIBOUS: Mr. President, would the Senator yield for one other question.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, will you yield?

SENATOR HASSELL-THOMPSON: Yes, certainly.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR LIBOUS: Thank you, Mr. President.

Senator, did your prison close?

SENATOR HASSELL-THOMPSON: No, my prison did not close.

SENATOR LIBOUS: Okay, thank you.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, are you still on the bill?

SENATOR HASSELL-THOMPSON: Yes, thank you, Mr. President.

It seems to have escaped notice that I also was one of the hardest fighters for the reuse adaptive plan that was proposed and passed in these chambers last year. And is there a reuse plan in this budget? No.

Mr. President, I think that we're obviously disappointed and frankly disturbed that the leaders in Albany have chosen to make drastic, unnecessary cuts to many of our prison systems rather than seeking to cut the ever-growing and costly bureaucracy that is a part of the Department of Corrections. The announced cuts will have very serious impacts on the safety of our jails, putting more lives at risk and jeopardizing the structure of the entire New York State prison system.

With this budget, the leaders in Albany have stated unequivocally "We care more about numbers on the spreadsheet than the lives of the people and their safety."

I'm sorry that that's the response that we have given, but that's what this budget reflects to me.

Thank you for your indulgence, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Would Senator Ruth Hassell-Thompson yield for a question or two?

ACTING PRESIDENT GRIFFO: You're asking Senator DeFrancisco to yield, Senator Diaz?

SENATOR DIAZ: No, Senator Hassell-Thompson.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, will you yield for a question?

SENATOR HASSELL-THOMPSON: Yes, Senator Diaz, I will.

SENATOR DIAZ: There was a prison in my district called Pyramid. And when that prison was marked for closing, I did everything in my power, in my duties, to keep it open, to the point that I even crossed the aisle and went to Joe Bruno and asked him to help me. And that prison was open that year.

Then the next year they closed it on me.

So I'm saying this to make clear that I have been working and I've always tried to protect my prison. Because when people elected me, they elected me to protect them. To protect their jobs, to protect their turf, to protect their services.

So, Senator Thompson, I heard here that Senator DeFrancisco said to you that we have given up everything to the Governor in the name of an on-time budget. Is that -- that's what he said?

SENATOR HASSELL-THOMPSON: That's what I heard. Through you, Mr. President, that's what I heard.

SENATOR DIAZ: Mr. President, could I -- could Senator Hassell-Thompson yield for another question?

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, will you yield for another question?

SENATOR HASSELL-THOMPSON: Yes.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: So you are telling

me -- you've got to enlighten me because I have to be clear on what I understand. So you are telling me that elected officials, people that are elected to protect their services and their jobs, have given up everything just for the sake of an on-time budget? That's what you're telling me that he said?

SENATOR HASSELL-THOMPSON: Through you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: When I asked the question "What did you get?" the answer that I heard was "We got an on-time budget."

SENATOR DIAZ: Mr. President, would Senator Thompson still yield for a question?

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, do you continue to yield to Senator Diaz?

SENATOR HASSELL-THOMPSON: Yes. Yes, Mr. President.

SENATOR DIAZ: So those jobs -- and I protected my prison to the point that I

cross the aisle to the Republicans to help me. So nobody could tell me that I didn't -- have not done that before. And I am angry because I lost the prison.

But to those people in the areas where those prisons are going to be closed and their jobs are going to be lost and their means of supporting their family might be lost, what would their elected official tell them? "Oh, I'm sorry, but I did it for an on-time budget?" Would you think that's right? Senator Thompson, would that be right, to go to those people and tell them, "Oh, I'm sorry, but it's an on-time budget"? You're going to lose your job, you're going to lose your means of supporting your family, you are going to lose everything that you have worked for, you're going to be in the street, but we have an on-time budget. Is that right, Senator Thompson?

SENATOR HASSELL-THOMPSON: Through you, Mr. President. I'm fairly sure, Senator -- first of all, the short answer to your question is no, that's not right.

But I'm fairly sure, Senator Diaz,

that's not what will be told back in the district.

SENATOR DIAZ: So when we are --

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Through you, Mr. President, will Senator Thompson still yield for another question?

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, do you yield for an additional question?

SENATOR HASSELL-THOMPSON: Yes, Mr. President.

SENATOR DIAZ: So when we all go campaigning and asking the people to vote for us, do we tell the people, you know, you vote for me, but when the time comes for an on-time budget, I'm going to throw you under the bus? Is that what -- we said that when we were campaigning?

SENATOR HASSELL-THOMPSON: Through you, Mr. President. One of the difficulties -- let me answer the question this way, Senator Diaz. One of the difficulties is that the press has done a very

good job of convincing the people of this state that they need an on-time budget and that Albany is broken. And so in their zeal to cater to the press and not to the people, we have an on-time budget.

