NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 30, 2011

10:19 a.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: In the absence of clergy, I ask all present to please bow their heads in a moment of silent reflection.

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

ACTING PRESIDENT GRIFFO: The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 29, the Senate met pursuant to adjournment. The Journal of Monday, March 28, 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 18, Senator Saland moves to discharge, from the Committee on Children and Families, Assembly Bill Number 88 and substitute it for the identical Senate Bill Number 1428, Third Reading Calendar 217.

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, I'm about to call a meeting of the Finance Committee. But before I do that, I would like to take a moment and talk about a long-standing policy that we have had in this chamber, at least for the 23 years that I have been here, and I know longer than that for some other members.

We do not allow anyone to take pictures on the floor of the Senate. Members are not allowed, staff members on either side of the aisle are not allowed, and only the official Senate photographers are those who are authorized to take pictures of Senators on the floor. And press, if they're allowed and they have their credentials.

In consultation with Senator Breslin, and I'll let him speak in a minute, we would ask that that not happen and that if it does happen, the Sergeant-at-Arms will be asked to remove you from the chamber.

SENATOR BRESLIN: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: I join with Senator Libous in the admonition that any kind of photography in this chamber without the authorization of our Senate photographers is prohibited, and we will do everything in our power to make sure that's enforced on our side as well.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank

you, Senator Breslin.

It is so noted and the Sergeant-at-Arms is so instructed.

SENATOR LIBOUS: Thank you, Mr. President. Thank you, Senator Breslin.

With that said, it's on to moving forward with the state budget. There will be an immediate meeting of the Finance Committee in Room 332.

ACTING PRESIDENT GRIFFO: There's an immediate meeting of the Finance Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 10:22 a.m.)

(Whereupon, the Senate reconvened at 10:41 a.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Maziarz.

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

At this time, Mr. President, could we take up the noncontroversial reading of today's calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 112, by Senator Skelos, Senate Print 1541, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 217, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 88, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Maziarz, that completes the noncontroversial reading of the calendar.

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

May we please 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 at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read the report of the Finance Committee.

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

Senate Print 2807C, Senate Budget Bill, an act to amend Chapter 887 of the Laws of 1983;

And Senate Print 2811C, Senate Budget Bill, an act to amend the Abandoned Property Law.

ACTING PRESIDENT GRIFFO: The bills are reported to third reading.

Senator Maziarz.

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

At this time could we just stand at ease for a couple of minutes. Thank you.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 10:44 a.m.)

(Whereupon, the Senate reconvened at 10:49 a.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Maziarz.

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

Just one note of housekeeping. There was an Agriculture Committee meeting scheduled for 11:00 a.m. this morning. That will be postponed, called later on off the floor.

Mr. President, may we please take up the noncontroversial reading of

Supplemental Calendar A at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 284, Senate Budget Bill, Senate Print 2807C, an act to amend Chapter 887 of the Laws of 1983.

ACTING PRESIDENT GRIFFO: Senator Maziarz.

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

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

SENATOR MAZIARZ: I move to accept the message of necessity at this time.

ACTING PRESIDENT GRIFFO: The motion has been made to accept the message of necessity. All in favor 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: Lay it aside.

THE SECRETARY: Calendar Number 285, Senate Budget Bill, Senate Print 2811C, an act to amend the Abandoned Property Law.

ACTING PRESIDENT GRIFFO: Senator Maziarz.

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

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

SENATOR MAZIARZ: I move to accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message 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: Lay it aside.

That completes the noncontroversial reading of the supplemental calendar.

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

At this time can we take up the controversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 284, Senate Budget Bill, Senate Print 2807C, an act to amend Chapter 887 of the Laws of 1983.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, an explanation has been requested by Senator Breslin.

SENATOR DeFRANCISCO: Yes, 2807C is the public protection budget bill. And everyone should have their memos concerning the content of this budget bill.

The first major -- Part A, the first area, deals with the Governor wanted to

extend the operation of the Interstate Compact for Adult Supervision, the ability of state corrections facilities to house inmates, et cetera, et cetera. It's in the memo for three years. We rejected that and had the extension for two years to provide some more legislative oversight of the operations of these organizations.

Part B deals with funds that are recovered by district attorneys in New York City. And approximately $75 million of the funds come to the State of New York, the rest is split between New York City and the DAs for monies recovered in various civil actions done by the district attorney's office.

All this part of the bill does is to amend when those funds are received by the recipients. It used to be doled out annually. Monies are needed during the course of the year. Each of the stakeholders have agreed to the new payment schedule, which is advantageous to each of them.

Part C, this is that 60 days notice for prison closures, and that's only for one year. It will go back to the one year

notification. We debated that somewhat yesterday.

Part D, we rejected the Governor's request to or his proposal to transfer a million and a half dollars from the Public Safety Communications Account to the Emergency Service Revolving Loan Fund, because that fund, the second of the funds, has sufficient dollars in it and there's no need for such a transfer. We deny the transfers for a period of two years since there are sufficient funds in that account.

Part E, changing the composition of commissioners of the State Liquor Authority. It was felt by the Governor and the Legislature, which concurred with the Governor, that the chairman is the individual who performs most of the responsibilities for this particular board, and his salary would remain the same. The other commissioners would be relegated to a per-diem fee of $260 a day. That saves $220,000 a year. Not a lot of money, but every little bit counts in a situation, budget problem that we've got right now.

The Governor wanted to eliminate the requirement that election results be printed in newspapers. The Legislature rejected that. That's Part F.

Part G, this has to do with workers' compensation, the self-insured funds. This has been an ongoing problem where some of these funds went bankrupt. There's some changes in the language. It relieves fully and partially funded trusts from assessments since they really had little to do with the problem since their funds are fully or partially funded. They're relieved from that assessment until 2016. It lessens these exit fees that were part of prior law. And apparently, from what I understand, that all the stakeholders that were involved in these discussions were at least not dissatisfied with this solution to remedy some of the burden on these employers who created these trusts.

Part H is similar to the proposal concerning the ABC commissioners, in that the commissioners of -- the State Civil Service commissioner will go a per-diem compensation.

Part I, everyone has been aware since the Governor's original proposal of the reduction in AIM funding, Aid and Incentives to Municipalities. The Legislature concurred with those proposals.

The video lottery terminals -- and, you know, let me just stop right there. I may be going in too great of depth because everyone's got this memo. And maybe I'll stop at this point and ask if there's any questions and that way we might be able to eliminate some of the areas that people are not interested in talking about.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

Is there any Senator wishing to be heard?

Senator Krueger.

SENATOR KRUEGER: Thank you very much.

First off, thank you, Senator DeFrancisco for the explanation. And yes, we all appreciate that now we're getting memos to look at before we're asked to vote on bills. And it does certainly help us, given how short

the timeline is from bill printing to coming to the floor.

Mr. President, through you, I do have a few questions on this bill if the sponsor will yield.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes, I do.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you.

Senator, in your presentation you did go over Part F, elimination of election law print and publication, which had been in the Governor's original budget but was ultimately rejected. Can you tell me what the cost or the savings from that proposal would have been both to the state and to the localities?

SENATOR DeFRANCISCO: Approximately $75,000 would have been the savings had we not eliminated the Governor's proposal.

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

yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Would there have been a local savings as well? Because my understanding was this was printing by election districts in their local papers of specific information.

SENATOR DeFRANCISCO: No, there would not have been. This was strictly a state expense.

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

In Section I, AIM funding, reducing Aid and Incentives to Municipalities, this bill zeros out the $302 million AIM funding for one year to the City of New York. Is that correct?

SENATOR DeFRANCISCO: That's correct.

SENATOR KRUEGER: If, through you, the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

And as I recall in last year's budget, when we also zeroed out approximately $302 million in AIM funding to the City of New York, we -- the State of New York explicitly committed to putting AIM funding back for the for the City of New York at the same reduction share as other local municipalities in this budget year. Is that the sponsor's recollection as well?

SENATOR DeFRANCISCO: I don't know who "we" is, but I didn't make any such commitment. You never know from year to year what the circumstances are going to be. You can hope to do the best you can. But obviously we've received about $6 billion less money from the federal government in education alone, and sometimes those hopes are never realized.

SENATOR KRUEGER: Mr. President, through you, for the record, I do believe that last year's budget language explicitly made a commitment to restore AIM funding to the City

of New York. And of course my colleague is right that you go year to year and you have new realities to deal with. But we did make that commitment, Senators on both sides of the aisle. Certainly Senators from New York City, Republicans and Democrats. So I'm disturbed that we're not making good on that.

SENATOR DeFRANCISCO: Excuse me one moment.

SENATOR KRUEGER: Yes.

SENATOR DeFRANCISCO: I believe every Republican voted no on the budget, which means they voted no on all provisions of it, including the one to which you refer. So we did not commit on this side of the aisle to any such thing.

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Section L clarifies the state will assume responsibility for payments in lieu of

taxes for certain lands I guess in or around the City of Rochester. Can you tell me what new expenses the state has committed to with this section and for how long a period?

SENATOR DeFRANCISCO: I have absolutely no clue, so let me check it out for you.

SENATOR KRUEGER: Okay.

SENATOR DeFRANCISCO: Well, what I have been informed that there was -- the state entered into an agreement with these localities to pay in lieu of taxes because these are watershed areas. It was actually purchased by the state, and when the state purchased it there was agreement with the localities to pay and, since there will be no taxes, that the state is not taxable, to make payments in lieu of taxes in return for the ability of the state to purchase these watershed lands.

That's the best I can do.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. If through you the sponsor

will continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor continues to yield.

SENATOR KRUEGER: I appreciate the sponsor's answer. I believe it is correct. But the follow-up of my question was and what will it cost the state this year and in future years, for how long when we are paying some amount of PILOTs in lieu of taxes or taking on the commitment of responsibility for PILOT payments.

SENATOR DeFRANCISCO: It's a $600,000 appropriation this year, and it's an annual appropriation. So apparently it's going to go for several years. I don't know the exact number of years. But it has to have an annual appropriation. And for this year it's $600,000.

SENATOR KRUEGER: Thank you.

Mr. President, quickly on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

I appreciate very much the

sponsor's answers to my questions.

By and large, this document is almost identical to the Executive's original proposal to the Legislature, and so I don't think there is areas for wide disagreement on this piece of legislation. So I'm planning on voting yes.

Thank you very much.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Senator Farley.

SENATOR FARLEY: Thank you.

I just want to bring up the fact that much of this particular bill was the result of my conference committee that addressed this, and we addressed several very serious problems, one of which I want to bring up, the VLTs.

Seventeen communities upstate are now going to -- I know that's where you stopped, Senator. And 17 communities are going to get support, including Saratoga, which was omitted. And for $6 million it's going to make a tremendous difference for 17 communities upstate.

And also in this Yonkers has been fully funded for their schools. And, Senator, the Yonkers School Districts are going to be fully funded as a result of the VLTs. I did want to mention this. There was a spirit of cooperation. This just shows on this particular budget bill that the conference committees work.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I forgot to mention one thing. During the discussion of our one-house bill Senator Stewart-Cousins was extremely upset with the fact that Yonkers lost money from some VLT revenues. And I told her at the time that our conference would look into that, see what could be done in order to correct that, and that was corrected in this bill as well.

Thank you.

ACTING PRESIDENT GRIFFO: Is there 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.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: If we could just pause for a couple more seconds.

(Pause.)

ACTING PRESIDENT GRIFFO: The Secretary will 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 Adams to explain his vote.

SENATOR ADAMS: Thank you, Mr. President. I want to explain my vote.

I'm going to vote no on this bill. And I think that as we talk about reform, the first area of reform is to deal with the well-known secret in government where we bunch items together. We need to vote on each item. Each item should stand alone.

And I'm going to vote no on this bill because of the AIM funding for New York City. We're punishing a municipality that handled its finances in an appropriate way. New York City had to cut back, they had to do without. And because they did that, now they're going to be punished by not receiving any AIM. We stated that we were going to refund the AIM this year in 2010. We're not.

So I believe this is the wrong message to send. All municipalities must tighten their belt, and when they do so they should not be penalized by the state. And I think we're penalizing New York City. Although there are other items in this bill that I'm happy are in the bill, but that's not the right thing to do to state that because they're bunched together I'm going to ignore the fact that New York City is being denied AIM.

New York City deserves to receive their fair share of AIM. They send a large amount of money to the state government. We're not receiving that money back. And our communities were hurt because of that. So I

have to vote no on this bill.

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

Senator Hassell-Thompson to explain her vote.

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

I went to commend our Governor and the Assembly, my Assembly colleagues, for attempting to minimize the pain in a terrible budget year, particularly in the indigent legal services. The continued existence of a centralized office to distribute funding was something that many of us fought very hard for, and to change a flawed system of funds distribution was long overdue.

I would also like to commend my colleagues across the aisle for standing firm against the merger of OPDD, OVS, and SCOC, three virtually important offices, and for restoring these offices to their full funding.

This public protection budget may not be perfect, but I do want to give credit where credit is due. Hard work went into making sure that we did a good job on this

table, and I want to commend all who participated in making it happen.

Thank you, Mr. President. I will be voting yes.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson to be recorded in the affirmative.

Senator Stewart-Cousins to explain her vote.

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

I too will be voting for this, but I did want to mention two things. First, the fact that there is some sort of carrot, and I want to commend the Governor for extending some kind of a carrot to municipalities that are looking at consolidation and merging services. It's one thing to say to do it, but without motivation sometimes it's not as easy. So it's good that there is that.

And secondly, I do want to extend some gratitude to Senator DeFrancisco, who indeed when I stood up and talked about how the damage to the Yonkers schools was just inevitable due to the cut of $19.6 million

from the proposed budget that the Republicans put forward, he immediately asked how I could give him more information, sent the analyst over.

And I really thank you, Senator DeFrancisco, and certainly all my colleagues on both sides who understood that schoolchildren and cutting streams that are going directly to these schools -- and certainly as a result of the raceway, which is doing so well -- was something that we could not jeopardize.

So again, my commendations to Senator DeFrancisco, certainly everyone on the other side of the aisle and certainly to my own leader and my Democratic Senators here who fought tooth and nail at every opportunity to say no, this can't stand.

So again, I will be supporting this.

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins to be recorded in the affirmative.

Senator Diaz to explain his vote.

SENATOR DIAZ: Yeah,

Mr. President, this is a budget that I have to vote no, especially -- and not because I'm opposing the closing of prisons. Not for that reason.

But when we as a Legislature give a blank check to the Governor to play with our rice and beans, not knowing where he's going to close a prison, not knowing what area is going to be hurt, not knowing nothing, just to give a blank check to the Governor -- here, Governor, close at your pleasure -- this doesn't speak well of us.

The people upstate that depend, many of them depend on those earnings from those prisons and whatever, they don't even know what's going to happen. But we are trusting the Governor. Close this thing whenever you please, whatever you please.

That is wrong. This is not a way of doing legislation, for the sake of an on-time budget that we give the Governor this blank check. This is wrong. I think this is -- the people of the State of New York have not elected us to do this kind of business. Maybe we should abolish the whole Senate and

the whole Legislature and give the Governor the command to do as we did with the Lieutenant Governor.

So I'm voting no.

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

Is there any other Senator wishing -- Senator Stavisky.

SENATOR STAVISKY: Yes.

ACTING PRESIDENT GRIFFO: To explain her vote.

SENATOR STAVISKY: To explain my vote very briefly.

I too thank Senator DeFrancisco for his answers last evening. And while there are still a number of unanswered questions, I appreciate the time he took to explain them.

I am concerned about two parts of this bill that deal with the State University of New York. The Long Island College Hospital, which is presumably going to come under the jurisdiction of SUNY Downstate, and the Community General Hospital, if it's acquired by SUNY Upstate, it's my hope that the employees will be part of the SUNY system

and will retain their collective bargaining rights and their pension rights, et cetera, so that they become part of the SUNY system.

And I vote aye.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 284, those recorded in the negative are Senators Adams, Diaz, Duane, C. Kruger and Perkins.

Absent from voting: Senator Parker.

Ayes, 56. Nays, 5.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 285, Senate Budget Bill, Senate Print 2811C, an act to amend the Abandoned Property Law.

SENATOR KRUEGER: Explanation.

ACTING PRESIDENT GRIFFO: Senator Krueger has requested an explanation, Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. All

of you should have on your desks the memo on the revenue bill, Senate 2811, the first provision of which deals with abandoned property.

There are several instances that are described in the bill where we amended the Governor's proposal but cut back the time period in which the specific provision was in effect. Each of those are the same rationale, to try to maintain a closer legislative oversight over those various activities that are listed in the memo.

There is a series of proposals concerning lotteries. And one of the most significant, I believe, is one that we concurred with the Governor on, in that lottery award winners cannot only have outstanding tax liabilities, et cetera, deducted from their winnings and taxes and the like, but the new provision also authorizes lottery winners awards to be intercepted for the payment of outstanding child support and repayment of public assistance benefits, a perfectly logical approach.

And in any event -- I apologize, I

was incorrect. All of the areas that were discussed are already interceptable under the current law, but what's added is outstanding tax liabilities as an additional item that could be paid for out of lottery winnings.

There are a series of other tax issues that I could go through, but one of the things I want to highlight is that there are a whole series of efforts where we concurred with the Governor in order to make it easier to pay taxes, to file tax returns and the like, all electronically. And there's a series of provisions in this bill to allow municipalities to participate, and if they don't have the wherewithal to do their own electronic system, to allow localities to pay third-party vendors to do that.

So the concept is to eliminate a lot of the paperwork. And in the long run, this is going to be a substantial savings for the State of New York.

Another thing I wanted to mention was the cigarette registration fee. A fee was imposed in the past charging vendors $1,000, $2,500, and $5,000 in order to register to be

able to have the luxury of selling cigarettes. That was brought to litigation. The prior registration fee, I believe, was $100. That litigation is pending, and while it's been pending we've only been collecting $100 because there's been an injunction.

Well, what was agreed to in this bill that's agreed to by the vendors as well is to change the fee to a flat $300 fee, which will actually result in more revenue since we're only collecting $100 now. And it will also result, I believe, in the termination of the lawsuit.

I had referred to yesterday when we talked about prison closures that the Legislature, especially the Senate, was insisting on an economic transformation fund, dollars and also tax credits for those localities who are affected by the prison closures. And part of that -- the $50 million is not in this bill, we'll talk about it in another bill. But the series of tax credits that are set forth on the last page of the memo shows the benefits taxwise there would be to he businesses locating within a specific

distance from the facility, depending upon, you know, whether it's a dense area where the facility takes place or population is actually spread out more. And these tax credits will be available for a five-year period. They're listed on the last page of the memo.

With that said, I'd be happy to answer any other questions about those topics or whatever I can try to answer on the rest of the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. If through you the sponsor would yield. There is going to be I think quite an extensive series of questions on this bill.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: I yield to all of the extensive questions. Without having to be asked again.

ACTING PRESIDENT GRIFFO: We will allow some leniency.

SENATOR KRUEGER: Thank you so

much.

Of course because when you start to deal with the questions of revenue for the state budget, you're really getting into the questions of the overall size of the budget, what we're bringing in, what we have to spend. So I had saved some questions specifically around the overall budget to be discussed in the context of this bill.

What is the exact overall size of the budget when you add all the different bills together that we are passing yesterday and today? I'm assuming we're done today.

SENATOR DeFRANCISCO: You're talking about the overall budget?

SENATOR KRUEGER: Yes, sir.

SENATOR DeFRANCISCO: $132.5 billion, which is a 2 percent reduction of overall spending from last year.