Now, if this is a good budget, the best budget that's in the best interests of all of the people of the State of New York, I'm not clear that that was taken totally into consideration by anybody. But I do know that the thing that people promised their constituents, they would give them an on-time budget. Well, they got it.

But one of the things, Senator Diaz, that I told the people in my district, I'm not voting for an on-time budget. I'm voting for a budget that's in the best interests, and I will stay here and I will keep the budget process open for as long as I can. And if that's the process by which you determine that you want an on-time budget, you can have an on-time budget. In fact, we could have passed the budget when the Governor handed the budget down in January. They would have had an on-time budget.

But would they have had Title 20 put back in the budget? Would they have had $270 million put back into the education budget? Would they have had any of the things that have been restored in the budget if we had done it in January? And the answer to that is no.

And if we stayed a little longer, the $8 million that my district is going to lose in the education of the poorest children might get put back in the budget. And in Andrea's district, $17 million might get put back in the budget. But because we're going to get an on-time budget, two communities in Westchester County with the poorest children are going to lose $25 million so that we can have an on-time budget.

Do you have any more questions for me, Senator Diaz?

SENATOR DIAZ: Yes --

(Laughter.)

SENATOR DIAZ: Mr. President, would Senator Thompson yield for another question?

ACTING PRESIDENT GRIFFO: Senator

Hassell-Thompson, will you yield?

SENATOR HASSELL-THOMPSON: Yes, I will, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson yields.

SENATOR DIAZ: Are you getting angry at me, Senator Thompson?

SENATOR HASSELL-THOMPSON: No, sir. No, absolutely not.

SENATOR DIAZ: Because I'm with you.

ACTING PRESIDENT GRIFFO: Senator Diaz, will you pose your question, please.

SENATOR DIAZ: Yeah, the question is --

ACTING PRESIDENT GRIFFO: Can I have some order in the chamber, please.

SENATOR DIAZ: Senator Thompson, so there are going to be prisons that are going to be closed again. People are going to lose services and people are going to lose their jobs. And could you show me the names of the prisons again that are going to be closed and the name of the areas where they might be closed? Please, will you read it to

me again?

SENATOR HASSELL-THOMPSON: Read it to you, sir?

SENATOR DIAZ: Yeah, the name of the prisons, will you please read it to me again?

SENATOR HASSELL-THOMPSON: Through you, Mr. President. In Senator Gallivan's district --

SENATOR DIAZ: Senator who?

SENATOR HASSELL-THOMPSON: Gallivan. Senator Gallivan.

-- Collins medium security, Gowanda medium security, Buffalo medium security, Wendy maximum security.

In Senator Nozzolio's district, Attica maximum security, Wyoming CASAT facility, Livingston medium county, Groveland medium security, Orleans medium security facility, Butler medium security, Five Points maximum security, Willard Drug Treatment Facility, Auburn maximum security, Cayuga medium security.

Senator Griffo's district: Mid-State medium security, Marcy medium

security facility.

In Senator Farley's district, it's Hale Creek CASAT facility in Fulton County, the Mt. McGregor medium security facility.

In Senator Seward's district, the Summit shock facility, the Greene medium security, Coxsackie medium security.

Senator Little's district: Washington medium security, Great Meadow maximum security.

In Senator Saland's district, Hudson medium security facility.

SENATOR DIAZ: So through you, Mr. President, will Senator Thompson yield for another question?

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, do you yield for another question?

SENATOR HASSELL-THOMPSON: Yes, Mr. President.

SENATOR DIAZ: So Senator Thompson, we could all, at once, could tell all the people that might lose their jobs in these districts "We have on-time budget, bingo."

ACTING PRESIDENT GRIFFO: Senator Diaz, could you pose your question, please? Are you speaking on the bill or are you asking a question?

SENATOR DIAZ: No, I am asking a question.

ACTING PRESIDENT GRIFFO: Then pose the question, please.

SENATOR DIAZ: The question is Senator Thompson, can we all at once tell all those communities that might be losing their jobs and that might be losing their way of earning a decent living, could we all together could tell them, "Hey, we have an on-time budget"? Could we, and that would solve their problem?

SENATOR HASSELL-THOMPSON: Through you, Mr. President. No, Senator Diaz. I don't think that that would solve their problem at all.

SENATOR DIAZ: Thank you.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Diaz on the bill.

SENATOR DIAZ: We have a big

problem here, ladies and gentlemen. I lost -- they closed a prison in my district. And I know what it is, I know what it is for people that depend on those jobs to be on the street without those services and those -- and that way of earning a decent living. So I know what I'm talking about.

And now for us to come here and say that we have given the Governor, that we have given the Honorable Andrew Cuomo all the power in the world to decide upon himself to close these prisons and that we trust him and that we are telling all those residents and all those districts, elected officials are telling, are telling their communities "Oh, don't worry, we have an on-time budget, and we trust the Governor."