SENATOR KRUEGER: Mr. President, through you. The Governor's original proposed budget was how much?

SENATOR DeFRANCISCO: I'm not quite sure, but I know it's a reduction overall year to year.

Does somebody have that number?

SENATOR KRUEGER: I believe he said it was $132.5 billion. But your staff could correct me.

Is it correct that the Legislature's version of the total budget added $250 million, as was said at the conference committee?

SENATOR DeFRANCISCO: I don't -- I don't -- I'm not quite clear on that. I believe, if the Governor's budget was $132.5 billion and our budget is the same, whatever additions there were at various conference committees would be offset by reductions in other areas.

SENATOR KRUEGER: Mr. President, if through you -- I appreciate the sponsor's confusion. I too am confused at --

SENATOR DeFRANCISCO: I don't think I'm confused. I think I was very clear.

SENATOR KRUEGER: To restate, I do believe that the Governor's original proposal was a $132.5 billion All Funds budget that there was discussion of through negotiations with the Legislature having added

$250 million in total to the All Funds. But I believe I just heard the Senator say that this budget, all funds, is $132.5 billion. Therefore, I guess my follow-up question is where did we subtract $250 million? Because apparently we added $250 million.

SENATOR DeFRANCISCO: Well, the Executive Budget was 132.534 million. The legislative additions were $505 million, and the reductions to the Legislature was $631 million. The net from federal funds, $126 million, which resulted in a legislative budget total identical to the Governor's.

And by the way, I was just informed that these aren't the Senate numbers, these are the numbers that were agreed to from the Division of Budget. It's not only us saying this, it's the Governor's Budget Department saying the same.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: And I do

appreciate the sponsor's answer to my question. And we will be following up because we believe that the Governor announced in the final announcement about the budget deal that $250 million had been added to the General Fund. So there may be some language disagreement -- on All Funds, excuse me, $250 million had been added to All Funds.

SENATOR DeFRANCISCO: May I just make a comment to clarify?

SENATOR KRUEGER: Please. Yes.

SENATOR DeFRANCISCO: There was $250 million added to the General Fund, but All Funds resulted in the same All Funds number that the Governor came up with.

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Jumping to General Fund, my understanding was that the net change in spending for General Fund was $608 million in increases. Can we confirm that that's correct?

SENATOR DeFRANCISCO: General

Fund, net change was four hundred -- excuse me, there's $498 million in additions. The net change was a negative 118 million.

SENATOR KRUEGER: If the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: You may continue, Senator Krueger.

SENATOR KRUEGER: When I'm doing my tally -- and, you know, obviously in a budget it's important to understand the pluses and the minuses -- there was an addition of $272 million for education. Is that correct?

SENATOR DeFRANCISCO: There was 270 what?

SENATOR KRUEGER: A $272 million education add for General Fund.

SENATOR DeFRANCISCO: That is correct.

SENATOR KRUEGER: $86 million for higher education?

SENATOR DeFRANCISCO: 86 million is correct.

SENATOR KRUEGER: $180 million for health and Medicaid?

SENATOR DeFRANCISCO: Yes, that's

correct.

SENATOR KRUEGER: $33 million for other?

SENATOR DeFRANCISCO: Yup.

SENATOR KRUEGER: $91 million for human services?

SENATOR DeFRANCISCO: Correct.

SENATOR KRUEGER: That adds up to have $662 million of adds to General Fund.

SENATOR DeFRANCISCO: That's correct. But there were other cuts that made the numbers match what the Governor's Executive Budget amounted to, an All Funds budget amounted to.

SENATOR KRUEGER: I appreciate that. Again, I'm staying focused on the General Fund money now.

SENATOR DeFRANCISCO: Okay.

SENATOR KRUEGER: Okay? And then reductions to the General Fund between the Governor and Legislature's negotiations, a $21 million reduction from DAI litigation?

SENATOR DeFRANCISCO: I'm sorry, I --

SENATOR KRUEGER: That's okay. I

was just reviewing that we've reduced General Funds by $21 million in the DA litigation category.

SENATOR DeFRANCISCO: Correct. And the total of that column would be $54 million.

SENATOR KRUEGER: Right. I think we're actually looking at the same statistics.

SENATOR DeFRANCISCO: Yes, we are.

SENATOR KRUEGER: Okay. Thank you. So in fact the same chart shows that the net change in General Fund spending was $608 million added. Is that your understanding?

SENATOR DeFRANCISCO: That is correct. But the difference is in the health/Medicaid category, the $180 million of adds.

SENATOR KRUEGER: Yes.

SENATOR DeFRANCISCO: Those $180 million of adds were financed in the MRT by other savings. Because the Governor made certain that the MRT was an entity in and of itself. And as a result, if there were

additions, those additions had to be funded through other savings in that pot. And that bill will be showing up hopefully this afternoon.

SENATOR KRUEGER: Thank you.

So as I understand it, that $608 million chart is actually reduced to $428 million new General Fund spending, accepting your explanation that the $180 million health/Medicaid add is actually covered by something else in the MRT plan of the Governor. Is that correct?

SENATOR DeFRANCISCO: That's correct.

SENATOR KRUEGER: Thank you.

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

ACTING PRESIDENT GRIFFO: Senator Krueger, Senator DeFrancisco continues to yield.

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you. I appreciate it.

So I think we have established that approximately -- and we're in agreement on how

much the General Fund is and how much the All Funds budget is. How much of our General Fund spending is coming from the personal income tax in the new fiscal year?

SENATOR DeFRANCISCO: Two-thirds of the spending is financed by the personal income tax.

And we are opposed to the millionaire's tax. Because that's going to be the last part of your questions, I assume.

SENATOR KRUEGER: I didn't get to the punch line yet. Don't jump ahead of me. Mr. President, if through you you would tell him not to take my lines, please.

(Laughter.)

SENATOR KRUEGER: Could you ask the sponsor to clarify what the dollar amount to that two-thirds to General Fund projection adds up to?

SENATOR DeFRANCISCO: Approximately $50 billion.

SENATOR KRUEGER: Is two-thirds, thank you. What percentage -- Mr. President, if through you the sponsor will continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Whether we agree or disagree on the policy on taxes, I assume that includes the high-end-earners' supplement to our taxes through December of this year, is that correct? We are depending on that?

SENATOR DeFRANCISCO: We are depending upon the -- yes.

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: So two-thirds of the General Fund is received through the personal income tax. What percent of the General Fund is collected through business taxes? What percentage and dollar amount of the General Fund is collected through business taxes?

SENATOR DeFRANCISCO: Approximately 10 percent, I'm told.

SENATOR KRUEGER: Which would be approximately how many dollars?

SENATOR DeFRANCISCO: Five billion, with a B.

SENATOR KRUEGER: Thank you. And as follow-up, what percentage and what is the amount collected towards the General Fund from user fees and other taxes?

SENATOR DeFRANCISCO: Nine billion, 15 percent.

SENATOR KRUEGER: Thank you.

SENATOR DeFRANCISCO: We're giving you estimates. We could give you an exact sheet if you'd like. But we're giving you estimates at this point.

SENATOR KRUEGER: Thank you.

And what is the estimated revenue from the MTA payroll tax in this coming year?

SENATOR DeFRANCISCO: That's $1.4 billion.

SENATOR KRUEGER: Thank you. And does this bill propose any changes or repeals to any portion of the MTA payroll tax?

SENATOR DeFRANCISCO: No. It would have been much better if it wasn't imposed in the first place and we cut our spending over the last two years. But now

that we are stuck with that spending and we have such a high deficit, we cannot afford getting rid of that tax this year. Although we would love to.

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

Given that you've stated on the record you don't like the high-end-earner supplement tax, nor do you like the MTA payroll tax, what would you suggest we use to alternatively provide funds to the General Fund to pay for the budget that is being proposed here today?

SENATOR DeFRANCISCO: Well, the budget that's being voted on here today is properly funded. The revenues are sufficient to pay the indebtedness because of the cuts we made.

So there's two ways to take care of the budget this year. Number one is cutting spending, as is the case in this particular budget. And the best way to do it for future

years is to provide economic development incentives -- lower taxes, lower fees, lower the cost of doing business so we have businesses actually coming to the State of New York and, God forbid, making money and then, making money, hiring employees. The more employees, the more the tax base. The more the tax base, the less the burden on individuals because there's more individuals to pay taxes.

That's the way to do it. And that's what we tried to explain over the last couple of years. And fortunately, with a partner in the Governor, we're able to do it this year.

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

ACTING PRESIDENT GRIFFO: The sponsor continues to yield, Senator Krueger.

SENATOR KRUEGER: So despite the sponsor and I having differing opinions about how to collect tax revenue, I think -- but I don't want to put words in his mouth -- that he's actually agreeing with me that if we

didn't have the $1.4 billion in MTA tax or the revenue through December from the high-end-earner personal income tax, we would not actually be able to balance our budget and we would take much greater cuts. Is that a fair analysis of your statement?

SENATOR DeFRANCISCO: No, it is not. We would definitely be able to balance the budget. We may have had to cut more spending -- because of the increases in spending over the last two years, we might have had to cut more spending to reach the goal, but we would have done that.

But we felt that you had to make a balance in the first year of changing the financial direction of the state. There's a lot of pain in this budget. We didn't feel that it would be wise to do another $1.4 billion in pain for this calendar year, and we decided that this was the best balance. And the Governor, quite frankly, had a very similar, almost identical concept in his own budget.

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

yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Following up on your point, so hypothetically would the sponsor agree with me that if we were to continue the high-end millionaire tax beyond its sunset date we could actually end the MTA payroll tax? Would that be true?

SENATOR DeFRANCISCO: We hope to be able to end the payroll tax without raising other taxes. This side of the aisle has said repeatedly no new taxes, and that's what we meant, what we said. So by substituting one tax for the other doesn't, in my judgment, honor that pledge.

Secondly, one thing that's extremely important that hasn't been mentioned yet, and I was just reminded of it, the cuts we're making this year, including the caps on Medicaid and the other caps that are in the budget, it reduces next year's projected deficit from $15 billion to $2 billion. By

taking the hard choices now, the long-range deficit is decreased.

If we decided to take more money through any other tax, it would simply be another tax. It would contradict the economic philosophy of trying to create jobs in the state. But what we're doing now is already reducing the deficit next year by $13 billion. And hopefully some of the other things that are done in the budget will help create some jobs. And if economy kicks back in, maybe we won't have a deficit at all and we can start providing more funding for the groups that are no longer -- are not getting the funding that they were used to in the past.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

Senator Krueger.

SENATOR KRUEGER: Thank you.

So as I understand the sponsor's answers, there was a decision to continue the

MTA tax and end the tax for millionaires in the state, so that was a decision being made by this Legislature.

And I agree we would all love to reduce everybody's taxes and end taxes ultimately, except I just don't think we could to that and fund government and provide the public services we need.

So since the sponsor has explained that they don't agree with continuing the supplement on millionaires and they agree to continue the payroll tax, but they would like to end the payroll tax as well, where could we have cut an additional $1.4 billion out of the budget so that we could accomplish both your goals?

SENATOR DeFRANCISCO: Well, first of all, we can go through all types of hypotheticals and give you answers. However, we don't have to do that hypothetical.

And besides, you should probably know that the $1.4 billion in the MTA tax is revenue that doesn't go to the General Fund. If we cut that tax, it would not go -- if we kept that tax rolling, it still doesn't go to

the General Fund, it goes to the MTA. The MTA.

So we're comparing apples to oranges, a millionaire's tax that would go into the General Fund and an MTA tax that goes to fund one organization in downstate New York.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

So again, to follow the logic of this questioning, if we cut the $1.4 billion from payroll tax and didn't replace it with money from, say, the wealthiest earners in New York State, we would cut transportation, buses, subways, rails in the 12 counties in the MTA region instead. So in fact, that's the answer, that we would end up cutting those services throughout the population-heavy region of 12 counties?

SENATOR DeFRANCISCO: The MTA tax is not being cut here. So we're not cutting

services to the downstate residents. So I'm not sure where you're going.

That was imposed in order to fund one entity. And we didn't cut that. It's here. We're hoping in the future it can be done when the economy kicks in so we can find funding for the MTA -- and, God forbid, roads and bridges upstate as well -- from an economy that's got more revenues. So right now we can't do it. The revenue isn't there.

SENATOR KRUEGER: Thank you, Mr. President.

I think the point of this section of questioning was to highlight that we make decisions. We made a decision or we as the Legislature are making a decision, with the Governor, to end an existing tax on one segment of our population, the highest --

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

SENATOR KRUEGER: No, I will be following up with a question, thank you.

So we have -- as I understand the answers, we have made the decision to end the tax on the highest earners in New York State

and as a result have made a decision that we can't cut the MTA payroll tax. And of course we -- speaking for myself, we don't want to cut the transportation services.

But shifting to my next section of questions, if the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield for an additional set of questions?

SENATOR DeFRANCISCO: Yes, I will yield.

And by the way, we're not -- when that tax, the millionaire's tax was imposed, there was an expiration date. And an expiration date means the tax is over on that date. And all that's happening in this budget is nothing. We're not even addressing it. It expires according to the law that the majority passed last year to impose the millionaire's tax.

So we're not -- this budget is silent on the millionaire's tax. But it's loud and clear that we're not imposing a new tax. Which this would be by starting a new

millionaire's tax after the expiration.

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

SENATOR SKELOS: Would Senator DeFrancisco yield for a question?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, will you yield to a question from Senator Skelos?

SENATOR DeFRANCISCO: No.

(Laughter.)

SENATOR DeFRANCISCO: Yes. Yes, I will.

SENATOR SKELOS: Would the former chairman of the Finance Committee yield for a question.

(Laughter.)

ACTING PRESIDENT GRIFFO: Does the former chairman yield?

SENATOR DeFRANCISCO: Well, if you put it that way, yes, I will.

(Laughter.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Skelos.

SENATOR SKELOS: Senator DeFrancisco, I have been listening to the

questions being asked of you and the responses, and I just want to clarify something for myself.

The so-called millionaire's tax, which started at $200,000, people making $200,000, small businesses that have been negatively impacted, was that passed under all-Democrat control in this state?

SENATOR DeFRANCISCO: Yes. It was a party-line vote, Democrats yes, Republicans no.

SENATOR SKELOS: Was there an expiration date, just to clarify it, of that surcharge?

SENATOR DeFRANCISCO: December 31, 2011, correct.

SENATOR SKELOS: If I could, Mr. President, ask Senator DeFrancisco another question.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: The MTA payroll

tax, was that imposed on the MTA region when the Democrats controlled every branch of government in New York State?

SENATOR DeFRANCISCO: That is correct.

SENATOR SKELOS: Was there an expiration date on the payroll tax when it was passed by the all-Democrat-controlled government in New York State?

SENATOR DeFRANCISCO: There was no expiration date.

SENATOR SKELOS: So if I could just follow it up, and I'm sure you can answer it yes or no, there was an expiration date for millionaires but there was no expiration date for the payroll tax that impacts every person paying anything -- charities, school districts, not-for-profits, libraries, anybody that's paying the payroll tax, but there was no expiration date on that?

SENATOR DeFRANCISCO: That is correct.

SENATOR SKELOS: Thank you.

ACTING PRESIDENT GRIFFO: Thank you.

Senator Krueger.

SENATOR KRUEGER: Thank you.

ACTING PRESIDENT GRIFFO: You were asking if Senator DeFrancisco would continue to yield; correct?

SENATOR KRUEGER: I am. Thank you very much, Mr. President, I am asking --

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

SENATOR KRUEGER: Apparently there's some agreement about whether Senator DeFrancisco is still the chair. May I ask him some questions?

(Laughter.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Krueger.

SENATOR KRUEGER: Thank you. I'm delighted you're still in your chair, Senator.

For the record, theoretically, I appreciate Senator Skelos' point. This budget could enact an expiration date on the payroll tax, but I don't believe it does.

Following through with the next set of questions, what is the estimated debt for

this coming fiscal year that the state owes?

SENATOR DeFRANCISCO: You mean debt service, how much money has to be paid on the debt?

SENATOR KRUEGER: Okay. How large is our debt and how much is the debt service in this coming budget year?

SENATOR DeFRANCISCO: There's $52 billion of outstanding debt, $6 billion in debt service.

SENATOR KRUEGER: Thank you.

Mr. President, if the sponsor will continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

I think we will both agree that the debt nearly doubled in the last 10 years. Is there anything in this budget that provides for increased paying down of the debt?

SENATOR DeFRANCISCO: There's $250 million put in a reserve fund to reduce the outstanding debt of 50-whatever-it-was billion. Fifty billion? So it would be a

relatively small amount of reduction if those funds are used for that purpose.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to clarify for me on that question.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, would you continue to elaborate on that?

SENATOR DeFRANCISCO: I would be happy to elaborate on it as soon as they give me the answer.

SENATOR KRUEGER: So --

ACTING PRESIDENT GRIFFO: You may want to allow him to get the information before posing an additional question.

SENATOR KRUEGER: I am always happy to give Senator DeFrancisco time to get answers. I also get answers here from my side.

My understanding, then, is we're paying $6 billion of our state budget on debt payments?

SENATOR DeFRANCISCO: That is correct.

SENATOR KRUEGER: But we may be

actually be reducing that somehow by a speedier payment of up to $250 million in this fiscal year?

SENATOR DeFRANCISCO: Yes. Off the principal, I would assume. Yes, correct.

SENATOR KRUEGER: Thank you very much.

Excuse me, I am just moving on for one second.

We spend a lot of time talking about improving our budget from year to year. And we've actually, many of us on both sides of the aisle, carried varying bills to improve the budget process. Particularly in light of the amount of debt we're paying and what we are able to pay off or not pay off and whether taxes have expiration dates and the decisions that are made about which taxes stay and which taxes go.

Is there anything in this budget that incorporates generally accepted accounting principles, GAAP budgeting?

SENATOR DeFRANCISCO: Yes, we support GAAP budgeting.

SENATOR KRUEGER: Okay. But, I'm

sorry, to clarify, is this budget actually based on GAAP principles?

SENATOR DeFRANCISCO: It is not. You need three parties to GAAP. You've got to change the law. Our one-house bill did have a GAAP budgeting; it was rejected during the negotiations and did not happen. But we voted for it in the one-house budget, we support it, and we would like to see it happen.

SENATOR KRUEGER: I want to thank the sponsor. I think I may have some other questions -- you know what, I do have some other questions. I apologize. I have to go through more.

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

SENATOR DeFRANCISCO: I already told you I did.

(Laughter.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco will continue to yield.

SENATOR KRUEGER: You know, we have rules. Every once in a while we try to follow them here.

You went through the explanation of

the revenue bill before. Are there any changes that were made in this revenue bill from what the Governor originally proposed?

SENATOR DeFRANCISCO: Yes, there are. And if I could find my notes, I could answer your next question.

Okay, I have it. Thank you.

SENATOR KRUEGER: The question on the floor is what changes were made to this revenue bill from the original Governor's version to the version that we're being asked to vote on here today.

SENATOR DeFRANCISCO: On the memo that we handed out, Part A, for example, says the Legislature concurs with the Executive proposal but changes from three to five years the amount of time. There's one change for that.

In the next section we talk about amending the tax sheltering reporting to lower the number of years once again. That's for better oversight.

And we go on. Each section that says "concurs," if there's no -- we agreed exactly to what the Governor said. If there's

some amendment to it, it will be explained in each one of these sections.

And, for example, virtually the whole page 2 is concur, concur. But there are some changes, and each one is outlined. If there's a specific one you want to refer to, I'll try to answer any backup questions on it.

SENATOR KRUEGER: Thank you. Perhaps I'll fine-tune the question.