Well, ladies and gentlemen, if that is the way that people do campaigning upstate -- in the South Bronx, this black guy with kinky hair from Puerto Rico, I campaign different. I promise my people that I will support and protect them, and I trust no one. I trust no one. Not the Governor, not the Lieutenant Governor that he disappeared from

the chamber -- come on, I'm serious here. Not -- not -- no one. When it comes -- when it comes to the well-being of the residents of the 32nd Senatorial District that I represent, I trust no one.

And for me to hear, to hear that people are saying to their district and to their -- to the residents of the districts that they represent, "Oh, don't worry, we trust the Governor," I hope, ladies and gentlemen, I hope that those residents remember that. Because if this is the way we do business, we should then abolish our duties. We have no reason to be. We have no reason to be.

If the way to do it is, "Oh, we need an on-time budget, we trust the Governor; Governor, go ahead, do whatever you want," then what they do they need us for? Shame, shame, shame, to come here and say we tell the Governor to do whatever he wants and we have an on-time budget. I mean, this is -- do we understand what we're saying here? Do you people understand what you're saying? We tell the Governor we have on-time budget -- do

whatever you want, Governor, but we have an on-time budget.

I am black, I'm Puerto Rican, and I have broken English -- I don't even understand. Maybe I'm from another planet. But to hear, to hear lawyers, people that went to Yale and Harvard and Princeton to come here and say, "Hey, we trust the Governor, and the Governor told us to trust him and we have an on-time budget" -- bingo, we have an on-time budget -- in the words of the Governor, "I am not that type of person."

And whoever, whoever, whoever plays with the rice and beans and the services of their constituents that way doesn't deserve to be reelected. Anybody that plays, that plays with their constituents' rice and beans and ways of living, earning a decent living to play this way and come here publicly and say, Yes, Governor Cuomo told me to trust him -- trust Governor -- trust Governor Cuomo.

He wants to be president. Governor Cuomo wants to be president, and he will do anything to be president. He will take away the Medicaid from the people, he will take the

services from the poor, he will take the money from education, he will close all your areas and he will put everybody on the unemployment line and then he will say "I balanced the budget. Elect me for president." Shame on you.

Thank you very much.

SENATOR DeFRANCISCO: Excuse me, may I be recognized?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: I need to answer that diatribe if I could, please. And it will be very brief.

First of all, if anyone wondered about the merits of having this group of human beings in charge of this body and the individuals who entered into that charade of a debate by asking questions upon questions about nonsense surely would have their doubts -- their doubts --

SENATOR SMITH: Mr. President. Mr. President --

SENATOR KRUEGER: Point of order, Mr. President.

SENATOR DeFRANCISCO: -- would have their doubts --

ACTING PRESIDENT GRIFFO: Senator Smith, why do you rise?

SENATOR SMITH: I have a point of order, Mr. President.

SENATOR DIAZ: I'm rising too.

ACTING PRESIDENT GRIFFO: You are not recognized. Senator Smith is recognized. Please take your seat, Senator Diaz.

Senator Smith, you're recognized for your point of order.

SENATOR SMITH: Thank you, Mr. President.

Mr. President, I know that this is a late hour and it's getting emotional. But I would ask Senator DeFrancisco if he wouldn't mind controlling that type of personal attack. Talk about "these people" versus "these people" does no good for either side of this chamber.

For those that are watching, this is a very distinguished body of individuals. Senator DeFrancisco, Senator Skelos is doing a great job as Majority Leader, as he should be

doing. Senator Sampson is doing the same. And I think we all deserve the type of decorum that is necessary of professionals that are on this floor.

ACTING PRESIDENT GRIFFO: Thank you, Senator Smith. Your point is noted.

Senator DeFrancisco, you have the floor.

SENATOR DeFRANCISCO: I'm responding to the personal attacks that I just heard from Senator Diaz talking about how he cannot understand how people with certain educations could possibly say what was said in response to the questions that were answered before.

I want to make it very clear that in addition to the fact that we have a budget agreement, that I indicated quite clearly that there was funds available and economic development dollars that will assist those communities who are unfortunate enough to have a prison closed and lose some jobs.

In the revenue bill which will come out tomorrow, the tax credit program will be clearly spelled out which shows exactly the

economic development benefits companies will have in order -- if they create jobs within a five-mile radius of a closed prison. I'm not going to go through them now, I'll go through them another time.

That was negotiated by the Legislature, by this house. It was not in the Governor's budget. So the comment that we're simply abdicating our responsibility and giving the Governor clear control of everything that goes on in this city is not correct.

It may very well be that Senator Thompson after the closures went into those districts and went to meetings and was on a commission and was compassionate with people who lost jobs. That's great. That didn't save one job or do anything other than give the people in the community some sense that someone cares.