Did we actually reject any revenue increases from the original bill as proposed by the Governor to the bill we have before us today?

SENATOR DeFRANCISCO: Yes, we rejected one. There was some disagreement among our conference on that, but we did reject one. It's Section 8, limit the exemption provided for town or county cooperative insurance corporations. The Governor had some additional revenue coming from extending that tax to these types of insurance corporations, and the Senate rejected it. And the Assembly did as well, and the Governor agreed.

In addition, same with Quick Draw.

There was some additional revenue that was projected by the Quick Draw proposal that we rejected. The Assembly wanted to eliminate restrictions on hours -- no, the Governor wanted to eliminate the restrictions on hours and the types of foods that were provided and all of that in order to encourage more people to come in and I assume use the video terminals. The Assembly rejected that. It was a suggestion that that would bring in more revenues.

So those were the only ones that were, I believe, rejected in this bill.

SENATOR KRUEGER: Thank you.

If the sponsor would please continue to yield.

SENATOR DeFRANCISCO: By the way, we did not reject the millionaire's tax because the Governor didn't propose it. We concurred with him in not having it.

Yes, I'll be happy to continue to answer.

SENATOR KRUEGER: Thank you.

And I believe you did mention this in your opening presentation on the bill.

There was a change in the cigarette registration fee. How much money are we not collecting because that change was made?

SENATOR DeFRANCISCO: What I explained earlier was that the fee was going to be 1,000, 2,500 or 5,000 depending upon the gross sales of the establishment. The lawsuit was brought immediately, an injunction was placed on us collecting anything more than the existing fee of $100.

So in view of the court injunction, that's all we collected, was $100. Had we lost the lawsuit, that's all we would have collected would be $100 per establishment.

What was agreed to in the budget was an increase from $100 to $300, which was agreed to I believe to settle the lawsuit as well. And we'll be able to collect $300. So it actually results in tripling the revenue that we were receiving before this budget went into effect.

SENATOR KRUEGER: Thank you.

I appreciate the sponsor's answers to my questions. As I said, I may have some additional later, but I know that some of my

other colleagues would like to ask questions of the sponsor. Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Senator Rivera.

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields, Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President. I just want to make sure that the -- what you said before about the extended yielding is still in effect. So that's the only time I'm going to ask.

SENATOR DeFRANCISCO: That applies to you as well.

SENATOR RIVERA: Thank you so much, Senator DeFrancisco.

I want to actually follow up on a couple of the things that Senator Krueger asked.

First of all, and we keep obviously going back to the millionaire's tax. We've had a similar conversation before. And just to review, how much is the PIT surcharge? How much does the personal income tax surcharge produce in a year? How much is it expected to generate in a year?

SENATOR DeFRANCISCO: Four to $4.5 billion.

SENATOR RIVERA: Four to $4.5 billion. So let's say.

SENATOR DeFRANCISCO: But if millionaires leave, the revenue goes down and it goes to other states.

SENATOR RIVERA: Very well. But it is about $4 billion.

And the Senator yielded --

SENATOR DeFRANCISCO: Yes.

SENATOR RIVERA: The sponsor continues to yield.

Now, one thing I ant to clarify. This tax, this personal income tax surcharge is to taxable income as opposed to gross income tax, is that correct?

SENATOR DeFRANCISCO: Yeah, it's

your bottom line. Whatever your adjusted gross income tax is, that's what the tax would be on.

Well, we're having an argument about what adjustable gross income means. Taxable income.

SENATOR RIVERA: Taxable income is the one that we're talking about.

SENATOR DeFRANCISCO: I thought it was adjustable gross, but maybe I'm wrong.

SENATOR RIVERA: So the taxable income that would produce about 4 -- between $4 billion and $4.5 billion of revenue, we talked about a couple of different choices that had been -- because that is, in all honesty, what they are, choices. We talked, for example, you mentioned about bridges and highways, maintenance and other such things in upstate New York. Do you know how much this 4.5 billion would be able to cover of those things, of maintenance of bridges, highways and roads in upstate New York?

SENATOR DeFRANCISCO: Well, I don't have that number. But the fact of the matter is is that the tax, as we mentioned

before, is scheduled to expire and we're not imposing a new tax after December 31. We have used the funds, we will be using the funds until the expiration date.

SENATOR RIVERA: Thank you, Senator DeFrancisco.

It would probably be about nearly two years of state funding for bridges, highways, road maintenance and DMV operations. It would probably pay for all of that.

SENATOR DeFRANCISCO: Excuse me, if I could just make a point there.

SENATOR RIVERA: Please, Senator.

SENATOR DeFRANCISCO: We will have collected that $4.5 billion or $4 billion by the end of December of this calendar year, and we haven't fixed any roads, bridges, highways or whatever. It's been used for other stuff because of the spending that was out of control.

So theoretically you could pick any area of the budget that it could fund, but in reality it hasn't done that because of the other costs of government that fortunately are starting to be cut this year.

SENATOR RIVERA: So -- and thank you, Senator. And I agree with you, that obviously we're making different -- as was said before, we've made different choices about where we put our funding. But theoretically, as you accepted, it could fund nearly two years of state funding for bridges, highways, maintenance, et cetera.

SENATOR DeFRANCISCO: I'll stand by my last answer.

SENATOR RIVERA: Very well.

Would you also agree that it would cover maybe two years of state funding for foster care, adoption, childcare, child protective services?

SENATOR DeFRANCISCO: Again, I'll say that it could fund a lot of things. But it's not funding a lot of those things in view of the fact that it's being used for just general purposes in the state budget.

SENATOR RIVERA: Thank you, Senator.

So it could also fund 20 percent of the state aid to schools statewide.

SENATOR DeFRANCISCO:

Theoretically it could do that. But if you have a better tax structure, the long-term economic viability of the state creates more -- I believe and the Republican conference believes creates more jobs, more taxpayers, and in the long run more revenue.

SENATOR RIVERA: Thank you, Senator.

It could probably pay for 3 and a half years of social services for low-income families as well.

SENATOR DeFRANCISCO: The same answer.

But I just want to remind you of one point. Governor Paterson had the idea, at least before he changed his mind on this one -- and fortunately he did -- he had the idea of taxing -- of having a surcharge on bonuses of brokers on Wall Street. This was last year or the year before. And what happened was almost the day after, the governor of Connecticut starting making overtures to all the brokers in the City of New York to maybe just cross the border and enjoy the same electronic services that they

might have from their office in New York and not pay this additional tax for the bonuses that were imposed. Well, the Governor saw the light on that one and pulled it back.

So you can -- I think the same principle applies.

SENATOR RIVERA: But we are debating a -- Governor Paterson is no longer the governor. We're debating the choices that we're making now; is that correct?

SENATOR DeFRANCISCO: Yes. But the analogy is inescapable and so logical it is --

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

SENATOR KRUEGER: I'm sorry, could I ask Senator Rivera to yield for me to do a follow-up to Senator DeFrancisco on that question?

ACTING PRESIDENT GRIFFO: Senator Rivera has the floor at this point in time, Senator Krueger.

SENATOR KRUEGER: I was asking Senator Rivera to yield to me.

SENATOR RIVERA: I yield to

Senator Krueger. I will have a couple of questions afterward.

ACTING PRESIDENT GRIFFO: The chair is exercising great flexibility and latitude today, so I would ask the members to be mindful and respectful of that.

I will call on Senator Krueger. And, Senator DeFrancisco, will you yield to that question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you. Just a point of clarification, because Senator Rivera was not with us in the Senate last year.

I believe that Senator DeFrancisco's point actually referred to a proposal the Governor made to have a $50 million tax on hedge funds, not a bonus on brokers. And it was at that time that the governor of Connecticut made an invitation for the out-of-state hedge fund owners to bring their businesses to Connecticut, just for the record.

SENATOR DeFRANCISCO: Thank you. I'll stand corrected. But that analogy is as good as the one I gave. The same principle applies.

SENATOR KRUEGER: We don't agree on the analogy. But I just wanted to go on record to clarify what the issue was, because Senator Rivera wouldn't have been here to know what the issue was.

Thank you very much, and I cede back to Senator Rivera.

ACTING PRESIDENT GRIFFO: Senator Rivera.

SENATOR RIVERA: Thank you, Senator Krueger. Thank you, Mr. President.

If the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR DeFRANCISCO: Yes.

SENATOR RIVERA: Thank you, Senator DeFrancisco.

So as we have discussed, the PIT surcharge will sunset. And do you characterize this as tax relief?

SENATOR DeFRANCISCO: No, I characterize that as following the law and not imposing a new tax in this budget year.

SENATOR RIVERA: So it would not -- Senator DeFrancisco, it would not be relief for certain -- do you agree that there are folks today, and up to the 31st of December of this year that will have a surcharge on themselves and their families and will not have it after the 31st of December of this year?

SENATOR DeFRANCISCO: Unfortunately, it is the case that people over $200,000 -- that's small businesses, that's couples that earn -- that are clearly not millionaires at that level, are -- a tax is imposed upon them. And I agree with you that at the end of this year, when that tax expires, according to the law when it was supposed to expire, it will not be renewed or it will not be a new tax imposed.

SENATOR RIVERA: So you would characterize that as tax relief for these taxpayers?

SENATOR DeFRANCISCO: No, I think

it was an ill-advised imposition on taxpayers for the last period of time that it was in effect, and that we're going back to a more rationale approach as far as taxation in the State of New York.

SENATOR RIVERA: Correct me if I'm wrong, Senator, but as I understand the concept of tax relief, if there is a taxpayer that currently has a tax imposed on him or her, or a business, and then we in government act to take that tax away, that would be considered tax relief, would it not?

SENATOR DeFRANCISCO: That is correct. If there was a tax -- let's suppose we reduce the tax on the highest income owners by 1 percent. That's a tax reduction. That's tax relief.

This is not, because this is a tax that was going to expire. We're not giving relief, we're just letting the law expire. And we're not imposing a new tax.

SENATOR RIVERA: You obviously would disagree that by choosing not to extend it, we are not providing a tax relief.

SENATOR DEFRANCISCO: Well, by

that argument you could say by choosing not to create a 12 percent sales tax, we're giving people tax relief. Or not imposing an income tax of 50 percent of incomes, since we're not doing it, we're giving them tax relief. I don't buy that argument.

What I say is that this law expires. According to law, we're not going to impose another tax. That's not tax relief, that's letting the law expire. Because that's what the majority decided when your side was in control, that that was a tax that should have expired. It's going to expire.

SENATOR RIVERA: Thank you, Senator.

But do you know how much, on average, there would be a decrease, let's say, to the residents who have more than $1 million in taxable income, what the amount that they will pay in this year, how much less it would be in the following year when the surcharge -- if we let the surcharge expire.

SENATOR DeFRANCISCO: Well, the surcharge is going to expire. And the amount is the amount that would have been recovered

if a new tax was imposed on January 1 and that amount was $4 billion to $4.5 billion, as I discussed earlier.

SENATOR RIVERA: And it would amount to about $86,000 per taxpayer for those that have more than a million dollars in taxable income.

SENATOR DeFRANCISCO: I don't believe that. Someone much smarter than me is shaking her head. And I don't believe it either. If she doesn't believe it, I don't believe it.

SENATOR RIVERA: Someone much smarter than me told me that information. So we've just got to get those smart people together to kind of debate this thing.

But on average, the information that I have is that it would be approximately $86,000 dollar per individual that has a -- individual or family that has a taxable income of more than a million dollars.

But actually -- so let's talk about -- I want to ask you a few questions about the impact of the choices that we are making in this budget as it relates to

education or healthcare or public protection. There are some serious decisions that we're making in this budget to cut many of these. Is that correct?

SENATOR DeFRANCISCO: Very serious decisions.

SENATOR RIVERA: And I agree with you 100 percent on that, as well as the rest of my colleagues. These are very serious decisions.

Now, you argued that it was not tax relief. We will disagree on that. But I have a question. Of the taxpayers who are -- let's say a teacher making $50,000 a year, would he or she, having taxable income of $50,000, would he or she after December 31st of this year pay -- have a surcharge -- pay less taxes? Would they get what I consider tax relief -- and you would call something else, but would they have a tax relief --

SENATOR DeFRANCISCO: If they're not a $200,000 millionaire, then there would be no change in their taxes. But there may be a superintendent, maybe.

SENATOR RIVERA: But a teacher,

teacher. Or even, let's say, a correction officer, like the one that we were talking about in the last couple of days, him or her having $100,000 taxable income, would they pay less taxes after December 31st of this year?

SENATOR DeFRANCISCO: The people that were subject to the ill-advised millionaire's tax will be paying less when that tax expires by operation of law on December 31, 2011.

SENATOR RIVERA: So individuals that earn $30,000 a year, $50,000, $70,000, what have you, in all sorts of different professions across the state would not receive a tax cut, would not have a tax relief on their tax bill?

SENATOR DeFRANCISCO: Nobody is receiving a tax cut on December 31st. A tax that was in existence expires.

SENATOR RIVERA: And as it expires, it is being obviously -- since we are making the choice not to renew it, we are cutting it.

SENATOR DeFRANCISCO: Well, if you wanted to have a permanent millionaire's

tax -- or, excuse me, $200,000 millionaire's tax, that could have been made permanent. And then there would be a decision whether to get rid of it by a separate law.

The decision made by the majority party in the house last year or the year before, whenever it went into effect, was to make it expire. And it will expire, and we're not going to impose another such tax.

SENATOR RIVERA: So according to this logic we could choose to enact an expiration on the current rate -- we could say there's a rate for tax filers making less than $200,000, and we could actually set that to expire. We could say -- they're at a particular tax rate, we could say within two years we would then lower the tax rate for individuals making less -- having a gross taxable income less than $200,000 a year.

SENATOR DeFRANCISCO: You could choose to impose $14 billion in new taxes like the Democrat majority imposed over the last two years and end up with a $10 billion deficit this year. Or you could choose not to tax, not to overspend and not to overtax, and

the choices are -- there's clear choices. And there's a clear distinction between your position and our position.

Our position is we choose not to continue overtaxing and spending. And that's a choice in the long run that's going to benefit schoolteachers, children, and every other group that is now being hurt by this budget, because we're going to have a healthier economic climate in the State of New York in the long run.

This one year, two year thoughts on how to have policy has to stop. We have to look at the long term. And that's what I believe the Governor and now both houses, after the negotiations have been completed, are doing in this budget.

SENATOR RIVERA: So to speak a little bit about those individuals, then, that you just referred to, the teachers, the students, the children, the elderly who are going to be impacted by the choices that we're making here.

And by the way, I just want to clarify that all of us in this house

understand very clearly that responsibility and sacrifice are the two words that are kind of leading our entire conversation. We all understand that this has to happen, that we have to share the respond and the burden for some changes and that we have to sacrifice.

But let's talk a little bit about where that sacrifice is going to be, who is it going to be impacting.

In Senate District 57, I believe it's Senator Young, the -- and we had a similar conversation previously, but let me ask you this.

ACTING PRESIDENT GRIFFO: Senator Rivera, are you going to pose a question or are you speaking on the bill now?

SENATOR RIVERA: I'm posing a question. I'm posing a question.

On Senate District 57, are you aware of how many individuals would be impacted by the taxes that currently exist and will no longer have a tax burden on them after December 31st of this year?

SENATOR DeFRANCISCO: I don't know how many people in each Senate district

would be impacted by the $200,000 millionaire's tax. I have no idea. But I know there's people that are small businesses that may be making that amount of money that are paying taxes rather than investing their money in their businesses and hopefully create a better business to create jobs. I know that for a fact. I can't give you the numbers in each Senate district.

SENATOR RIVERA: In that particular district it would be 441 individuals of over 113,000 that filed taxes in that district.

SENATOR DeFRANCISCO: Are you -- is this a one million dollar -- is this starting at $1 million or a $200,000 millionaire's tax?

SENATOR RIVERA: Well, the PIT surcharge starting at $200,000 of taxable income, yes.

SENATOR DeFRANCISCO: Okay, thank you.

SENATOR RIVERA: As far as above a million, it would be 32 individuals.

We could actually go through many,

many districts, but I have just a few more questions and then I will speak briefly on the bill.

So do you agree that the rationale of the millionaire's tax -- or, I'm sorry, of the -- see, I'm buying into the messaging now -- the personal income tax surcharge on wealthier New Yorkers, the rationale of the establishment of it, of the enacting of it, was to help dig us out of a recession, was it not?

SENATOR DeFRANCISCO: That was your rationale -- I mean your side's rationale; I know you weren't here. Our rationale is the best way to dig ourselves out of recession is to cut spending and be able to have a government that is fiscally sound. Just like a family, when they lose income, they don't just keep spending, they actually have to cut things because they don't have the income that they had before. So it's a difference of philosophy.

SENATOR RIVERA: Certainly. And as you made clear earlier, there was a choice made between keeping the MTA payroll tax as

opposed to extending this one.

But let me ask you this. This is the question I have for you --

SENATOR DeFRANCISCO: The two are mutually exclusive. Because the millionaire's tax, the money goes to the General Fund. The MTA tax goes to the MTA. If we didn't extend the MTA tax, they wouldn't have the revenues they need to operate. So they either cut capital or cut operations, cut some routes down there. I don't know how they would deal with it. They wouldn't have the money. It wouldn't be an effect on the General Fund of the State of New York.

SENATOR RIVERA: So as someone who's obviously much experienced than I am in financial matters, do you believe that we are currently -- that we are out of a recession or we are coming out of this recession?

SENATOR DeFRANCISCO: I have no clue. I have no clue. You listen to six economists and they'll give you seven answers. I don't know. It seems like most of the pundits are saying that things are starting to move in the right direction, and then we end

up with a new war not started by President Bush. That's amazing. I thought -- you know, but in any event, that's another story. But there's a new war, gas prices are going up, who knows where this is all going to end.

But it seemed like the economy was moving in the right direction and then you have a disaster in Japan. So I don't know what that all adds up to.

SENATOR RIVERA: One last question for you, sir. And referring to the earlier district that I referred to, District 57, Senator Young's district, do you know how many folks file taxes in that district that actually have less than $50,000 in taxable income?

SENATOR DeFRANCISCO: What district is this?

SENATOR RIVERA: District 57. Senator Young's district.

SENATOR DeFRANCISCO: I don't know that.

SENATOR RIVERA: It amounts to almost 100,000 individuals. Less than $20,000, 53,000 people, so less than $20,000

of taxable income. From $20,000 to $30,000, 15,000. And from $30,000 to $60,000, 27,000.

So thank you. Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Rivera on the --

SENATOR DeFRANCISCO: Excuse me, may I --

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, you may respond.

SENATOR DeFRANCISCO: Would Senator Rivera yield to a question?

ACTING PRESIDENT GRIFFO: Senator Rivera, do you yield?

SENATOR RIVERA: Certainly. Not only that, I will yield to any question.

ACTING PRESIDENT GRIFFO: Okay. Senator DeFrancisco.

SENATOR DeFRANCISCO: Were you aware of the fact that low-income earners in the State of New York are given an earned income tax credit?

SENATOR RIVERA: Yes, sir.

SENATOR DeFRANCISCO: And were you also aware that the amount of earned

income tax credit paid by the taxpayers of the State of New York throughout the state last year was $915 million?

SENATOR RIVERA: I was not aware of that exact number, sir, no.

SENATOR DeFRANCISCO: And one other fact I will ask you if you are aware of, that of that $915 million, $800 million is not used just to offset the taxes that the taxpayer, the low-income taxpayer ordinarily would have to pay, the $800 million is actually in refund checks, in checks sent out to low-income taxpayers. Were you aware of that?

SENATOR RIVERA: Yes, sir.

SENATOR DeFRANCISCO: Okay. But my point simply being that low-income taxpayers, there's tax breaks for low-income taxpayers as well. So to say that the State of New York is not being fair across the board I don't think is quite correct.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Rivera on the bill.

SENATOR RIVERA: On the bill.

Well, first, I thank Senator DeFrancisco for the conversation and certainly for the debate. There are some basic disagreements that we have, and that is pretty obvious.

The first thing I'd like to say is that regarding that $800 million that we spoke about, $800 million is certainly less than $4.5 billion.

But I would like to just start by underlining something which I said during the questions that we were asking. And that has to do with two words that I believe each person in this house is very, very aware of as we debate this very important budget. Those two words are "responsibility" and "sacrifice."

We are all very aware that we live in tough fiscal times. And that we have to share the responsibility. And we have to share the sacrifice. And that is what we are talking about here today.

This bill that is before us does not create a situation in which the responsibility and the sacrifice is shared.

We must remember a few things. First of all, the federal government already gave a tax cut to wealthier people all across America. It was an extension of the Bush tax cuts.

Now we are making the choice, we are making the choice not to extend, not to extend a surcharge which would give us between $4 billion and $5 billion if it is at the current level.

And let's say that it's actually the other level, as a few members of your conference have suggested, and we make it a true millionaire's tax. That would mean that we would have $780 million in this next half of the fiscal year and $3 billion annually.

Now, we're being asked to make very tough choices about the education that our children get, about the healthcare that we have access to, about whether we're going to fix those bridges and those tunnels and those roads upstate, whether we're going to fund the MTA and other mass transportation systems downstate. We're making very tough choices here. But unfortunately we're not having a conversation about how those tough choices are

going to impact the majority of the population.

In my district, of those numbers that I spoke about before, there's only 391 individuals that would impacted by the continuation of this surcharge. Over 50 percent of the people that live in my district are taxpayers that have less than $20,000 of taxable income. Now, certainly if they file their taxes they get an earned income tax credit.

But to make the argument that in the City of New York and in the State of New York to have $20,000 of taxable income as your income, and that that would give you the ability to give to your family, to take care of your family and to thrive -- everybody always is in different financial -- you know, financial situation of different people. We know that there's people that struggle. And those people that struggle want and need access to some of the services that we provide as a safety net. And those are the ones that we are cutting today.

These are tough choices. The

responsibility and the sacrifice must be shared.

Just a few numbers and I will finish. In the district that I spoke about earlier, in District 57, 441 individuals. In Senate District 60, Senator Grisanti's district in Buffalo, 578 individuals. In Senator Maziarz's district, District Number 62, 619 individuals.

Now, as I stated in our former debate, I have not seen the hard evidence that tells me that these are the people that are leaving. The people that are leaving this state are people that cannot afford to continue to live here. They're not the folks, they're not the folks that would be impacted by this.

And let's say we put a true millionaire's tax, as we call it. These folks are not going leave. We would extend the same thing that they are paying right now. And I have said it before, this is not a new tax. We are not imposing something that they are not paying at this moment.

Ladies and gentlemen, I would only

ask that you consider one more thing. This budget is going to pass. On this bill in particular, even though it is a paradox, I will be voting in the affirmative. The reason I will be voting in the affirmative is because I believe that there are things in here that will fund at least to the level that they need to be funded. But I do not believe that it produces enough revenue for us to lessen the impact on the communities that most of us represent.

The majority of the individuals that we represent are going to be impacted by this, and this bill unfortunately does not provide enough revenue. But we still have an opportunity. I do hope that after this process is done that we can come back to this house and continue to have this conversation. And before December 31st you consider the impact that it had in your schools, in your hospitals, in your police departments, that we come back here and we say we have -- we can establish something where responsibility for the pain that we have to go through is shared, that the sacrifice that we have to take is

shared.

I thank you for your time today. And I will just finish with this one thing. Remember that we are making choices here. This is all about choices. And we can make some choices in the near future that will have an impact on the choices that our constituents make so that they don't have to be impacted as negatively as they are by some of these cuts. Shared responsibility and shared sacrifice.

Thank you, Mr. President.

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

Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President.

If Senator DeFrancisco would yield for a few questions, please.

SENATOR DeFRANCISCO: Yes.

SENATOR SQUADRON: Thank you very much.

Senator DeFrancisco, is there an increase this year, year to year, in the low-income housing tax credit in this budget?

SENATOR DeFRANCISCO: Yes, there

is. And I believe it's in the revenue bill summary someplace.

SENATOR SQUADRON: I believe it's Part F.

SENATOR DeFRANCISCO: Part F, you're right. Okay, yes.

SENATOR SQUADRON: Would Senator DeFrancisco continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: He will yield.

SENATOR SQUADRON: And that increase is $4 million. And is it true that the low-income housing tax credit is a tax credit that encourages the creation and expansion of low-income housing in New York State and that this would be a $4 million increase, close to a 20 percent increase in the program for this coming year?

SENATOR DeFRANCISCO: Yes, it's correct.

SENATOR SQUADRON: Thank you.

Would Senator DeFrancisco continue to yield?

SENATOR DeFRANCISCO: Yes.

SENATOR SQUADRON: Thank you.

SENATOR DeFRANCISCO: I've been informed it's been increased every year. Each Governor proposes this, such an increase.

SENATOR SQUADRON: Thank you.

And let me ask -- and I was struck by the conversation between Senator Rivera and Senator DeFrancisco because of how important it was to make clear that there is no tax relief in this bill, which is a different sort of argument than we often have on this floor. And certainly the low-income housing tax credit is something that's meant to provide relief to people of low income who need housing.

Let me ask Senator DeFrancisco, is there anything in this budget bill that gives relief or extends relief to renters in the City of New York who are covered by the Emergency Tenant Protection Act?

SENATOR DeFRANCISCO: No. Nor are there any relief for renters in upstate New York either.

SENATOR SQUADRON: Thank you.

Would Senator DeFrancisco continue

to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR SQUADRON: Thank you.

And is there anything in this budget that would provide property tax relief to folks who own homes anywhere in the State of New York?

SENATOR DeFRANCISCO: No. We passed the property tax cap, but that -- and had it as part of our one-house budget, but there was no three-way agreement on that.

SENATOR SQUADRON: Thank you very much.

On the bill, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Squadron on the bill.

SENATOR SQUADRON: Thank you very much.

As Senator DeFrancisco says, there isn't tax relief in this budget for the 2.5 million renters who, thanks to the state government, basically have what is, in effect, protection from the state government that will

be a massive, massive tax increase for them if rent regulations are not extended and expanded. That's not in this budget.

And similarly, a year ago and two years ago we heard an enormous amount about property tax relief and the need for property tax relief. We heard it both here on the floor and around the 62 Senate districts. And as Senator DeFrancisco says, there's nothing in this budget that provides property tax relief across the state.

It's a tough, tough budget. And the increased low-income housing tax credit is something that the Governor and the Assembly and the Majority Leader and the members of this house deserve an enormous amount of credit for and we're appreciative of. But we need relief for people who are having trouble staying in their homes, whether they're renters in the downstate region or the upstate region, or homeowners in the downstate region or the upstate region. And we just simply don't it have that relief in this bill.

It's not always possible. Certainly the last two years it was very

difficult as well. I just wanted to highlight that again in this budget it's been very difficult to provide that relief.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger, do you wish to speak?

SENATOR KRUEGER: Thank you, Mr. President, I do. And I appreciate that you noticed I jumped up too quickly before my colleague Senator Squadron.

If the sponsor would continue to yield, please.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you.

Senator DeFrancisco, we're here talking about the revenue bill, where we collect taxes, where we don't collect taxes, how we pay for the programmatic expenditures of all the other bills.

Do you know how much we don't collect because of tax expenditures in our tax

and budget code, or how much we expect not to collect due to the tax expenditures we have on the books in New York State?

SENATOR DeFRANCISCO: How much -- how many taxes are due that are not collected?

SENATOR KRUEGER: When we pass laws, we pass laws to collect taxes and revenue, as we've been discussing this morning, and we also put into law different tax expenditures, credits, even refundable credits in our tax code, do you know what they total for the coming fiscal year?

SENATOR DeFRANCISCO: I don't know. The only one I'm sure of is the $915 million for the earned income tax credit. But I'm sure there's substantially more than that. And if you would like that number, I'd be happy to get it for you.

If you're suggesting that -- to eliminate some of those tax credits, that's a policy decision and dependent upon the tax credit and what advantage that credit has done as far as creating business. There's tax credits, as I discussed before, additional ones in here for those areas that are going to

be affected by prison closures.

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you. And I agree, my question was a hard one. I have before you the Annual Report on New York State Tax Expenditures, and it's a fascinating document. But they actually forget to add up all the dollars from each of the programs. And it's a multi-hundred-page document. But I actually went through and added them up. And it's $29 billion in the 2010-2011 year. They don't have, obviously, the final report going out of this budget.

But I'm curious, are we discontinuing any of the tax expenditures in this budget?

SENATOR DeFRANCISCO: You know, I'm sorry, I just don't understand the question. Discontinuing tax expenditures? What are -- I don't know that what means, I really don't.

SENATOR KRUEGER: Okay. So every

year -- Mr. President, through you, may I explain? I believe I'm answering a question.

ACTING PRESIDENT GRIFFO: You may explain, Senator Krueger.

SENATOR KRUEGER: Thank you so much.

Every year we do a budget and we put in revenues and we reject revenues. We've been having that discussion now on the floor for quite a while on this bill. And we also put in tax expenditures. As Senator DeFrancisco just pointed out, in this budget bill or bills there is a new tax credit opportunity tied into the regional economic development groups. There's also some model for tax credits to assist communities that may be losing prisons. So those are two we're adding.

But these would also be a place in the revenue bill where you would potentially discontinue programs. As has been discussed multiple times, there are expiration dates on lots of programs. There was an expiration date, as discussed, on the high-end supplement. There's expiration dates on any

number of different programs or enactments of permanency for any number of different programs in the budget.

So I'm asking have we discontinued any of the tax expenditure programs within this revenue bill.

SENATOR DeFRANCISCO: I -- once again, the term "tax expenditure," I don't get. If you're meaning tax credits, if you're meaning deductions of taxes for mortgage payments or various -- or at one time we had a clothing tax moratorium. We don't have that anymore.

Are you talking about tax expenditures meaning the credits and benefits given on a tax return to people?

SENATOR KRUEGER: Mr. President, if the sponsor would continue to allow me --

ACTING PRESIDENT GRIFFO: The sponsor yields. Senator Krueger, I would ask that you be explicit in your questioning, please.

SENATOR KRUEGER: Yes, thank you.

The tax expenditure budget is right there. The state defines tax expenditures as

provisions in the tax code such as exclusions, deductions, credits, deferrals that are designed to encourage certain kinds of activities or to aid taxpayers in certain special circumstances.

Some tax expenditures are designed to accomplish certain public goals and should be evaluated in the context of the loss to state revenue versus the public gain from allowing them to have, again, exclusions from their taxes, deductions from their taxes, tax credits from the state or deferrals for paying their taxes. That's the definition in the tax expenditure report.

SENATOR DeFRANCISCO: Now that I understand the issue, what is the question?

SENATOR KRUEGER: Thank you. In this year's budget, in this revenue bill are we in fact reducing any of the tax expenditures?

SENATOR DeFRANCISCO: No, we're not.

SENATOR KRUEGER: Thank you.

SENATOR DeFRANCISCO: And if some of those tax expenditures, as defined, are bad

policy decisions, that certainly could be the topic in a budget season. And it's probably a fair topic in a budget season. The only tax issue that I've heard is the millionaire's tax being discussed.

But if there are some of those that should, at least arguably, be eliminated, that should be proposed by anyone in the house that might want to do that. Unfortunately, it's a little late at this point.

SENATOR KRUEGER: Thank you, Mr. President.

Well, in fact that is the point I am getting at. And I appreciate Senator DeFrancisco's answers to my questions. So I'll speak on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill for the second time.

SENATOR KRUEGER: Thank you.

So this is a revenue bill, which means we're supposed to be evaluating -- the State Legislature, the Governor -- where we get our revenue to spend the money on important public services. And we know that we're talking about cutting $10 billion out of

the budget. And we have heard extensively back and forth about one specific item that some people think we should be extending or redefining specifically for millionaires moving forward when the existing law expires.

But we're at the date where we're being asked to vote for this budget. And I am extraordinarily disappointed that in very difficult economic times, with a new commitment to remodeling how we do state business and state government, we completely ignored the $29 billion on the table that the State of New York decides in its wisdom -- or perhaps not always such good wisdom -- not to put on the table as a mechanism to collect revenue and avoid making some of the very large cuts we're making to our programs.

And I have spoken on this many times. I ran a committee, no longer, but on tax and budget policy. It came out with any number of reports that were nonpartisan or bipartisan reports supported by my colleagues. We did a specific report on property tax exemptions and exclusions. I will highlight Senator Bonacic's excellent work on that issue

over the years. When you exclude certain people from paying their property taxes, as we know, somebody else has to make that up or you cut other services.

We did a tax report on the inequities in tax policy when it came to telecommunications, the fact that satellite TV companies don't actually pay taxes in New York, while cable TV companies, because they have a cable in the ground, do. And it's an equity question and it's also a question of whether we collect revenue or we don't, whether we then have to cut our schools because we're not collecting revenue.

We have -- I heard earlier, in response to a question on the bill, from the sponsor that we collect $9 billion in business taxes. And in fact many people argue our business taxes are too high and are discouraging people from staying in New York or starting new businesses in New York. But we also have over $5 billion in business tax exemptions or expenditure deferrals or even credits for businesses in New York State, Mr. President.

And I asked the question and I think all of us should be asking the question, in a time when we're talking about cutting billions from education and healthcare and human services and we're telling localities you're on your own for many issues where you've depended on the state for help before, that they're asking and I'm asking why didn't we look at any of those items -- $29 billion that were on the table in our law that we could have explored collecting money from.

General Electric -- we of course don't know anything about individual companies' tax returns, and I am not privy to them. No one here is, but there was a recent spate of articles about the fact that General Electric, a very large corporation with a large presence here in New York State -- and I'm glad they're here in New York State, I'm sure we all are -- they had $15 billion in profits -- and I'm delighted. They don't pay any taxes. In fact, they got $3 billion in refunds or credits without paying any taxes.

Now, when you analyze the tax expenditures at the federal level and the

state level, you actually see that the vast majority of them go to large corporations and large businesses. And I hear from my colleagues every day that the help that is needed, and I want to provide it, is to small new businesses, medium-sized businesses who technically are the job creators and the job engines for our economy.

So I am disturbed that we're not doing any evaluation of the good, the bad, the ugly in our tax expenditure tax code. And I am disturbed that we are moving forward to get an on-time budget -- and I respect the importance of that -- by cutting billions of dollars without asking the questions about money that was on the table and perhaps more fairly and equitably should be paid to the State of New York so that we weren't just arguing about one tax question, a millionaire's tax, we were asking the hard questions about billions of dollars in revenue that we, the State of New York, have decided to give as tax credits, deferrals, refundable money back to businesses without asking the hard questions: Is that the right answer in

bad economic times? Is that the right answer in job creation?

So I really wish -- I'm sorry, Senator DeFrancisco --

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

SENATOR DeFRANCISCO: Would Senator Krueger yield to a question?

ACTING PRESIDENT GRIFFO: Senator Krueger, will you yield?

SENATOR KRUEGER: Happily, Mr. President.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: We've had a process that's gone on for some time now since the Governor released the budget, including conference committees and the like. We're now passing the budget. The question is, any of those tax expenditures in your book that you've got there with over a hundred pages, did you or anyone else make any suggestions to anyone to remove any of those tax expenditures from the budget or give reasons why they should be or advocate for any of those

specific items that you're now talking about that you're upset that are not in the budget?

SENATOR KRUEGER: Yes, Mr. President, I did.

Now, of course I moved into the ranker position quite late in the process. But I actually submitted all of the reports from our tax committee, many of which focus on specific tax expenditure issues and the questions, to the Governor, Lieutenant Governor and both houses.

And in fact I also submitted my proposal to ensure that we evaluate the value and the cost of tax expenditures on a regular basis, each and every one of them to be included in the budget.

Earlier I asked some questions about did we have GAAP budgeting in this budget, did we include performance-based budgeting. And some people might remember that the Senate Democrats carried a package of budget reform that also included evaluating the effectiveness and the cost to the State of New York of tax expenditures.

So I did make sure in this new year

to move that package through to everyone who might have a role to play in this.

SENATOR DeFRANCISCO: Would Senator Krueger yield to another question.

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

SENATOR KRUEGER: Yes.

SENATOR DeFRANCISCO: My question is were there any specific tax credits, any specific deductions, any specific use of -- or tax expenditures, as the term is defined, that you proposed to anyone in order to include in this budget?

SENATOR KRUEGER: Yes. As I said, there was a package of materials that included individual proposals. But I -- in follow up, when I say that they are not here, I would agree, in a both houses and the Governor, these were not put on the table to going into this budget.

SENATOR DeFRANCISCO: And did you provide me one? Because I honestly do not remember.

SENATOR KRUEGER: And I honestly don't remember whether you were on the list

either. But I will certainly happily make sure you get the package. But I'm not sure you were cc'd.

SENATOR DeFRANCISCO: Okay, thank you.

ACTING PRESIDENT GRIFFO: Senator Krueger, are you concluding comments now?

SENATOR KRUEGER: I'm continuing on the bill.

ACTING PRESIDENT GRIFFO: I think you were close to conclusion?

(Laughter.)

SENATOR KRUEGER: Yes, sir, I am. I know you're fascinated by what I'm going to say, so I am sure that you're not really rushing me.

Excuse me, Mr. President, you made me lose my train of thought.

So in conclusion --

(Laughter.)

SENATOR KRUEGER: -- having gone through so many issues of why I know we could have done better on this most important fundamental assignment, the revenue for the State of New York, the revenue we could, with

a better revenue bill, be collecting, that would have ensured that without raising taxes -- because these are special exemptions and credits that never get looked at each year the way we look at every other program -- without ever really doing the homework asking the questions which I have been urging for years, under Republican and democratic Governors and under Democratic and Republican leadership in these houses, that in this year where we have said we're doing business a new way, we are dealing with the third-rail issues in budgeting and government that haven't been dealt with, that we could, we could have come up with significant revenue to help pay for the public services we need. We could have come up with alternatives that would have ensured we weren't taking such huge cuts to education, higher education, human services, agriculture, so many programs that people care so much about.

And because of that, because we flunked a critical test for me, I find myself determined that I must vote no on this bill.

Thank you, Mr. President.

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

Seeing none, the debate is closed.

The Secretary will ring the bell.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Are we ringing the bell at this time?

ACTING PRESIDENT GRIFFO: The bell is ringing.

SENATOR LIBOUS: Thank you.

ACTING PRESIDENT GRIFFO: I would also like to remind members at this point in time that this will be on explanation of votes, and we will be looking to Rule 9(3)(e) for a two-minute explanation.

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: 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 Adams to explain his vote.

SENATOR ADAMS: Mr. President, I'm going to vote no on this bill.

And again, you know, New York State is a family, and all families should share the pain. One aspect of the family should not be better off than the other.

The consistent tone that has resonated during this budget is that this is a tough budget. That has been a consistent tone. The only group in New York State who cannot say that are the millionaires. The only group that can't say this is a tough budget are the millionaires. That, to me, is astonishing. Alex Rodriguez just bought a condo, paid $6 million for that condo. Only $1,200 in property tax he's going to pay -- $1,200, when he's supposed to pay $60,000.