Well, we did more than that in this budget, and you'll see it in the revenue bill. We created a vehicle whereby businesses will be encouraged by tax credits to come to those areas, wherever they might be, in order to

create jobs that were lost. As the Governor has said many times, prisons are not an employment agency. If we've got to downsize, we've got to downsize. But we owe it to those communities to provide a vehicle to get those jobs back.

So we didn't abdicate anything. We negotiated a very important component of this prison closure issue. And we should be proud of that component and not derided for it as abdicating our responsibility, because there's nothing further from the truth.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

Senator Nozzolio on the bill.

SENATOR NOZZOLIO: Thank you, Mr. President.

The time is not for rhetoric, the time is for seriousness. And this debate is one of serious consequence to the citizens of the State of New York. We stand here deeply concerned with the fiscal condition of the State of New York. We are on the precipice of economic ruin. This is not a time to laugh.

This is not a time to joke. This is not a time for theatrics. It's a time for serious consideration of the dire economic consequences faced by every tax-paying citizen of this state, every job producer of this state.

Those of you who have been in this chamber for a number of years know that I have stood many times in support of a rational prison system in New York State, a system that protects primarily the people who work there, the brave men and women who walk the toughest law enforcement beat in America, the correction officers and other correctional personnel, and to keep our citizens safe.

During that period of time when I stood at this place, on this spot, and talked about prison conditions and consequences of policies, we heard a great deal of rhetoric from those who represent nonprison areas saying that prisons are just job factories for upstate New York.

I contend, Mr. President, that we do not build prisons to create jobs, we build prisons and keep prisons operating to keep

people safe and primarily people safe in the City of New York. Because that's where the major concentrations of crime occur, although crime is not -- there's no place in this state that's immune from violent crime.

We stand today with a very difficult decision before us. The economic consequences that we are confronted with require cuts across the board. And this conference, this Republican conference, this Republican conference that has advocated time and time again for the safety and protection and a rational prison system must be faced with having to make difficult economic decisions. And among those decisions are to join Governor Cuomo's position as he laid out in his budget address to close a number of correctional facilities.

We are not happy about that decision. We only support that decision out of the dire consequences that are resulting from a budget that has for two years spent too much and taxed too much.

And when you closed prisons in 2009 and 2010, they were all upstate facilities and

they were all in areas represented by Republican Senators. And you tell me that that is fair? You tell me that that is rational? You tell me that that has any consideration whatsoever with the economic situations confronted by those communities that had prisons closed? I stood during that debate the last two years, I don't recall anyone referencing a concern on the other side of the aisle at all about any of those concerns.

Senator DeFrancisco just talked about establishing a transformation program where tax credits and other economic development incentives are part of this budget because the Senate Republicans, working with the Governor, have achieved that objective. So at least we will have some economic development incentives for those communities confronted with this dire situation.

But let's understand historically why this has happened. The drain in our prison population has occurred in great part because of the so-called Rockefeller Drug Law reform that we saw took place two years ago.

And I stood on this floor and warned you all who were voting for it that that was in fact the "Drug Dealer Protection Act" that allowed a get-out-of-jail-free card for not just drug offenders but very violent, very violent offenders who also committed crimes with drugs.

Governor Cuomo has been vilified by members of the other side of the aisle. We're not happy with the decision that needs to be made, but we're willing to make the decisions that need to be made. And those decisions are that we need to cut spending across the board.

I could argue forever on the wisdom of those so-called reforms that helped create additional murderers in Syracuse and Rochester and even the small city of Geneva where I represent. One let out of jail because of the Rockefeller Drug Law reforms but had a violent history that was suppressed because of these so-called reforms that were placed.

Governor Cuomo made the commitment publicly. And I believe that he will live by this commitment, that the system will not be targeting prisons but those that will be

rationalized and cut will be across the board in a way that has geographic balance. And geographic balance is the best that we can hope for in these troubled economic times.

We've rejected the elimination of the 12-month notice requirement so that, when economic times are better, that there will be broader notice if there are any other facilities that need to be closed in the future. But this temporary suspension, that gives them 60 days. That's 60 days more than Lion Mountain received last time it was closed, 60 days more than the Washington Correctional Facility in Senator Little's district, the annex that was closed, 60 days more than Camp Gabriel when it was closed, 60 days more than Senator Libous received when Camp Pharsalia was closed, and 60 days more than I received when part of the Butler Correctional Facility was closed. All Republican districts, all upstate New York.

Mr. President, my colleagues, this is not the policy that we would prefer. It's not what we like to do. But under the circumstances, it is what we must do. And

that's why I believe this measure should be supported and voted on in the positive.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Nozzolio.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President. The hour is late; I'll be brief.

What seems to have been overlooked during this entire debate is that this conference, through our public protection budget conference subcommittee, in fact offered a proposal which contains some $42.5 million worth of savings, savings that were intended to mitigate the closings that were proposed by the Governor. We strove mightily to mitigate those closings but lacked a partnership. Neither the Governor nor the Assembly would accept those cost-saving measures. They basically dealt with nonpersonal services and, as somebody -- I believe Senator DeFrancisco -- alluded to earlier, savings derived from duplicative administrative personnel in prisons in close

proximity. A perfectly reasonable proposal, but one which again our friends in the Assembly and the other side of the aisle and the Governor saw fit to reject and not to consider.

I heard talk about somehow or other falling, worshipping before this idol of an on-time budget. Perhaps some of us forgot our civics lessons. Giving due to the reality of the situation in which we find ourselves, we have what is the most powerful Executive of any in the 50 states. And that was certainly buttressed by the Court of Appeals decisions I believe in '04 and/or '05.

This Governor, as has been widely publicized, has basically said "I'm going to ram it down your throat if you don't negotiate the closure in time." And the simple fact of the matter is this house negotiated, under the most strenuous and challenging of circumstances, any number of concessions and any number of modifications in this budget that are going to benefit our constituents from one end of the state to another.

So when we look at the current

moment, and it's quite literally nearly 10 o'clock, I would merely remind those who engaged in at times a seemingly harsh if not vitriolic treatment of this side of the aisle that for some two years we endured what was among the most bizarre of governmental behavior in a one-house or one-party-dominated system.

And when one of my colleagues said one of the difficulties is the press has convinced people that the system is broken, it didn't take a lot of convincing. Because certainly the last two years, if there were any doubters, made everybody well aware, as we -- we? -- as the system, as the one-party-dominated system taxed and spent to the tune of some $14 billion, not taking into account what the aftermath would be as if we could go on forever.

We can't go on forever. We're here to pay the piper. And the decisions are painful. Nobody envies us the decisions we have to make. But governance at times is about making difficult decisions. And if you weren't prepared to make them, we

unfortunately find ourselves in a situation where we're going to have to make them for you.

So, Mr. President, with that little reminder of history, with that little reminder of our system of government, and with that little reminder of our efforts to try and mitigate the prison closures, I would merely echo the comments of Senator DeFrancisco and Senator Nozzolio and certainly will be supporting this measure.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Thank you, Mr. President. I just want to respond in an uncharacteristically calm way to --

ACTING PRESIDENT GRIFFO: That is greatly appreciated, Senator.

SENATOR ADAMS: -- to some of the comments that were made. And I think that to allow them to stay out there would be incorrect.

First of all, the prison population did not decrease based on Rockefeller Drug Laws. It decreased because men and women

throughout the state that adorn law enforcement uniforms, which I happen to have been one of them, was resilient and dedicated to protecting the people of this state. It started long before two years ago, the decrease in crime that permitted our prison population to decrease.

So anyone that states that prison population decreases merely because of the Rockefeller fair drug laws is incorrect.

The second thing that needs to be important to mention, we did not do soft crimes that cause crimes to escalate in other parts of the state. New York State has become one of the safest states in the nation because of correct law enforcement policies. And that's commendable for the entire State of New York.

And I don't believe my colleague Senator Ruth Hassell-Thompson or even Senator Diaz, Ruben Diaz -- they were merely making a point that I've heard several times on this floor. The goal in our state is not an on-time budget, it's a right budget. And if it means we need to be late in doing so to

ensure that we're not harming the lives of New Yorkers, then we have to do so.

This is not a race, a 50-yard dash. This is a marathon. Because the people of this state expect for us to deliberate, debate, argue, and come up with the right budget. I heard on this floor today we would have done better in education but we ran out of time. What time? I don't know what clock we're going by. I'm going by the clock that states when we get it right, we leave here.

So I'm proud that last year it took us longer. I'm proud that last year we went beyond the designated time. I'm proud that we were resilient enough to say we're going to get it right, because we've got to make tough decisions that's going to impact people and we're going to stay here until we get it right.

Those who want to just go after an April 1st deadline, that is not why I came to Albany. I came to Albany that when I make decisions that's going to take funding from public schools, when I make decisions that's going to take funding from CUNY and SUNY, when

I make decisions that's going to close senior citizen centers, when I make decisions that's going to state that the people who are dependent on us needs to know that we made the right decision, I want to go back to my district in good conscience to state that if I have to stay up here longer, if I have to stay through the weekend, if I have to stay into the month of April and May, I'm willing to do so.

I'm not on a clock. I want to make sure that we do what is right for the people of my district, because that's what the 20th Senatorial District sent me here for. When I go back to them, they don't want to know, Eric, did you finish by April 1st? They want to know: Eric, did you do the right thing?

So we did not cause the dismantling of our prison system. We did the right thing by having the right laws, and we have the best law enforcement officers in the entire country that did the right thing to prevent crimes in the State of New York.