That which is normal has become abnormal, and that which is abnormal has become normal. When you advocate on behalf of schoolchildren, they're special interests. When you advocate on behalf of Alex Rodriguez,

you're a special person. I'm not going to accept that.

This is a terrible budget. At a minimum, we should have had millionaire's continued and extend this tax. I am not going to vote for a budget in a year when we all have to give back and the only group that doesn't are the millionaires in the State of New York.

That's not the legacy that I'm going to live, and that's not the legacy that the people who sent me to Albany expect me to vote on. This budget is wrong not to force millionaires to pay their fair share during these tough and difficult times. I vote no on this budget.

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

I remind the house to please keep order so that we can hear all of the members speak.

Senator Young to explain her vote.

SENATOR YOUNG: Thank you, Mr. President. To explain my vote.

You know, I listened intently to

Senator Rivera argue in favor of taxing the 60,000 small businesses in this state. And he used the argument that, oh, gee, there's only 441 people who would qualify, under the personal income tax surcharge, in my district. That's true. And, Senator Rivera, we used to have more. But they've been driven out of the state. I've lost small business after small business.

And I'll give you just one example. A month ago a company by a name of Luminite, a family-owned business that's been in the City of Salamanca for 85 years, decided to move out of New York State. And they said to us, "You know what, we know some people in Albany like you and the Governor are trying to change the business climate, but we can't take the heavy taxes anymore. We can't take the heavy regulations anymore." So they're picking up their company and they're moving it across the border in Pennsylvania, along with their 60 jobs, which hurts my constituents.

You talk about people not being able to afford to live in New York State? That's true. And I guess I'm not surprised to

hear you argue in favor of continuing to tax, because that's what that side of the aisle, the Senate Democrats, have consistently done over the past two years. You raised 124 new tax and fees, $14 billion in taxes and spending at a time when people could least afford it.

Senator Squadron talks about property tax relief and how important that is. I think that's a farce, because last year you took away and the year before you took away people's property tax rebate checks that gave them property tax relief.

People can't afford to live here because when they have trouble paying their utility bills, you tax them even more. When they have trouble paying their property taxes, you tax them even more. When they have trouble paying their health insurance premiums, you tax them even more. You taxed them on their motor vehicle registrations. One hundred twenty-four taxes that you imposed on people.

In Western New York we have lost tons of population. And in fact, in

Charlotte, North Carolina, it's now known, nicknamed Little Buffalo because so many people have left.

We've got to turn this state around, and that's what this budget is about. Because it's sending a clear message to the people of this state and the people of this country that this heavy taxation will not continue. We are changing the direction of the state --

ACTING PRESIDENT GRIFFO: Senator Young.

SENATOR YOUNG: We are focusing on revitalizing the economy, helping our small businesses. And that's why I'm voting yes on this bill.

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

Senator Peralta to explain his vote.

SENATOR PERALTA: Thank you, Mr. President. I commend the Governor for about to get an on-time budget. I agree with parts of it, I disagree with other parts. But as responsible policymakers, we know that

being on time is just one part of what makes a good budget. The other part, the more important part, is whether the budget accurately represents our best ideals and highest priorities.

I do not believe that this revenue bill represents what most New Yorkers want. In fact, I believe this revenue bill will hurt our future competitiveness and place further burdens on the backs of our most vulnerable and our middle class.

So what happened to the notion of shared sacrifice? Actually, only the wealthy will benefit from this revenue bill. The failure to extend a temporary surcharge on the highest income earners is deplorable. We're about to pass a devastating cut to education that could largely have been avoided with the temporary extension of the high-income-earners surcharge. Providing a tax cut to millionaires while laying off teachers and cutting education programs hardly seems to be shared sacrifices.

And most New Yorkers agree with me. A recent Marist poll found that 64 percent of

state voters support extending this surcharge. And this same poll found that as people's income increases, so does their support for the tax.

Moreover, the Fiscal Policy Institute found that as a result of the Bush tax cuts extended in December, those whose incomes are over $1 million will pay an average of $34,000 less in taxes.

And this is not just a moral question, it's an economic one as well. One of the most important ingredients in growing our economy long term is a strong education system. These cuts could have long-term ramifications.

Yes, my colleagues, spending cuts are necessary, absolutely. But so are common sense and compassion, and that's what we need to have here today.

I will vote nay on this bill.

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

Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President.

Once again, the poor, the working-class and middle-class New Yorkers of this great state are saddled with the responsibility of balancing the budget, of plugging the deficit. Much has been said about the disparity in the approach, how the mobility tax, also known as the payroll tax, imposed on 12 counties across the State of New York has continued. This is a tax that affects small businesses, charities, not-for-profits, people that are providing goods and services in the 12 counties serviced by the MTA. But of course the millionaires get a break.

Aid to municipalities is cut. And this is funding that often goes to the poor and working class, assisting them with programs that are vital to their existence in those municipalities. But of course the millionaires get a cut.

Cuts to education and Medicaid, we will be discussing those as we move forward. And while the big CEOs of the pharmaceutical companies and the big CEOs of the insurance companies and the bankers benefitted from the

stimulus package and the extended Bush tax cuts, these cuts will have a disproportionate impact on working-class and middle-class New Yorkers. And again, the rich get a cut.

Shared sacrifice? Shared responsibility? Sharing the pain? Not a chance. The rich will continue to get a break. The rich will continue to get a cut. They will not leave in droves. The Metropolitan Opera House will still be housed in Manhattan. The Metropolitan Museum of Modern Art will be still on Fifth Avenue. Folks will not leave in droves. They have not left in droves. They will still continue to gravitate towards the cultural centers of New York City and New York State. But they will continue to get a cut.

ACTING PRESIDENT GRIFFO: Senator Espaillat, how do you vote?

SENATOR ESPAILLAT: I will be voting in the negative, Mr. President. Thank you.

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

Senator Carlucci to explain his

vote.

SENATOR CARLUCCI: Thank you, Mr. President.

First I just want to commend Governor Andrew Cuomo and my colleagues here in the Legislature for specifically amending the Excelsior jobs program. Specifically in there, amending the new jobs tax credit to make it a percentage of the wages paid, I think is extremely important in rewarding quality employers that are really providing quality jobs and high-paying jobs to New Yorkers. New Yorkers deserve great-paying jobs, and they need them right now.

And specifically when we talk about taxpayers, this program is putting a return on investment for taxpayer money that's going to companies that in return will provide great-paying jobs.

Another great program here is by increasing the tax credits for research and development. This positions New York to be the leader when it comes to emerging technologies, to high-tech companies. With research and development I believe we can be

the leaders not just in this nation, but in the global economy.

So, Mr. President, I'll be voting in the affirmative. Thank you.

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

Senator Kennedy to explain his vote.

SENATOR KENNEDY: Thank you, Mr. President. Please record me in the negative on this vote.

Our state is in a severe fiscal crisis, we're all very well aware of that. And our government is taking many steps to get our fiscal house in order. And at the same time, New York's middle-class families and small businesses are overburdened with taxes. They're desperate for tax relief.

I rise today because the hardworking men and women of Western New York and all of New York State have been clamoring for us to help them make everyday life more affordable as they struggle to make ends meet. This bill does not ease the tax burden they've been enduring. It does, however, provide a

tax bailout for Wall Street millionaires.

As I've said, the budget takes money away from Western New York's families, students and seniors and sends it directly in the pockets of Wall Street millionaires. It gives a tax break for millionaires while the rest of our state, especially middle-class families, are forced to pay the same but get less.

With New York's business tax climate known as one of the worst in the nation, wouldn't it make more sense to target tax relief to struggling small businesses rather than giving hefty tax breaks to millionaires?

What about Western New York's middle-class families? They're bearing the burden of this budget deficit because their taxes remain high while services they rely on, like their kids' schools and their kids' educations, are suffering severe cuts.

This budget plan fails to implement a tax cap, guts education funding, and gives a tax bailout to millionaires. In the Cheektowaga-Sloan School District, one of --

which I represent, the school board has cut the fat, cut through the muscle and now they're stuck trying to cut through the bone. They've cut to the point where they really can't cut anymore, and now they're forced to consider depleting educational programs.

In the Hamburg, West Seneca, Eden, Lackawanna and Buffalo School Districts that I represent, the financial outlook is just as dire. But by simply holding the line on taxes for millionaires, as this budget does, with taxes for the rest of the state --

ACTING PRESIDENT GRIFFO: Senator Kennedy, how do you vote?

SENATOR KENNEDY: I vote no because this bill takes money away from Western New York families and puts it in the pocket of Wall Street millionaires.

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

Senator Parker to explain his vote.

SENATOR PARKER: Thank you, Mr. President. Within two minutes, to explain my vote.

I'm actually unfortunately voting

no on this revenue bill. I'd like to be voting yes, but -- and I think my colleagues have made the point very aptly that this revenue bill in particular is unacceptable because it balances the budget on the backs of the most vulnerable people in our society -- on schoolchildren, on people with disabilities -- you know, and there's no fairness in it.

You know, I can go on and on, as my colleagues have indicated, about the fair share tax plan that we're now abandoning, something that would actually give us an additional -- forget this year, next year it would provide $5 billion in the budget and would actually give us a surplus of $2 billion simply by just doing what is fair to the taxpayer.

And we could do that simply -- in fact, we ought to restructure it, frankly, and not start it at $200,000, we ought to probably raise it to $750,000 or maybe even make it a million. But we certainly ought to have that surcharge in place to in fact do the right thing by the people of the State of New York.

I want to just, you know, have Senator Young just be correct about this. Because I'm from Brooklyn, and we have an expression there about keeping it real. And to keep it real, from 1989 to 2008, under Republican control, taxes went up in this state by $131 billion. Let me say that again. Under Republican control, taxes went up by $131 billion from 1998 to 2008.

The STAR program in this budget is being cut by $125 million. In this budget that you're voting for today.

So I want to make sure that everybody knows what we're doing in this budget and why I'm voting no. Because that's the wrong choice for my community. And it's the wrong choice, frankly, for your communities.

And I put out some things that we ought to do. We could have actually collected 10 percent of the stock transfer tax, and that would have gave us $1.5 billion. We could have done -- you know, gotten rid of a number of the tax loopholes that we find, you know, for corporations --

ACTING PRESIDENT GRIFFO: Senator Parker.

SENATOR PARKER: -- and we could have collected some money on that.

So there were lots of the options that we said no to, and that's why I'm saying no to this revenue budget, Mr. President.

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

Senator Ball to explain his vote.

SENATOR BALL: I'll be voting in the affirmative. And I'll just give a little background.

I have a white collar today, but my collar is as blue as it comes. I grew up, my parents were caretakers on the Kennedy estate, Jean Kennedy and Steve Smith, in Pawling, New York. First in my family to graduate from college.

You know, it may sound fun that we were caretakers on the Kennedy estate. That meant that we got to cut the grass and, when they weren't around, get into the swimming pool. When we weren't there, my parents went paycheck by paycheck, we lived in my

grandmother's basement. Now, I'm not talking about a furnished basement, I'm talking about concrete, little tiny windows, bedsheets up instead of walls. That's how I grew up.

Now, we're talking about Bush tax cuts. Bush has -- he's not president anymore, folks. And these tax cuts have nothing to do with George Bush.

On the MTA payroll tax, which really affects my district, at the end of the day that issue certainly has to be addressed. We had an opportunity in this budget to do that. On our side we fought for a forensic accounting of the MTA. It would have been nice to have your support on that.

And moving forward for a full repeal of the MTA payroll tax, it's going to be important that you walk over to the other chamber to make sure that it's a priority just like it seems to be a priority in the debate today.

Furthermore, on the tax cap, we have got to address the crisis of the property tax. But you have to understand something very real about what's been called the

millionaire tax today, folks making between $200,000 to a million dollars a year. Many of these folks that live in my district, these are the people who are creating the jobs. They have dirt under their fingernails. They are being forced out of the state. They are losing their businesses. We have lost 1.8 million New Yorkers.

You can blame the Senate majority for what you call a millionaire tax. It is not a millionaire tax. It's a job-killing tax. And at the end of the day, it's your governor, Governor Cuomo, who stands solidly on this issue because he knows that we have no future in this state continuing to be number one in all the wrong ways -- number one in killing jobs, number one in taxing, number one in outmigration.

ACTING PRESIDENT GRIFFO: Senator Ball.

SENATOR BALL: People are voting with their feet --

ACTING PRESIDENT GRIFFO: Senator Ball, how do you vote?

SENATOR BALL: I vote yes. Thank

you.

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

Senator Fuschillo to explain his vote.

SENATOR FUSCHILLO: Just briefly. Thank you, Mr. President. And let me thank my colleague Senator DeFrancisco for his work on the floor here today.

New York State has a spending problem. And if we continue that, we're going to continue the mass exodus that we've seen over the last decade where more people move out of our state than any other state in the nation.

I've heard arguments from the other side of the aisle about the MTA payroll tax. We agree. Where were you two years ago when you implemented the tax? It's a job-killing tax. And just because our budget may get completed today or tomorrow, our work isn't done to eliminate the tax that you put on.

So don't tell us you're against it today when two years ago those of you that were in the Senate, or in the Senate today who

were in the Assembly, you voted for it. This side of the aisle, when we were over there, voted against the MTA payroll tax. You gave it to us.

We're number one, in the State of New York -- actually, number two, almost number one -- in the state and local tax burden. New Jersey is number one by 0.1 percent over New York State.

The state business tax climate in the nation, we're the worst. We're at the bottom. State individual income tax collection, New York State is number one.

I'm a little confused. You're for the tax, you're against the tax. Every minute somebody else gets up: We need to tax, we don't need to tax. If we keep taxing, we're going to keep running people out of the State of New York.

You know, the last two years -- and I've heard comments about the last decade -- New York state spent more than $14 billion in new taxes and fees the first two years I voted against the budget. If we continued on that trend, our state of the economy would be worse

than it is today.

The Governor has taken some bold moves. And if we don't eliminate this $10 billion deficit, we'd in worse condition next year. It does that, it doesn't raise taxes, and it cuts spending to get the state back to where it fiscally should be in the right direction.

I'll be voting in the affirmative, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Fuschillo. You will be recorded in the affirmative.

Senator Diaz to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

You know, to me what's amazing is that we in our communities, black and Hispanic communities especially, where I come from, we all are Democrats. And we -- no Republican, no Republican will win in our district, especially in my district. Democrats. Democrats. And we -- and you know why we do? Because we do like Chuck Schumer. We educate our community that Republican are the bad

guys. And sometimes you are, guys.

But what's amazing is that today we are having a Democratic Governor getting away with not putting taxes, not extending taxes on the rich, giving New Jersey $350 million, giving Connecticut money, giving Pennsylvania money, and killing the black and the Hispanic, the poor and the needy and the senior citizens. This is done by a Democratic Governor. Supported by Republicans.

But ladies and gentlemen, we in our community, we have to learn, we're going to have to learn that we cannot keep being taken for granted. During election time, Oh, vote for me, I'm Democrat. Oh, vote for me, I'm going to take care of you. And then, when they get elected, this is what they do to us.

And it's amazing to see that all Republicans are the ones supporting this Governor's budget. And we Democrats that voted for him, that supported him, that campaigned for him, we are the ones saying huuuh, huuuh. Amazing. Amazing. A Democratic Governor giving rich people a break --

ACTING PRESIDENT GRIFFO: Senator Diaz, how do you vote?

SENATOR DIAZ: -- and forcing us to close hospitals, to close our senior centers, to cut education.

ACTING PRESIDENT GRIFFO: Senator Diaz, how do you vote?

SENATOR DIAZ: How I'm voting? Don't you know yet?

(Laughter.)

SENATOR DIAZ: Do I have to tell you how I'm voting?

ACTING PRESIDENT GRIFFO: I want to ensure that we have this accurately.

SENATOR DIAZ: Well, in English it's no, in Spanish it's no --

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

Senator Marcellino to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President.

I rise to support this bill because 124 new taxes is not the way to continue, $14 billion in the last two years in new

spending is not the way to continue. Yes, Senator, the Metropolitan Opera will have people attending it, the Museum of Modern Art will still have people attending it. The only problem is they'll be coming from Connecticut, New Jersey, and Pennsylvania, not from New York. Because they're leaving New York. They're leaving New York.

We have to send a message. We have to send a message to the small businesspeople who are contemplating leaving because of the high taxes and regulations that we want them to stay because they employ our citizens. We want to send a message to the people who are contemplating moving out of their homes because they can't afford the property taxes that we want them to stay because we need them. We've got to create jobs in the private sector, not in the public sector.

This is a painful budget, we agree with that. We understand that. We don't want to make these decisions, we have to make these decisions. I commend the Governor for working with Senator Skelos and the other leaders to put forth a budget that solves a problem that

was created not by us but by the world and by the situation that's around us. But the taxing and spending ways of New York State have to end. Let it end here, let it end today, and let us move forward in a responsible way, creating jobs and keeping our citizens employed and in this state, not driving them out of the state because they can't afford to live here.

Mr. President, I vote aye.

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

Senator Farley to explain his vote.

SENATOR FARLEY: Thank you, Mr. President.

I rise to support this because, my colleagues, we have a $10 billion deficit. We have to live in the real world. I am proud of my colleagues on this side of the aisle that are supporting this and for my enlightened colleagues on the other side of the aisle that will support it.

But we have a problem. And I am proud of the Governor, Governor Cuomo, for standing up and addressing this. We are

solving a $10 billion deficit with no new taxes. That is a remarkable accomplishment.

When I first addressed this budget I said I don't know how we're going to do it. Yes, there's pain. There's pain for everybody. But we are solving a huge problem and we're bringing back New York State to become the Empire State again.

I vote aye.

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

Senator Ranzenhofer to explain his vote.

SENATOR RANZENHOFER: Thank you, Mr. President. Just briefly, I do want to rise and explain my vote.

It's amazing that for the second time in 30 years a budget spends less money that it did the year before. I think it's reflective of what is going on in our society and the people that live in our districts. Economic times have changed. People in their own households are getting their spending under control. But for some reason in the past, New York State has not been able to do

that, and my colleagues have eloquently talked about the problems of population loss and job loss.

I also want to commend the Governor, who gets it. He understands that you can't keep on spending money that you don't have. The Comptroller indicated over the last couple of years that that level of spending was not sustainable.

So I rise today by saying that this is a good start. It's a good start for the first time in many, many, many years that we're not spending more money than we have, that we're not continuing to increase taxes on the hardworking people of this state.

For those reasons, I will be voting in favor of the budget. Thank you.

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

Senator Grisanti to explain his vote.

SENATOR GRISTANTI: Yes, thank you, Mr. President.

I can tell you, my friends and colleagues, that in my district there will be

some that are happy with this budget and some that are not. But however, this is not a time of easy choices. In fact, they're not choices at all. Our state is in a state of chaos. I come from the private sector, and that's what my people see in my district. But I see the infant stages of turning this state around, a state that has not been friendly in the past to taxpayers, business, in utter and complete dysfunction.

This budget does not cover everyone's needs, but it does offer a new beginning to once again make this state the Empire State again. We are open for business. And instead of bickering for our own spotlight and personal needs, you need to compromise. The sooner you realize that, that we're moving in the right direction by not taxing, by creating the opportunity for job growth, cutting government waste, duplicative services, and -- most importantly -- realizing that it is a privilege and not a right to be here representing your district, the sooner this state will be a catalyst for not only the taxpayers of New York but the nation.

History tells us that we are often looked upon as the one who will lead. Once again, we can make that a reality. As this state grows, we can all look proudly on what we accomplished, although painful, as it is today. I've stated a quote, and I'll state it again. No state has ever spent themselves into prosperity. The taxes and the fees that were issued the last two years were ridiculous in the eyes of the voters and the people of my district, fees that people couldn't even believe that were raised.

We have to work harder and together to free up restrictions on businesses. But let's remember one thing, because I know my time is short. Our conference was not looking and the Governor was not looking at a one-year fix to a problem. This is a fix that is carried on to the future, a $15 billion deficit next year reduced down to $2 billion. We're not only tackling the deficit this year but tackling the future deficits.

ACTING PRESIDENT GRIFFO: Senator Grisanti, how do you vote?

SENATOR GRISTANTI: I vote yes.

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

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 285, those Senators recorded in the negative are Senators Adams, Diaz, Duane, Espaillat, Kennedy, L. Krueger, Montgomery, Parker, Peralta, Perkins. Also Senator Rivera.

Ayes, 51. Nays, 11.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, would you call on Senator Ruth Hassell-Thompson for an announcement.

ACTING PRESIDENT GRIFFO: I will, Senator Libous.

Before I do that, I would ask and remind all of our guests in the gallery that they need to remain seated at all times.

I will now recognize Senator Ruth Hassell-Thompson for purposes of an announcement.

SENATOR HASSELL-THOMPSON: Thank you. There will be an immediate meeting of the Democratic Conference in the Democratic Conference Room.

ACTING PRESIDENT GRIFFO: There is an immediate meeting of the Democrat Conference in the Democrat Conference Room.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be a Finance Committee meeting at 1:45 in Room 332.

ACTING PRESIDENT GRIFFO: There will be a Finance Committee meeting in Room 332 at 1:45 p.m.

SENATOR LIBOUS: Pending the report of the Finance Committee, the Senate will stand at ease.

ACTING PRESIDENT GRIFFO: Pending the report, the Senate stands at ease.

(Whereupon, the Senate stood at ease at 1:35 p.m.)

(Whereupon, the Senate reconvened at 2:01 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a report of the Finance Committee at the desk. May we have the report read, please.

ACTING PRESIDENT GRIFFO: The Secretary will read the report of the Finance Committee.

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

Senate 2804D, Senate Budget Bill, an act making appropriations for the support of government: CAPITAL PROJECTS BUDGET.

ACTING PRESIDENT GRIFFO: The bill is reported to third reading.

Senator Libous, the report has been accepted and brought to third reading.

SENATOR LIBOUS: Thank you. Can we go to I believe it would be Calendar B, the noncontroversial reading.

ACTING PRESIDENT GRIFFO: The Secretary will read the substitution.

THE SECRETARY: Senator

DeFrancisco moves to discharge, from the Committee on Finance, Assembly Bill Number 4004D and substitute it for the identical Senate Bill Number 2804D, Third Reading Calendar 286.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

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: Can we 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 of necessity is accepted.

The bill is before the house.

The Secretary will read.

THE SECRETARY: Assembly Print 40004D, Assembly Budget Bill, an act making appropriations for the support of government: CAPITAL PROJECTS BUDGET.

SENATOR DeFRANCISCO: Last section.

ACTING PRESIDENT GRIFFO: 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.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, could -- I know we hastily passed the bill, but if we could still be on the vote for a second, please.

ACTING PRESIDENT GRIFFO: Senator Libous, with permission, I will temporarily, without objection, temporarily withdraw --

SENATOR LIBOUS: Actually, you

don't have to do that, Mr. President. It's on first reading, so if the member wants to come in and vote no, it will still be recorded at the desk.

ACTING PRESIDENT GRIFFO: Thank you.

SENATOR LIBOUS: So I believe the bill is passed?

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, things are moving a little too quickly.

(Laughter.)

SENATOR LIBOUS: I would ask for -- I would ask for -- we really are. Early budget, early voting.

Mr. President, I would pause for a second and ask my colleagues for unanimous consent to allow Senator Duane to vote, please.

ACTING PRESIDENT GRIFFO: Without objection, unanimous consent is granted to Senator Duane.

There being no objection, Senator

Duane has cast his vote in the negative. Correct?

Senator Diaz in the negative.

Senator Perkins in the negative.

SENATOR LIBOUS: How are we doing, Mr. President?

ACTING PRESIDENT GRIFFO: We're doing good.

The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 3. Those recorded in the negative are Senators Diaz, Duane and Perkins.

ACTING PRESIDENT GRIFFO: The bill is passed.

SENATOR LIBOUS: Mr. President, if we could just stand at ease for a second here.

ACTING PRESIDENT GRIFFO: The Senate stands at ease momentarily.

(Pause.)

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: There will be an immediate meeting of the Agriculture Committee in Room 332.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Agriculture Committee in Room 332.

SENATOR LIBOUS: And until the Agriculture Committee meeting is complete, the Senate will stand at ease.

ACTING PRESIDENT GRIFFO: Until that committee is complete, the Senate stands at ease.

I want to again remind all of our guests and visitors that you must remain seated at all times in the gallery.

The Senate is at ease.

(Whereupon, the Senate stood at ease at 2:09 p.m.)

(Whereupon, the Senate reconvened at 2:39 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask all in the gallery to please remain seated and to remain silent.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There will be an immediate meeting of the Rules Committee in Room 332.

The Senate will stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 2:40 p.m.)

(Whereupon, the Senate reconvened at 3:01 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, if we can return to reports of standing committees, please. There's a report of the Rules Committee at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Senator Skelos, from the Committee on Rules, reports the

following bills.

By Senator Young, Senate Print 754, an act to amend the Criminal Procedure Law;

By Senator Saland, Senate Print 1414A, an act to amend the Criminal Procedure Law;

By Senator Saland, Senate Print 4222, an act to amend the Social Services Law;

By Senator Saland, Senate Print 4244, an act to amend the Criminal Procedure Law.

All bills reported direct to third reading.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Can we move to accept the report of the Rules Committee, please.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The committee report is accepted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time could we read the noncontroversial reading of Supplemental Calendar Number 27C.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 289, by Senator Young, Senate Print 754, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

SENATOR LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 290, by Senator Saland, Senate Print 1414A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. 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: In relation to Calendar Number 291, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 627 and substitute it for the identical Senate Bill Number 4222, Third Reading Calendar 291.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 291, by Member of the Assembly Weinstein, Assembly Print Number 627, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: 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.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 292, by Senator Saland, Senate Print 4244, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Saland to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, as I think everybody in the chamber is aware, and notwithstanding

the fact that we're consumed by budget matters, attempting to deliver an effective and on-time budget, the fact of the matter is that today is March 30th, and it's Domestic Violence Advocacy Day. And both in the Assembly and in our house a number of measures have been passed attempting to deal with this issue which causes such enormous trauma, such enormous tragedy and often, as is the case in my district, the loss of life.

There have been four separate instances in my district in the past eight months in which incidents that are domestic-violence-related have resulted in the death of the victim and in one instance not only the victim, a wife, but also a police officer.

During my entire service in this house and the other house, I've long dwelled on the subject of child abuse and domestic violence and made every effort to try and tip the playing field in a fashion that would benefit victims, as have so many others in a bipartisan fashion attempted to do so.

What we are accomplishing here today, and I believe most of these bills

certainly are going to be bills that are ultimately going to make their way to the Governor's desk, is accomplishing that very end. We are trying to ensure that victims will not be victimized as frequently as has occurred in the past. We're trying to provide means to further protect victims, we're trying to provide means for court and law enforcement intervention long before it becomes a tragic story that we learn about in the news.

So I would merely say to my colleagues we've taken the time to divorce ourselves from matters fiscal, but these matters are certainly extraordinarily every bit as important and each and every one of us in our districts knows of, I'm sure, multiple incidents that have resulted in enormous personal tragedy not only to the victim but to the victim's family.

I thank you.

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

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The

bill is passed.

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

SENATOR LIBOUS: Thank you, Mr. President.

Is there any cleanup work to be done at the desk at this time?

ACTING PRESIDENT GRIFFO: There is no housekeeping before the desk at this time.

SENATOR LIBOUS: No housekeeping? Thank you, Mr. President.

At this time the Senate will stand at ease till 5:00 p.m.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease till 5:00 p.m.

(Whereupon, the Senate stood at ease at 3:06 p.m.)

(Whereupon, the Senate reconvened at 5:10 p.m.)

ACTING PRESIDENT ZELDIN: Senator Libous.

SENATOR LIBOUS: We're awaiting Senator Breslin, Mr. President.

(Pause.)

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

SENATOR LIBOUS: President Zeldin, I stand before you to let the members of this body know that we are at ease and we will remain at ease until further notice.

ACTING PRESIDENT ZELDIN: The Senate stands at ease until further notice.

SENATOR LIBOUS: Thank you, Mr. President.

(Whereupon, the Senate stood at ease at 5:11 p.m.)

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be a 7:45 Majority conference in the Majority Conference Room.

ACTING PRESIDENT GRIFFO: Conference of the Majority at 7:45 in the Majority Conference Room.

(Whereupon, the Senate reconvened at 8:42 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: There is an immediate meeting of the Finance Committee in Room 332.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 8:43 p.m.)

(Whereupon, the Senate reconvened at 9:38 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. May we have the doors closed and order in the house, please.

ACTING PRESIDENT GRIFFO: Will the Sergeant please close the doors.

Please bring order to the house. The Senate is in session.

SENATOR LIBOUS: Thank you, Mr. President.

Can we go to the reports of standing committees, please. I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Finance, reports the following bills:

Senate Print 2803E, Senate Budget Bill, an act making appropriations for the support of government: AID TO LOCALITIES BUDGET.

Senate Print 2808C, Senate Budget Bill, an act to amend the Education Law;

Senate Print 2809D, Senate Budget Bill, an act to amend the Elder Law;

And Senate Print 2801A, Senate Budget Bill, an act making appropriations for the support of government: LEGISLATURE AND JUDICIARY BUDGET.

All bills ordered direct to third reading.

ACTING PRESIDENT GRIFFO: Reported to third reading.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we go back to motions and resolutions, please.

ACTING PRESIDENT GRIFFO: On motions and resolutions.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator DeFrancisco, on page 1 I offer the following amendments to Calendar Number 294, Senate Print 2808C, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: At this time could we have the noncontroversial reading of Senate Supplemental Calendar 27D.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 293, Senate Print 2803E, Senate Budget Bill, an act making appropriations for the support of government.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

We will accept the message of necessity, 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, Mr. President.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

SENATOR LIBOUS: The bill is laid aside?

ACTING PRESIDENT GRIFFO: The bill is laid aside.

SENATOR LIBOUS: Thank you.

ACTING PRESIDENT GRIFFO: The Secretary will continue to read.

THE SECRETARY: Calendar Number 294, Senate Print 2808D, Senate Budget Bill, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Senator Libous.

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

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

SENATOR LIBOUS: I move we accept the message.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message 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: Lay it aside.

THE SECRETARY: Calendar Number 295, Senate Print 2809D, Senate Budget Bill, an act to amend the Elder Law.

ACTING PRESIDENT GRIFFO: Senator Libous.

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

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

SENATOR LIBOUS: Thank you. Can we move to accept the message, please.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The

message of necessity is accepted.

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: All those voting in the negative, would you please signify by raising your hands.

Announce the results.

THE SECRETARY: In relation to Calendar Number 295, those recorded in the negative are Senators Diaz, Duane, Hassell-Thompson, Parker and Perkins.

Ayes, 57. Nays, 5.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 296, Senate Print 2801A, Senate Budget Bill, an act making appropriations for the support of government.

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 at the desk.

SENATOR LIBOUS: I move that we accept the message, please.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(Response of "Nay.")

ACTING PRESIDENT GRIFFO: The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

Senator Libous, that completes the

noncontroversial reading of Supplemental Calendar 27D.

SENATOR LIBOUS: Thank you, Mr. President. Can we now have the controversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 293, Senate Print 2803E, Senate Budget Bill, an act making appropriations for the support of government: AID TO LOCALITIES BUDGET.

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

SENATOR OPPENHEIMER: I would like to ask some questions of the Finance chair.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield to questions from Senator Oppenheimer?

SENATOR DeFRANCISCO: Yes, I do.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer.

SENATOR OPPENHEIMER: Can we have an explanation, please.

ACTING PRESIDENT GRIFFO: An explanation has been requested.

SENATOR DeFRANCISCO: Everyone should have been provided with a memo that should be on the desks that outlines the various provisions of the bill. I'll highlight a couple of them, and then if you have any questions on some of the others.

There was various aging programs that the Governor attempted to eliminate or wanted to eliminate. We ended up restoring and creating a competitive grant program. Well, the Legislature believed that that was not the way to go, that we should line out the various organizations that were receiving the money, as was done in the past, because it's difficult for many of these organizations to continue without knowing what their next year's funding is going to be.

So that was -- those items were lined out. However, we were only able to restore one-half of the cuts that Governor gave to each of those programs.

Similarly, there was a competitive grant program with respect to agriculture. I

think Senator Kennedy asked this on another -- at another time about the competitive grants in agriculture.

Well, the Legislature denied that, those competitive grants, and funded, in accordance with the memo on page 2, separate agriculture programs in the same manner that they were provided in the past. Because once again, many organizations live from year to year, and to not know whether they're going to get funding would probably end the programs.

There are changes in the children and family services budget. The Legislature denied the Executive proposal to create a $35.4 million primary prevention program and once again broke those down, provided the funding to the various organizations to provide some stability with those organizations.

And that's found in several other areas in this portion of the budget. There are legislative restorations to the Education Department that are found, I believe, on page 5 -- these pages weren't numbered. But there were additional funds going to the various

school districts totaling about $270 million. And when we get into -- we can get into that a little later, Senator, if you need more detail. Senator Flanagan is the expert in that area and will provide you some more details as far as that's concerned.

I can go over some of these areas, unless you have specific questions.

SENATOR OPPENHEIMER: Yes, I think that is sufficient. I thank you.

Now, if you would yield for a few questions.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR OPPENHEIMER: When he stops drinking.

ACTING PRESIDENT GRIFFO: You may ask your question, Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I'd like to know what are the overall appropriations for education in the ELFA budget, both the All Funds and the General Funds.

SENATOR DeFRANCISCO: What was the question?

SENATOR OPPENHEIMER: What is the overall appropriation for education in the ELFA budget, both in --

SENATOR DeFRANCISCO: I think I'll defer that to Senator Flanagan. I believe you're in a position to answer that question, Senator Flanagan, having negotiated this?

ACTING PRESIDENT GRIFFO: Without objection, the floor will recognize Senator Flanagan.

Senator Flanagan, you're recognized.

SENATOR FLANAGAN: Thank you.

Senator Oppenheimer, I want to make sure I understood the question. Would you repeat it, please?

SENATOR OPPENHEIMER: In the Aid to Localities budget, I'm just asking what are the total appropriations for education both in the General Fund and also in the All Funds.

SENATOR FLANAGAN: General support for public schools is approximately $19.6 billion.

SENATOR OPPENHEIMER: And how

does that compare with last year's aprops? Through you, Mr. President.

SENATOR FLANAGAN: There's a $697 million year-to-year reduction.

SENATOR OPPENHEIMER: And what had the Governor proposed in total cuts to education?

SENATOR FLANAGAN: Mr. President, if I might. Senator Oppenheimer, I think, if I could take the liberty, if I just explained what was proposed and what's actually been done, I think that might be a little bit more beneficial.

SENATOR OPPENHEIMER: Yes, that would be beneficial.

SENATOR FLANAGAN: Mr. President, if I may.

ACTING PRESIDENT GRIFFO: Senator Flanagan.

SENATOR FLANAGAN: The Governor came out with a budget proposal that has been modified in a number of different ways, and I think it's very important to talk about where we started from and where we've ended up. And, frankly, where we might be going as well.

When the Governor came out, everybody talked -- including us, the Assembly and the Governor -- about a $1.5 billion cut, approximately, in state aid to education. The school aid runs that we see here and the final agreement that has been reached has been modified in a number of different ways, most notable of which is last year there was $600 million that came from the federal government, as you well know, called EduJobs funding. That was a one-shot source of revenue that was similar but separate to the ARRA money that we had gotten to help offset some of the problems in the prior budgets.

That money from the last two years was not considered as part of the base or as part of the school aid run, so in consultation with the Assembly and the Governor, we have taken that out of the run because it's a one-shot source of revenue and frankly it should not have been built into the base.

Taking that into account, the Governor's proposed year-to-year cut in state aid was $929 million. Based on the actions that we've taken, that has been reduced to

$697 million.

There are a couple of things in relation to that that I think are very important. And while they're separate, they certainly are worthy of mention.

All of our colleagues are well aware of some of the proposed cost shifts that were in the Governor's budget -- the 4201 schools, to the tune of $98 million; summer school special education, $57 million; and the Office of Children and Family Services, while it's separate, it clearly affects school districts -- that was about $37 million.

So independent of anything we did relative to the school aid run, there was about $190 million in cost shifts that were avoided. That did not go back to the local property taxpayer, and the distribution of those funds is an important component of what we did.

In relation to the proposal that the Governor advanced, there were winners and there were losers. I would respectfully offer that working with the Assembly and with the Executive, that we took a bad situation and we

made it better. You know it's not perfect, I know it's not perfect. Certainly anybody who pays attention and does a fair assessment will have to recognize that we put money back in. And here's how we did it. And in fact, it ended up being very similar to what we had advanced in our one-house resolution.

There's $272 million in restorations in school aid; $57 million of that represents the cost of funding the summer school special education program that I had talked about. Approximately $161 million of that for this year's fiscal year makes up part of that balance. And the rest of the money is tied to things like teacher centers, libraries, nonpublic schools.

So when you look on a direct year to year -- meaning school year -- restoration of money, it's $230 million that we drove back into the formula all across the State of New York.

We achieved regional balance. Certainly coming from the County of Westchester, you can look at the runs and see restorations. I know Senator Stewart-Cousins

had spoken in detail not only outside the chamber but here today in terms of some restorations that have been made. More money is driven to Rochester, Buffalo, Syracuse, Yonkers, the City of New York, our rural districts, and our suburban districts. So it's spread out.

And you know how it works. You try and come up with a formula that provides some fairness and equity and you push here, you prod there, and sometimes it works in one way. The final resolution I think is very similar to what we had advocated in our one-house budget resolution.

Now, I know, Senator Oppenheimer, you in particular have been acutely sensitive to the issue of the 4201 schools. I want to address that in particular.

There are some who may walk out of here and think, Well, wait a second, we haven't really appropriated money to address this problem. We have absolutely addressed the problem of the 4201 schools in working with the Executive. The school districts are going to pay the money in the first instance.

They will get 50 percent of that money reimbursed during the 2011-2012 school year, and they will get the other 50 percent in the 2012-2013 school year.

The reason there's no formal appropriation in here is because it's part of next year's fiscal year. So I'm representing -- and you know this, because everyone is aware of it -- that is properly funded, it's taken out of the local school districts, taking the burden off their back. And while it is certainly not perfect, we have to work on that separately, it clearly is something that was very much a concern for a number of our colleagues in all communities across the State of New York.

So I think, as I said, we took a bad situation and frankly we made it better.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Senator.

I would like to add on that particular issue, if I can ask another question. While the payment will come this

year, at least, not on the formula for the first half of the year, the second half is on the formula. And do you believe that in future years it will be on the formula so that the school districts will themselves be paying the full amount for and getting reimbursed -- maybe 50 percent, maybe more -- over the course of the year for their payment to send that child to the 4201?