So I want the record to be clear, because anyone who stated that Rockefeller

Drug Law emptied the prisons, that is not true. That is inaccurate and that is not what took place.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Adams.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

At the risk of extending what is already a very long night, I stand to salute my fellow Democrats for the passion that they have exhibited, a passion that comes -- and I salute the majority side for their passion as well. I salute our side because we represent everyone -- upstate, downstate, black, white, men, women -- and we are in suffering districts that are losing money for schools. And we are, as Senator Adams said, senior citizen centers being affected. We are, as Senator Ruth Hassell-Thompson and Senator Diaz said, wondering where those 3700 beds are going to come from for many prisoners or many prisons that are located so far away from the families of the defendants.

So there are many, many issues that confront us. But at the same time we look at a $10 billion deficit, other states looking at us and seeing how we're going to cure it, and we do have a budget that's been presented that has no borrowing and no taxes. And we can argue whether that's right or wrong, but we are approaching an on-time budget and we're approaching an on-time budget where this Governor, a Governor of our own party, will be given a great deal of confidence from all of us to make decisions that really at times we've made in the past, including which prisons will be closed.

I for one have confidence that those decisions will be made in the best interests of the people sitting here and the best interests of the families of those people across the state. Can I guarantee it to anyone? No. Do I have trust? And maybe that trust is misplaced, but I do have that trust.

And I think it's about time that we do begin to create a trust in ourselves, a trust in others who are elected officials, including the Governor, so that we can turn

this state around. And turn this state around not in bickering back and forth, but trusting in what we do to make this state a lot better. And without that trust, we fall apart. We fall apart as a state.

And I believe and trust in my Democratic conference, that with our passion and with our trust we can help turn this state around. And accordingly, I vote aye.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

Senator Parker on the bill.

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

ACTING PRESIDENT GRIFFO: Senator Parker on the bill.

SENATOR PARKER: I actually intend, despite my displeasure with large parts of this budget, to actually vote yes on this budget and -- on parts of it at least. And the part we're voting on at this moment I'm going to vote yes on.

But, you know, this is not a good budget, Mr. President. It's not a good budget year. I know we all understand that. What

there is some disagreement about in this chamber is how we got there. I initially got on the list to speak because I wasn't happy with some of the comments that were being made. But this is really not a time to assign blame. This is really a time to start looking and figuring out how we can work together on solutions.

There's no one in here who wants to see teachers fired or schools closed. We all would like to see us be able to afford to do different things with education. We would like to see -- I know especially my colleague Senator McDonald, and the work he does around autism and people with disabilities -- would like to see that budget restored in full, in fact increased, because we really can't do enough to protect people in our communities, in all of our communities, with things like autism and other kinds of disabilities.

But we can't do those things now. And we've decided to go down a course and the budget is closed out and we're now taking votes on that budget. But we should be clear about what our values are and the things that

we care about. That I know, from my conversations with everybody in this room, that everybody here cares about their families. They care about the children in their communities and their constituents. That we all want to see a state that educates every single child beyond just a regular level, but that we fully educate people so they can become full participants in our communities, so that the life chances of people in our community can be as bright for every single person from Buffalo to Brooklyn, from Bath, New York, to Brookhaven, Long Island. And I think we're only going to get there if we continue to try to work through some of these things together.

I think that what we're doing this year I really disagree with. And I am dismayed that we look like we are in fact balancing the budgets on people who need social services, we're balancing the budgets on the backs of children who are going to public schools across our districts, and at the same time giving a tax cut to the rich. In this budget we're going to be voting on,

we're going to be cutting the corporate taxes. We have restructured the Excelsior program such that we can give more tax breaks to large corporations, many of which haven't created a jobs since they've been in the program. We are, you know, doing lots of things that are supposed to help us but I'm not convinced that those things in fact will get us there.

I do know that over the previous two years we spent a lot of time trying to right the wrongs that were done to many communities over the state. And Rockefeller Drug Laws, whether people agree with them or not in this chamber, we can disagree about our perceptions, but we can't disagree about the facts.

And the facts of the matter are mandatory minimum sentences and the kinds of things we were doing vis-a-vis Rockefeller Drug Laws did not work in this state. They have not worked in the states across this country. They have not worked on the federal level. Which is why there are in fact federal proposals to get rid of mandatory minimums and get rid of the laws that look like Rockefeller

Drug Laws in this state.

We have for such a long time in this state made a bad economic decision in how we structure economic development. And we've done it from a top-down perspective, and we're going to continue to do that in this budget. But I'm hoping that as we go forward that we really look at how jobs are created. But right now, as much as we talk about job creation, we have in this body -- and it's my fault as much as anybody else's in the Legislature -- that we have not developed a small business program.

When we look at how jobs are created in this country, you know, 70 percent of all jobs that are created are in small businesses. Right? Those are businesses defined by, you know, employers who employ a hundred or less people. And then of that 70 percent, about 50 percent are actually employed in mom-and-pop shops, which are defined by employers who employ 25 or less people.