SENATOR FLANAGAN: No, I would differentiate and disagree to an extent. I don't believe the second year is on the formula. I think I'm making a fair representation that in essence what we did was we had a $98 million problem.

And there are those who will say, Well, why wasn't it the same way? The bottom line is if we wanted to come up with additional money to drive to our school districts, we had to find a way to perhaps do this creatively, maybe finesse it a little bit. But the bottom line, again, is that these schools are going to be made whole.

And I think this gives us an opportunity and a window to work with all the

stakeholders -- the schools, the Regents, the State Education Department, the Division of the Budget. Because, Senator Oppenheimer, you know this as well as I do, there isn't really anybody who's hugely happy with how the program was working in terms of its financing long before the Governor's proposal.

This in a perverse way may provide a window for people who are frankly of good faith, and willing to compromise and negotiate, to sit down and come up with something that I hope will continue to be a direct state appropriation but work out the details in terms of the financing and the methodology so the kids, who are supposed to be our ultimate and primary concern, are properly taken care of and these schools don't have to worry about whether or not they're going to have the cash to meet their bills.

SENATOR OPPENHEIMER: I appreciate your answer, but I'd like to pursue one more question on this subject.

ACTING PRESIDENT GRIFFO: An additional question by Senator Oppenheimer. Senator Flanagan, do you yield?

SENATOR FLANAGAN: I do.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer.

SENATOR OPPENHEIMER: When we talk about a rate methodology, though, it is frightening when you think of what has happened with the 853 schools and with the special act schools where the rate methodology has been a catastrophe and they've had to be loaning money from the banks and now the banks aren't even loaning to them.

So do you feel that the rate methodology used on those other two special-needs schools would be something that you would suggest for the 4201s?

SENATOR FLANAGAN: Absolutely not. I have no -- in fact, I'm going to use it in a different direction. I think the example of the 853 schools is something that we should look at and say we're not going to do that. We should be doing something different and better. And frankly, we need to include the 853 schools in that type of discussion.

If you look -- and it doesn't

matter if it's me or anyone in this chamber. We talk about education, these are our frailest of children. Whether they have disabilities, whether they have learning problems, whether they have behavioral problems. If we're going to look in terms of how we're going to educate kids in the State of New York, there is no more acute area of need and sensitivity.

So I don't think the 853 situation is working out the way it should either. But we are obviously in the throes of this budget. The Governor did not make any proposed changes to the 853 schools. So we have to live within the confines and the structure of what he presented to us.

Do I think it's worthy of discussion? Yes. And I think that's something that we can be doing right after we enact this budget.

SENATOR OPPENHEIMER: Thank you, Senator.

I'm going to limit my questions. I'll probably only have a couple more. So would the Senator still yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR OPPENHEIMER: As you know, in the past two years when I was chair of Education I did a lot of work around unfunded mandates and around sharing of services. Is there anything in this budget limiting or eliminating a number of unfunded mandates on localities, like consolidating transportation of schools or utilizing a single superintendent for several school districts? Is there anything in the budget? Which I haven't been able to read.

SENATOR FLANAGAN: Senator Oppenheimer, I'd be happy to answer that question. Unfortunately, I have everyone cheering me on in the background here.

(Laughter.)

SENATOR FLANAGAN: To your point, this is Groundhog Day in a bad way. The Assembly has not advanced anything -- I'm going to repeat, anything. Nothing meaningful, nothing substantive, nothing qualitative, nothing quantitative. They have not offered one approach whatsoever with

regard to mandates.

The Governor -- we have been working on language to do a direct ban on unfunded state mandates. The Governor was on board. And we had discussions about not only do we not but looking at a review of all existing plants to see which ones work and maybe where we should be picking up the costs.

So there's a good-faith effort, but -- I'm telling you something you already know, but it bears repeating. I will tell you I have talked to many of my colleagues, this is an area of tremendous concern to all of us. We need to engage the Assembly.

And you know what? There should be nothing wrong with having a debate on these issues. If it gets contentious and it gets a little out of hand at times, so be it. Everybody talks about it. You tried to advance it. We tried to advance it. We're trying to advance it now.

I don't think I'm going out on the proverbial limb to suggest that you will be seeing, in the coming weeks, mandate relief proposals on the floor of this house that will

address a myriad of concerns, not only in the area of education but I know Senator Martins, Senator Little have been extremely active in putting together ideas for the body's consideration that I'm comfortable and confident that we will pass.

And then we will have to of course send it over to the Assembly and see if they're willing to engage.

SENATOR OPPENHEIMER: If he would yield for another question.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR OPPENHEIMER: I think I heard you say that teacher centers were going to be funded in this budget. They weren't funded last year. The prior year, they'd been funded at $35 million. But are they funded in this budget?

SENATOR FLANAGAN: Senator Oppenheimer, they are funded. It is slightly over $14 million. I think it's -- thank you. Senator Farley informs me it's $14.3 million.

SENATOR OPPENHEIMER: -- included even if it's at half the amount.

Now, if I could just look for a moment at libraries. I haven't had the a chance to see how much they have been improved. They have such great need. And years ago, like four, five, six years ago, they were up like $102 million. And we had them cut back to like $74 million. Do you know if they are improved in this current budget?

SENATOR FLANAGAN: Yes, they are. There's $3 million added back. And I have checked with my resident ambassador to the libraries, Senator Farley. While they, like everyone else, would like more money, they are very gratified that $3 million was added back in the final budget.

SENATOR OPPENHEIMER: And I'm trying to cut down my questions. I think my last question would center around BOCES.

Does the budget eliminate BOCES aids to the local school districts for certain shared services which are now aidable? And the Governor's suggestion was to remove that aid, which seemed so contrary to our idea of trying to promote shared services. I mean,

they're the ultimate shared services for 64 years now.

Do you know if aid has been put in?

SENATOR FLANAGAN: Yeah, the Governor had proposed two primary changes to BOCES. Fortunately, both of them were prospective. But regardless, we have rejected both of them.

One is changing of the reimbursement methodology to go more tied to the foundation formula, which would have a beneficial effect on some districts and adverse impact on others. Certainly you're aware of that. We have rejected that.

And we have rejected the Governor's elimination of aid for approximately 25 different types of shared services. I'm going to take the Governor at the good faith that they are really looking for ways to find efficiencies, promote consolidation. And that proposal didn't go that way. We have rejected it.

But I think we can move forward in a way -- and personally, I think we should be looking for ways to enhance the BOCES model by

looking at the reimbursement. Because if we're going to give incentives to school districts, the way we do it is through money.

SENATOR OPPENHEIMER: Thank you very much.

ACTING PRESIDENT GRIFFO: Thank you, Senator Flanagan.

Is there any other Senator wishing to be heard?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Mr. President. I wonder if the sponsor would yield for a couple of questions.

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR MONTGOMERY: Thank you.

Senator DeFrancisco, this part of our budget includes funding for programs -- I should say excludes funding -- for the Work Advantage Program. Or it would, it should. But unfortunately it does not. So the 35 million in funding that we have excluded from this budget for that purpose, which would

go to New York City to use for homeless families, primarily, that funding is no longer going to be available for New York City.

And my question is how many individuals or how many families would be affected by the loss of these funds? Do we have any idea? Has the city been able to give us some idea as to what's going to -- how many families are going to be affected by the loss of these funds?

SENATOR DeFRANCISCO: I don't have any idea. I just know that it was one of the cuts that we concurred with the Governor Cuomo on in order to balance the budget. I don't know the number of families.

But there's $15 million added for two things, to include two things, a rent supplement and homeless eviction intervention -- excuse me. All right, homeless eviction prevention and rent supplements to try to help mitigate some of the problems that you're talking about. That's $15 million, but that's all that's in there.

SENATOR MONTGOMERY: So through

you, Mr. President, I have another follow-up questions.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR MONTGOMERY: So, Senator DeFrancisco, do you think that or has there been any indication that the city would be able to in fact use the $15 million in the new homeless programs that you're talking about to sort of replace some of the services that the Work Advantage Program provides to homeless families?

SENATOR DeFRANCISCO: Yes. The answer is yes.

SENATOR MONTGOMERY: Through you, Mr. President, if I can ask in another area.

Senator DeFrancisco, as you know, one of the areas in this budget that -- in fact, I want to thank the team that really were responsible for making sure that the juvenile justice reform part of the agenda remained pretty close to what the Governor had proposed in the beginning. And I'm very happy about that.

I would like to ask you, however,

there is a new sort of arrangement in terms of the funding. One, there's funding that is set aside for the purpose of reimbursement, the state's reimbursement to localities for detention, both secure and nonsecure. And the same funding is also available in a flexible way, it seems, for reimbursement to localities for something that is referred to as alternatives to detention.

They have different rates of reimbursement. Alternatives being 62 percent reimbursement, I believe, and the detention funding 49 percent.

In addition to that, there's a dedicated fund for the purpose of providing supervision and treatment for juvenile services to juveniles through community-based programs.

My question to you is given this new configuration of funding for services and programming in those areas, can we be assured that the local Youth Bureaus who also serve young people, some in prevention and other kinds of services and treatment, will those Youth Bureaus also be able to utilize funding

under the first two categories that I mentioned?

SENATOR DeFRANCISCO: They are able to do that, yes.

SENATOR MONTGOMERY: Okay. That's very important. I appreciate that.

And will they also continue to be eligible for funding under YDDP and SDDP funds as well?

SENATOR DeFRANCISCO: They will.

SENATOR MONTGOMERY: Okay. That being the case, I am assured that local counties throughout the state are now going to be able to provide more and much more effective and efficient services and programming to young people. So I thank you for that, and I'm very pleased.

Just one last question in that area, follow-up.

SENATOR DeFRANCISCO: Yes. Senator, just one question. You're not going to agree with Senator Nozzolio and me in consecutive days, are you?

(Laughter.)

SENATOR MONTGOMERY: Well, it

sounds like I'm about to, but --

(Laughter.)

SENATOR DeFRANCISCO: All right, thank you.

SENATOR MONTGOMERY: Miracles never cease to happen.

ACTING PRESIDENT GRIFFO: Senator Montgomery, do you still have another question, a last question?

SENATOR MONTGOMERY: Yes, I do. If I may pursue.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR MONTGOMERY: All right. Senator DeFrancisco, there is an additional program that was referred to in the Governor's budget, and I'm just trying to see where it is in the final version.

It was $13.5 million proposed for enhanced medical, mental health, and health and education services within juvenile facilities. And it really was to try and address the Justice Department's findings that the state was violating the constitutional rights of the young people in those facilities

primarily because we did not provide these programs.

I don't see it, and I guess perhaps you know where it is and I just am not able to find it.

SENATOR DeFRANCISCO: The funding is in the government operations, state operations bill that we passed earlier.

SENATOR MONTGOMERY: Okay. Thank you. I appreciate that. That's a good answer.

So, Senator, again, I thank you and I look forward to working with you as we implement these aspects of juvenile justice reform in our state.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. I'm going to actually cede to my colleague Senator Duane first. Thank you.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. As we debate --

ACTING PRESIDENT GRIFFO: Senator Duane, are you on the bill or are you asking a question?

SENATOR DUANE: No, Mr. President, I'm on the bill. Thank you.

ACTING PRESIDENT GRIFFO: Senator Duane on the bill.

SENATOR DUANE: As we debate this section of the budget, Mr. President, I want to just begin by raising the issue, although it's been spoken about before, of the really misnamed millionaire's tax. Sadly, it should only have been millionaires and not -- but the issue really isn't about the millionaire's tax. It's too much of a shorthand. It's about how it is that we fairly bring revenue into the state.

And we used to have a much more progressive system of taxation, not just in the state but in the nation. And that also provided a way for the federal government to send more money back to the states, and then the states to send money to localities for programs that really there was consensus each time one was created or funded or eliminated

and a new one that there was a need for. And we learned that some were great and some were good and some not so good, but that's how the funding was accomplished.

And people who make more than $5 million a year -- not people that even have $5 million in the bank, but people that make $5 million a year should pay more in taxes than people who make a million dollars a year. And people who make a million dollars a year should pay more taxes than a family that makes under a quarter-million dollars a year. That's fair, that's progressive.

We had a system more like that in this nation and this state, and we unfortunately don't have that anymore. And what's happened is we have a more regressive system of taxation and we've depended more on property tax, which I guess sort of cuts both ways. It's both regressive and I guess it's not regressive. There's a history of funding education through property tax in the state and in the nation.

But sales tax, which is pretty darn regressive -- and these are limited, finite

pools of money. We hear people complain about their property taxes because there isn't as much state aid as there used to be. And there isn't as much state aid not just because of what we do with our tax policy in New York State but because of what's happened on a national level and what the federal government has been doing.

But sales tax is going to shrink even more because people can do more on the Internet, and municipalities -- it's become more of a race to the bottom with mom-and-pop stores and -- I just think this is a terrible, terrible trend. And I don't know how we got into this downward spiral, but maybe New York is, you know, afraid to do something different than what other states are sadly doing. Because all states are having the same issue.

This money is going to dry up. And we're going to come back year after year and be in the same fix over and over again. And I just -- I think that we're being foolish about that.

And, you know, this budget has been a very tough call for me. And, you know, I

know we had conference committees this year. And we should have had them when this side of the aisle was running the show, but the fact is we had trouble doing a lot of things. And, you know, unfortunately it was the same -- I mean, really, you know, I'm going to say something and then I'm going to say maybe this is the last time we can talk about it. You know, I am claiming to have the last word on it.

The terrible thing that happened here two years ago, the fuse was lit by that side of the aisle, but we weren't better actors over here. Everybody wanted someone so they could have the majority, and that person was very problematic. And the fuse got lit and the bomb went off, and nothing good came in terms of how we govern. Good things happened in government. I mean, good things happened in this house. But there are no angels or -- no one looked good on either side of the aisle. It was a terrible, horrible, embarrassing, dreadful thing, and we are all culpable. So let's just drop it. Enough.

Now that said, I believe -- and if

someone disagrees, I'd like to hear it -- that I reached across the aisle a great deal. And maybe I could have done more, but I think I really tried to have the courage of what my conviction had been, which was a body where there was really a bipartisan spirit that we -- you know, that we act like a real deliberative Senate. And as I say, maybe I fell short, but I don't think -- I mean, I hope that no one who was here on the other side of the aisle could say that I behaved in any different way from that. And I don't think anyone who was here on this side of the aisle could say that I behaved in any different way than that either.

And I have to say that the whole -- the conference committee system that we did there year -- I mean, come on. There was nothing to be proud of in that either.

So, you know, I'll redouble my efforts. But I would like to ask everybody on both sides of the aisle if we could redouble our efforts to reach across the aisle and leave the past behind us and start again with a fresh slate. Because we have a lot of

problems and a lot of issues that we need to deal with going forward. And let's remember the good things that we've done over -- you know, I've been here much longer than I thought I was going to be here, and many fine things have happened here. So let's focus on -- let's accentuate the positive.

ACTING PRESIDENT GRIFFO: Thank you, Senator Duane.

Senator Rivera.

SENATOR DUANE: I'm not -- Mr. President, I'm very sorry, I'm not -- I'm really -- I don't -- I did not conclude.

ACTING PRESIDENT GRIFFO: I'm sorry, Senator Duane, I thought you were concluding.

SENATOR DUANE: No, I don't think you did think that.

ACTING PRESIDENT GRIFFO: Well, I was wondering whether to the germaneness. But speak to the bill, then, Senator.

SENATOR DUANE: Would you really like me to explain it, Mr. President? Or would you please just accept that it's germane.

ACTING PRESIDENT GRIFFO: I will accept. Please continue.

SENATOR DUANE: Thank you.

You know, by the way, I never did anything like that when I chaired. That's really -- you know, I know the hour is late. I have not spoken before this. I don't think I've taken up an inordinate amount of time. So patience, Mr. President.

ACTING PRESIDENT GRIFFO: Indeed.

SENATOR DUANE: With no interruptions, I'll be able to have my say.

ACTING PRESIDENT GRIFFO: Continue to speak, sir.

SENATOR DUANE: Thank you, Mr. President.

I think it's great that we're having an on-time budget. I do. And congratulations to the Governor and congratulations to the Assembly and congratulations to us on both sides of the aisle, because there have been far more votes on this side of the aisle in the minority than, you know, what happened recently and even some of the time when the present

majority was the majority. So congratulations to all of us on that.

Having an on-time budget is very important. It's not that I don't love all of you, but I don't really like spending any extra time with you. And I hope you feel the same about me. I've got people I love at home that I want to see. And I just -- I would like everyone on both sides of the aisle to let me finish, though, without -- and then you can all do all the commenting you want.

So, you know, there are a number of really excellent pieces of this budget. You know, it's no secret. I spoke out on it, the cap on noneconomic damages and the Title 20 funding. We can all go home and, you know -- as you know, my -- anyone that has elderly parents, you can look them in the eye. We did great stuff with the restoration of TANF and pre-K. And, you know, I'm very happy about the continued emphasis on primary care and our work on medical homes. I don't see Senator Hannon here, but, you know, we worked extremely collegially together on health issues.

But -- and of course there is a but. Otherwise, I'd be voting yes. You know, this eliminating the -- shall we say the exceptionalism around drugs dealing with rejection or behavioral health and HIV, I think that that's penny-wise and pound-foolish. While I know it may not seen seem like a big deal to some to have a get a physician's override, it can in fact be a burden. And it's hard sometimes for people still today in managed care to find or to have enough time with the physician for the prevail.

And those that need those drugs are the ones that have the greatest problems: Anti-rejection and people who are trying to recover from mental illness and people with HIV. I mean, I think those are exactly the areas where we shouldn't have taken away the ability to automatically have a physician prescribe what they think is best.

And, you know, I would be remiss -- you know, I know that people are -- the issue around rent regulation is a tough, tough issue. But I would argue, and this is a local

issue, that the areas where there's rent regulation -- and that is rent regulation of units to make sure that they are habitable. It's not just about price controls, it's about habitability also.

And I believe that actually New York City's rental housing, and the rental housing in the other counties surrounding New York City that have a rent regulation, that their housing stock is better than in other places I've seen in the state. So I am unhappy that we are marching to the brink of dismantling it rather than strengthening it, because I believe it works well and helps keep housing affordable.

And, you know, the -- again, the -- within the constraints of the amount of revenue we have, of the things I talked about, our progressive system -- and also the millionaire's tax, which I don't think should have been sunsetted. And here we are, it's sunsetting. Right? Now it's sunsetting. But we would have had more revenue. And we wouldn't have had to make such difficult choices.

And, you know, I've never met the guy, but you know what, I don't really care if Golisano moved to Florida. Good riddance. Why do I care whether he feels better? He's probably happier in Florida. It's warmer, whatever.

But I do believe that we could have provided more assistance to localities, to people who need help, to middle-class families if we hadn't have done that.

And tough, tough call -- I'll say on the one hand congratulations to us for an on-time budget. Congratulations because we've done well in many areas. And we could always do better, and so could I. But on balance -- and there are some other problems in this budget. And I've -- I'm going to have to vote no, as I have on other parts of the budget. And here again, I'm going to vote no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Duane.

And my apologies for interrupting you earlier. I thought you had been concluded.

Senator Rivera.

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

ACTING PRESIDENT GRIFFO: Senator Rivera on the bill.

SENATOR RIVERA: My colleagues, as I stated earlier, there are a few words that guide our deliberations here tonight: Responsibility, sacrifice, and one word which I mentioned more than a few times, which is choices.

Now, this is a budget in which we've had to make very tough choices. This particular bill that is before us tonight, I will be voting in the affirmative. But I wanted to explain that vote.