And we haven't done anything in this budget to help those people. And those

are the people we need to put back to work. We need to give those folks full-time jobs at a living wage with benefits so that they can in fact take care of their families. Because that's all everybody wants to do. And so that they can in fact contribute to our tax base so that we can in fact help those people take care of those who can't take care of themselves. That's what our role is here in government.

And so as we go forward with just this debate tonight and the rest of the debate over the next couple of days, I hope that we in our conversations discuss the controversies, that we look at the places in which there is in fact conflict and try to figure out how we work by those things. But remember to keep our eyes on the prize and work on our collective values of providing full-time jobs at a living wage with benefits for our communities, for educating every child, making sure that people with disabilities in fact have the same kind of opportunities as those who are supposedly fully functioning in our communities, and to

make sure that we have a healthcare system that's both affordable and accessible to everybody who needs it. Because there's only two kinds of people in the world, people in hospitals right now and people who are going to need hospitals at some point in their lives.

And so this is not at all what I got up to say, but I'm hoping that as we go forward that -- we're stuck with this budget. We're stuck with it at this point -- but that next year that we get to a place where we're really doing some meaningful things in this budget, in a bipartisan way, that our conversations will lead us to a place where everybody can get taken care of.

Because I honestly believe there's enough resources even in a reduced $132.75 billion budget. If you divide that, you know, by 20 million, there's enough resources in the State of New York to make sure that every man, woman and child has the resources that they need so they can achieve their life chances.

ACTING PRESIDENT GRIFFO: Senator Montgomery.

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

I won't let this moment pass without this historical statement that I'm going to make. And that is I want to say that for the first time in my life I agree with some of Senator Nozzolio's sentiments.

(Laughter.)

SENATOR MONTGOMERY: So I could not -- I could not let that moment go.

I do -- I have said to, you know, people that I speak to that one of the dark secrets of our state is that we have built this economy based on a growing, extensive prison system. And it's costed us extremely -- a lot of resources, both human resources as well as financial. And in fact I think that the largest manufacturing system in our state may be in that prison system.

So this is quite shameful. And of course we have been addicted by it because it's pretty easy. Between us here, the bills we pass gets passed down, and then communities like mine ship these people up. And everybody's happy. And we've lived with that.

But finally our Governor has said that is immoral. And I am so proud of him for making that statement. It was time for a Governor to make that statement. Because a lot of us have been in the wilderness talking about it, but he is in a position to change how we do business in our state. And I'm happy that he's willing to do that.

And I just want to say that I am proud of the Republicans who did agree to take this very painful piece and negotiate it. Because closing a prison for you is like closing a hospital for me. That's the same problem. We have it on both sides of the aisle. And we all have to make those painful decisions.

So I'm not going to complain. I -- in fact, I complain about you all the time.

(Laughter.)

SENATOR MONTGOMERY: Every day. But at this moment I am only going to compliment the Republican Party for standing up to say we agree with the Governor, we must move away from this system of this massive incarceration program of a certain part of our

population in order to employ another part of the population.

We all agree that was wrong. We were just addicted to it. We couldn't give it up. But with the Governor's help, we're moving away from that. And I applaud that. I just want my people and I want you to know that's how I feel. Notwithstanding whatever else you've heard, let's do this.

And the Governor has offered to help us do it. He's offered to figure out a way to repay those areas and help us move to another system of an economic engine. And that's what's going to keep our young people in the parts of the state like Buffalo and like Watertown and Senator Little's district. I want to see some young people who want to stay there and not have to choose between leaving and working for 30 years in a prison.

So I'm very happy that we're moving in the right direction, and definitely I am voting for this bill. So I'll be voting aye.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you,

Mr. President.

Well, clearly passions run high. We're all upset. We all know we need to get a budget done. We all know there's a $10 billion deficit. We all know there will be large cuts on many, many parts of the budget that we each care about. And sometimes passions run high and people might say the wrong thing. But I did want to make sure before we close that we set the record straight on a few things that were said.

I want to thank Senator Adams for getting up and clarifying the reality that prisoner reduction is not due to what we did with Rockefeller Drug Law. It's simply not the fact. And it's also true that there are reasons why the crime rate is going down, because of very hard work by our police and in our communities. And that is a win/win for us all.

There was also some aspersions thrown at when we, the Democrats, controlled the Senate for two years out of, oh, most of the last century. The budget increased a hundred percent, $60 billion to $120 billion

between 1996 and 2008 when we had a Republican Senate and a Republican Governor. Our debt doubled during that time period from $25 billion to $52 billion. Between '89 and 2008, this house, under Republican control, voted to raise taxes by $131 billion. And the budget was late, 1999 to 2006, by 819 days.

So we all can share blame. And we all have to take responsibility for getting it right now and dealing with the tough issues. But to make statements on the record of the Senate without making sure that they are clarified, for the facts to be written into the record of this wonderful institution, is that this was not something because of this side for two years or that side for 92 years.

(Laughter.)

SENATOR KRUEGER: We all have responsibility to bear. And we need to move forward.

And I think that some of my colleagues were passionate about their anger about some of the cuts in this budget on both sides of the aisle. And that's real. And whoever told us that watching the sausage

being made was all nice and easy and pretty? It's not. We're watching, we are making the sausage here tonight. And it's not pretty. But it's going to get done in a reasonable period of time.

And I agree with my colleagues it won't be the best budget we could have done, and it's not going to be a good budget for many people in many of our communities. But we have to go forward and we have to go forward with civility on both sides of the aisle.

And despite the fact that I have major problems with much of the budget, I also tonight will be voting yes on this bill and believe that we will be passing it soon.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Seeing no other Senator wishing to be heard, debate is closed and the Secretary will ring the bell.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: If I could just

mention that I think it's totally inappropriate for anybody, including members and nonmembers, to be taking pictures in this chamber when on the floor.

ACTING PRESIDENT GRIFFO: The point is well-taken, Senator Skelos, and I would ask the Sergeant-at-Arms to please comply with all the rules of the chamber.

Technically, electronic devices are not to be used in the chamber, by rules of the Senate. And there should be no one taking pictures in this chamber. So I would again ask the Sergeant-at-Arms to please be aware and to enforce the rules of the Senate.

SENATOR LIBOUS: Mr. President, you mean with the exception of the Senate photographers, of course.

(Laughter.)

ACTING PRESIDENT GRIFFO: With the exception of the Senate photographers.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Robach to explain his vote.

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

I'm going to support this. And while I would agree with many of the colleagues' comments on this not being perfect, it is certainly a responsible step and one we have to take.

I could say that I'm happy that we're here three days before the budget deadline getting this done, because I do think transparency and timeliness are important. I could not disagree more with the comments made that the timeliness of the budget --

ACTING PRESIDENT GRIFFO: Senator Robach, excuse me.

Can I have order in the chamber. We have a member speaking, please.

Senator Robach.

SENATOR ROBACH: I couldn't disagree more with the comments that the timeliness of the budget doesn't matter. If you want to put content or perfection on

anything, we'd never get anything done in this chamber.

And when you talk about protecting the law or abiding by the law, it is the Constitution of the State of New York which says we should have the budget done on April 1st. Which you're right, we can all take some concern with we haven't for a long time. But we should. People that go to work every day have to show up on time, get their duties done. We should too. We owe that to the people of New York. So I'm happy for that part.

And then also, while there's many challenges and things I would have differently, I think it's very important that everybody understands in this process that there's been an exodus of people in upstate New York, where I live, the census data came out, because we have overtaxed, overspent, driven business out. And no matter how hard, we need to move in a different direction.

This budget does that. People talked about hopefully we can do something down the road. In order to do something down

the road, you have to make changes today to accommodate that. We can no longer stick our head in the sand, kick the can down the road, so to speak, or do that. That's been done far too long.

So I applaud the Governor, the people that worked very hard on both sides of the aisle in the conference committees to get this done and start the process. And I think this will send a message for the first time in a long time to people all across the state, but especially the ones that I have the privilege to represent, to say we hear you. We're not spending more money than we have. We, like you, in our household budgets are making some tough decisions, just like you have to in your budget to get this done.

I know I'm over my two minutes, but I do think this is important. And I really do think that this is the right thing in the right direction. It's something we need at this time. Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Robach to be recorded in the affirmative.

Senator Libous to explain his vote.

SENATOR LIBOUS: Senator Libous wants to say is there any further business.

ACTING PRESIDENT GRIFFO: Is there anybody else wishing to speak?

Announce the results.

THE SECRETARY: In relation to Calendar Number 281, those recorded in the negative are Senators Diaz and Duane.

Absent from voting: Senator C. Kruger and Senator Perkins.

Ayes, 58. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: There is no further business before the desk.

SENATOR LIBOUS: All right, I have an announcement. The Republicans will conference at 9:30 tomorrow morning.

Mr. President, there being no further business before the Senate this evening, I move that we adjourn until 10:00 a.m. on Wednesday.

ACTING PRESIDENT GRIFFO: The Republican conference will conference at 9:30 a.m. And there being no further business before the Senate, the Senate stands adjourned until tomorrow, Wednesday, at 10:00 a.m.

SENATOR LIBOUS: Mr. President, I'm sorry, would you please call on Senator Hassell-Thompson for an announcement.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson for an announcement.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. There will be a Democratic conference at 9:00 a.m. tomorrow morning.

ACTING PRESIDENT GRIFFO: There will be a Democrat conference in the Democrat Conference Room at 9:00 a.m. tomorrow morning.

And there being no further business to come before the Senate, on motion, the Senate stands adjourned until Wednesday, March 30th, at 10:00 a.m.

(Whereupon, at 10:24 p.m., the Senate adjourned.)