As an educator, I actually teach college. I've been living in New York for almost 13 years and have taught college for about 12 of those, both in public universities and private universities. And I stand before you because of education. Both my parents were both the first graduates from high school and college of their respective families. And both of them are children of single mothers

who didn't graduate from grammar school. So I am here because of education.

And so I have serious concerns about what the choices that we are making in this budget can do to the education system in the entire state.

But in this particular bill, as we have split up -- as obviously this is what happens in this process, different bills get split up. In this case, this particular bill has a few things which I believe are positive for the state and that I congratulate both the Assembly and the Senate and the Governor for coming to an agreement to putting them on the bill.

This particular one here creates a standard of living for home health aides. As we've discussed previously, it establishes partial restorations for 4201 schools. It restores Title 20 funding which is so important to the senior centers back home. Four of them in my district would have closed if we didn't reach an agreement on this restoration. Summer youth employment, which is also incredibly important -- in my

district, in the Bronx, and certainly across the state. All of these are in this bill, and it is the reason why I will be voting in the affirmative for it.

But I would be remiss both as a representative of a very poor district, of a district that has serious challenges in its education system, and as an educator myself, if I did not point out that I have serious concerns about what this budget would ultimately do to the education system across the state.

I don't think I have to go over again what I think the lack of revenue in this budget will do to us and what are the things that I believe we need to do to remedy that situation, at least partially. I've already made that point.

In this one, the only thing that I will say is that in a bill that we will vote on very shortly that deals with Article VII language, I will be voting in the negative. But on this one I will be voting in the affirmative because of those programs that are in it. These are things that I agree with,

these are things that I think are positive for the state, will be positive for my consistency. And they are part of the tough choices that we have to make.

So I would encourage some of my colleagues to consider their vote. I certainly would encourage them to vote one way or the other but only to do so with full consideration of what is in each legislation before us.

And in this case, because of this, but still expressing serious concerns about what this budget overall does to our education system, I will be voting in affirmative on this bill.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Tonight is the -- on the bill, Mr. President. On the bill.

ACTING PRESIDENT GRIFFO: Senator Diaz on the bill.

SENATOR DIAZ: Tonight is the

day -- tonight is the night when we are rushing, rushing to make Governor Cuomo look good. There are late budgets, there are on-time budgets, and there are early budgets. Early budgets, the last one that happened in this city, this state, was in 1983. So since 1983 there has not been -- 1983, there has not been an early budget. Meaning, early budget, that we have one hour and 25 minutes before 12:00 midnight. If we pass 12:00 midnight, there will be an on-time budget.

But we've got to beat the clock. We've got to beat that clock and rush so we could have an early budget. And Governor Cuomo and the leaders of both houses and some minority and black and Hispanic legislators could stand here tomorrow or maybe at 12:00 midnight and take on the press or have a press conference and say we have an early budget. Not an on-time budget. Not an on-time budget, not a late budget, we have an early budget.

But let me tell you something. In our race to get an early budget, we have made all kind of mistakes, take down the wrong information, information being left out,

rushing here, rushing there -- we got to do it, we got to do it -- because the guy on the second floor, the master, said "I want an early budget.

And we are going to have an early budget. We have people here from our communities, especially black and Hispanic communities, since this morning, chanting, crying "Help, help." Especially, that cry goes especially to us black and Hispanics. It is a shame to see black and Hispanic joining to kill our communities, joining in the rush: I'm voting yes, so whoa, ho, ho.

So we have an early budget. And those people out there crying, maybe they haven't eaten since this morning. And all for the last two weeks and for the last month, they've been coming here -- children, handicapped, senior citizens -- everybody has come here asking us from our communities, "Hey, help me, don't do this, don't do this."

And I ask you if every black and Hispanic legislator, if every black and Hispanic legislator would have stood up and joined forces and said no in the Assembly and

in this chamber, this budget would not happen. We could have done it. We could have done it. Black and Hispanic, we could have done it. It is our shame. It is not their shame, it is our shame. Black and Hispanic, we are the ones doing it. And then we're going to stand up, explaining it: I've got no choice, I could have this, I voted yes, it's either/or.

Hey, come on, please stop this hypocrisy. Black and Hispanic -- I'm not talking to you guys. Not tonight. I spoke to you last night. I'm talking now to this side, to my people, black and Hispanic. We could have stopped it. We could have stopped it. And not until we put our foot in the ground and decide that we're going to protect our communities, our communities are never, ever going to come forward and going to improve.

Because we go to our communities, to our neighborhoods, and we're there, while we're there, we eat lions. In our community we eat lions. And we eat tigers. [Growling] "Oh, vote for me." We come here, the master calls: "Hey, you know, I need you to do this." "Oh, yes, master."

The time of masters has long time passed already, ladies and gentlemen. We're here to protect the needy and the poor and to act as Democrats if we're going to be one.

This budget, this budget that you are all rushing to pass tonight is going to affect our children's education, it's going to affect hospitals that are going to close. People are going to suffer. And it is not other people, it's especially the people in the black and Hispanic communities.

So all those people out there that are crying all day long, putting theirself to be arrested, I'm telling them: I'm with you guys. I'm with you guys. And even if I'm the only one. Last year I did, I was the only one last year. And this year again -- I'm consistent. This year again, I'm here. The people of the 32nd Senatorial District voted for me and sent me here to protect them and to fight for them and not to come here and kiss nobody's ring.

So in an hour and 20 minutes we will have an early budget. Not an on-time budget, an early budget. So all of you that

are preparing yourself with your nice dress for tomorrow morning, join the Governor to claim victory, you are killing them, you're killing people that need you. People that sent you here. People that voted for you, people that trusted you, you are hurting them.

So, Mr. President, my pain and my diatribe, as my fellow Senator DeFrancisco called it last night a diatribe -- if this is a diatribe, I love this diatribe. And last night I was talking diatribe. I loved last night. Every newspaper picked it up.

So I'm not talking -- again, and I'm going to repeat myself again, I'm not talking to you guys tonight, I'm talking about the black and Hispanic in the Assembly. That I heard only one, only one black and Hispanic, only one member of the black and Hispanic delegation in the Assembly voted against.

And I'm talking about the black and Hispanic in this chamber. We could have done it. We could have joined forces. We could have stood together. We, we. I'm not talking about you. We black and Hispanic, we could have said no. No. No. Basta ya.

But no, no, we play the same game that every year, playing game. We talk, talk, talk, talk. And when the time comes: Yes.

I'm going to end so I can contribute a little bit with the time so we can have an early budget. And Governor Cuomo, Governor Andrew Cuomo tomorrow could claim that since 1983 it is the first time that we have an early budget. And now, ladies and gentlemen, we are functioning. This body, that to everybody it was a dysfunctioning body, now we're going to be a functioning body, killing the black and the Hispanic and the poor and the needy. We're going to be -- that's functioning. That's a function. And having an early, early budget.

Thank you, Mr. President. I'm voting no. I'm voting no with honor. I'm voting no with distinction. I'm voting no even though I'm making enemies and people will say [retching sound]. I don't care. I don't care. Black and Hispanic could have stopped this. And after I finish, I know there are some people are going to start all the time criticizing. Whatever it is, it is. It is

what it is.

Black and Hispanic, learn how to fight for your community, for your people. And stop selling yourself so cheap.

I'm voting no.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: If Senator DeFrancisco would yield, I'd like to ask really one question.

SENATOR DeFRANCISCO: Okay.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to yield. The Senator yields.

SENATOR STAVISKY: In the proposals there has been talk that language is going to be added to provide TAP under the Higher Education Services Corporation part of the budget for schools that are not under the direct supervision of the State Education Department. The religious, presumably religious institutions, what has been referred to as rabbinical TAP. Has this been included in the budget?

SENATOR DeFRANCISCO: Yes, $3 million in TAP.

SENATOR STAVISKY: Three billion in TAP.

SENATOR DeFRANCISCO: Not $3 billion, $3 million.

SENATOR STAVISKY: I'm sorry -- $3 billion? I wish -- $3 million in TAP.

Then a follow-up question. I don't see it in the budget. Is this included in the lump-sum appropriation? In a lump-sum appropriation.

SENATOR DeFRANCISCO: Yes. Yes, it is. In the lump-sum appropriation.

SENATOR STAVISKY: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Stavisky.

Senator Espaillat.

SENATOR ESPAILLAT: Yes, Mr. President, would the sponsor yield for a couple of questions on the education part.

ACTING PRESIDENT GRIFFO: Will the sponsor yield for a couple questions?

Senator DeFrancisco yields.

SENATOR DeFRANCISCO: I do.

SENATOR ESPAILLAT: Thank you,

Senator DeFrancisco.

Now, earlier on, Senator Flanagan said that there was a $697 million cut to education for New York City.

SENATOR DeFRANCISCO: No. Overall cut. Total cut, entire state, 697.

SENATOR ESPAILLAT: What percentage of that will be for New York City?

SENATOR DeFRANCISCO: I believe, if I recall correctly, about 35 percent. I'm sorry, 38. Which was the same percentage of the increases when there were years of increases.

SENATOR ESPAILLAT: And through you, Mr. President, if the Senator will yield.

ACTING PRESIDENT GRIFFO: Senator Espaillat, you may ask your question.

SENATOR ESPAILLAT: And how much funding was not restored through the gap elimination adjustment, through the GEA?

SENATOR DeFRANCISCO: How much was not restored?

SENATOR ESPAILLAT: Yes.

SENATOR DeFRANCISCO: $3.5 billion.

SENATOR ESPAILLAT: And through you, Mr. President, if the Senator will yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: You may continue.

SENATOR ESPAILLAT: And what percentage of that over $2 billion was not restored to New York City?

SENATOR DeFRANCISCO: $850 million. And I'd have to calculate what percentage that is.

SENATOR ESPAILLAT: So through you, Mr. President, if the sponsor will yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR ESPAILLAT: So you're saying that $850 million were not restored to New York City through the GEA, and 38 percent of the $697 million were also cut for education for New York City?

SENATOR DeFRANCISCO: Yes, that's correct.

SENATOR ESPAILLAT: So in essence -- through you, Mr. President, if the

sponsor will yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR ESPAILLAT: So in essence, what you're saying is that there is a total cut of over a billion dollars for New York City.

SENATOR DeFRANCISCO: The year-to-year cut is $270 million.

SENATOR ESPAILLAT: And the GEA?

SENATOR DeFRANCISCO: Senator Flanagan can give you a much better answer, because I am not able to understand the advice I'm being given at this point. If you don't mind, I can yield to Senator Flanagan.

SENATOR ESPAILLAT: I don't mind. Of course not.

ACTING PRESIDENT GRIFFO: Senator Flanagan.

SENATOR FLANAGAN: Senator Espaillat, you mentioned two different things. You're talking about the gap elimination adjustment --

SENATOR ESPAILLAT: That's

correct, yes.

SENATOR FLANAGAN: -- and you're talking about overall cuts to state aid. I want to be very, very clear. The state statewide -- not New York City -- the statewide cut is $697 million.

SENATOR ESPAILLAT: Yes.

SENATOR FLANAGAN: So that compiles everything, including New York City.

The gap elimination -- and I have the school runs, just as every member in the chamber has received this. The gap elimination adjustment for the City of New York is $891 million. Approximately $51 million of that was restored, leaving a gap elimination adjustment to the tune of $840.5 million.

But I would also want to make it clear, because I think I understand part of what you're talking about, no one should labor under the misimpression that every school district in the State of New York doesn't have a gap elimination adjustment as well after what was done in the budget. New York City's happens to be larger, of course, because of

its sheer size.

SENATOR ESPAILLAT: Through you, Mr. President.

I understand that, Senator Flanagan. But I'm trying to get at the actual number, the total number of funding that the City of New York will not have for its education. And you're saying that there's a $697 million cut for the entire state, out of which $271 million are cut to New York City, or 38 percent, and that through the gap elimination the city will be out approximately $840 million.

My math shows me that that's over a billion dollars that the school system will not have this year in this fiscal year. Am I correct to say that?

SENATOR FLANAGAN: Absolutely not. I have right in front of me a state aid run that says total for '10-'11, City of New York, approximately $7.93 billion. The total for this year is $7.662 billion, representing a decrease of $271 million.

You're focusing on components within that. You should be looking at the

total aid. So let's be very clear. The City of New York is getting $7.662 billion from the State of New York. That's a reduction over last year of $271 million.

SENATOR ESPAILLAT: But is the gap elimination not part of the school aid formula?

SENATOR FLANAGAN: The gap elimination adjustment is absolutely part of the school aid formula. But to look at that in isolation is totally inappropriate, in my opinion, because there are a number of factors that are involved -- expense-driven aids, gap restoration. There are a number of factors that not only affect the City of New York but suburban and rural districts.

So it would be inappropriate, in my opinion, for someone to go out and say that New York City got shortchanged $840 million, because I could say that for Senator Marcellino's district, Senator Young's, Senator Oppenheimer's district. Everybody has a gap elimination adjustment.

What I believe you should be looking at more appropriately is the total

year-to-year changes and recognize that where we came from where the Governor started is far better for the City of New York and every other community in the state.

SENATOR ESPAILLAT: Through you, Mr. President.

So what you're saying, in essence, is that the gap elimination adjustment does not exist and that in fact doesn't translate into actual dollar cuts for education, not only in New York City but across the State of New York, as you well said. That it doesn't impact New York City exclusively, but that it impacts other counties and other regions as well.

SENATOR FLANAGAN: No. Senator Espaillat, you may try and parse my words, but let's be very clear. The gap elimination adjustment does exist. I didn't say it didn't exist whatsoever. It's real, it's palpable, it has an effect on every single school district.

So when you're talking about numbers, you want to go out -- my colleague Senator Lanza is from Staten Island, which you

well know. He can go out and say tomorrow that this $7.66 billion that's going to the City of New York, based on efforts that he and everybody else in this chamber made -- is it a reduction from last year? You bet it is. But there's a reduction for every member in every community in this state. And there's a gap elimination adjustment.

We all went through the school runs. No one is going to walk out of here saying "I'm extraordinarily happy." The gap elimination adjustment does exist. But it's part of an overall package that includes a number of different factors, many of which help the City of New York.

Let me give you an example. While it's not on the run, we talked about certain things like the 4201 schools. New York City is a better beneficiary of that program than any other school district in the state. Summer school special education, New York City is a better beneficiary under that program than any other school district in the State of New York. And you know what? They deserve the money. They have the students. That

that's where the money should go.

That's well over -- those two programs alone represent $93 million of additional money that's not on this run.

So if you want to talk about factors that are involved, I can go beyond the school run and talk to Senator Lanza and Senator Golden and bring up factors that affect the City of New York that make you more unique because you have a disproportionate share of these children, in large part based on the size of the New York City School District.

SENATOR ESPAILLAT: Through you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Espaillat.

SENATOR ESPAILLAT: That's true, but that's a different appropriation.

A cut is a cut is a cut by any other name. And whether it is a GEA item that was not restored to the tune of over $800 million, or a cut, a percentage, a 38 percent of the actual $697 million cut that you have actually stated that is occurring,

it's still a cut to an educational system, whether it is in New York City or in any county throughout the State of New York.

Senator Flanagan, you are familiar, obviously, with the Campaign for Fiscal Equity lawsuit that started back in 1993?

SENATOR FLANAGAN: Yes, I am.

SENATOR ESPAILLAT: And you know that in fact that lawsuit -- which, by the way, originated in my district, in the 34th Senatorial District, took about 13 years. That litigation went on for about 13 years. It actually was -- we actually got a decision from the Supreme Court and the Court of Appeals in November of 2006. And that decision called for our Legislature to provide funding for a sound and basic education.

Am I correct with that interpretation, Senator Flanagan?

SENATOR FLANAGAN: So far I'm in general agreement, yes.

SENATOR ESPAILLAT: Furthermore, that lawsuit challenged the constitutionality of our education funding formula here in New York State.

And would you say that this year's funding for education is a complete U-turn from the instructions that we got from the Court of Appeals to provide funding and provide a sound and basic education not just for New York City schoolkids, because we were large enough to understand that we had to address the need of high-needs districts in Buffalo, in Syracuse, in Yonkers and in other areas?

Although the lawsuit initiated in New York City, and its intent, original intent was to address a disparity in funding for education exclusive to New York City, when we finally dealt with the lawsuit here we were large enough to understand that other regions of the state also needed help.

Would you say that this budget, this funding that we have concluded cuts New York City by $271 million and through the GEA, the gap elimination adjustment, denies the city another over $800 million, is a complete U-turn from our commitment and the mandate that the court vested upon us to comply with?

SENATOR FLANAGAN: Absolutely not.

Senator Espaillat, would you yield to a question?

SENATOR ESPAILLAT: Yes, I would.

SENATOR FLANAGAN: When you were in the Assembly in the last several years, did you vote in favor of the budgets?

SENATOR ESPAILLAT: Not all the budgets. Some of the education budgets I voted against because I felt that we were not in compliance with the mandate that was given to us by the Court of Appeals to provide a sound and basic education for schoolchildren in New York State.

SENATOR FLANAGAN: I believe that we are continuing to provide a sound, basic education.

And I would go back to part of what you said. The obligation that came to us as a result of the Court of Appeals case had nothing to do with the entire State of New York. That case was principally decided about educating children in the City of New York. And at the time that the case was

decided, there had been recognition that we were already making strides in that direction. We drove a lot more money, there was the creation of the foundation formula, and that was advanced by Governor Spitzer.

And then I would say thereafter, with Democratic governors, with Democratic Assemblymembers and with Republicans and Democrats, there were changes made to that foundation aid formula recognizing that we had to live within certain fiscal constraints.

Do I think we've made a U-turn? Absolutely not. Am I thrilled with the idea that we're limiting the funds in education compared to many other years? No, I'm not. But there's a fiscal reality that we have to deal with, and I believe that we're still meeting the obligations of that court case in relation to the City of New York, and we've gone beyond that in meeting those obligations, which frankly didn't exist to the balance of the State of New York.

SENATOR ESPAILLAT: Thank you, Senator Flanagan and Mr. President. Thank you for your answers to my questions.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Espaillat on the bill.

SENATOR ESPAILLAT: Yes, Mr. President.

Justice Leland DeGrasse affirmed on November 30th of 2005, when he made some recommendations to the Legislature, that in order to provide a sound and basic education, New York City needed to gain $5.6 billion for operating expenses and another $9.2 billion for facilities, for capital. Clearly, that has not happened.

This budget bill, although it restores some of the items that I think are very important to all of us -- Title 20, summer youth jobs, many of us have already highlighted what they are -- fails to provide adequate funding for education. And in fact, if we are to overcome this economic crisis, if in fact we are preparing ourselves to have the best qualified and competitive workforce once we overcome this economic crisis, we must invest in education.

The best investment that we can

make in this Legislature to prepare ourselves for the next generation to be competitive when the economy turns around is to invest in education. And this bill, this aid to locality bill does not do that.

That's why I will be voting in the negative, Mr. President. I think that this bill falls far short of where we need to be with regards to education funding. It has clearly been stated that New York City will be short over a billion dollars in education funding.

I represent a district that built over 15 new schools, and many of those schools have empty classrooms and empty floors and overcrowded classrooms in those floors that are not empty because we lack operating funds to hire new teachers and to have gifted programs and arts programs and to provide the best possibilities for our students.

So, Mr. President, once again, I will be voting in the negative on this bill. I feel that we have fallen very short of where our children ask us to be.

ACTING PRESIDENT GRIFFO: Is

there any other Senator wishing to be heard?

Senator Krueger.

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

So we have heard here on this floor tonight angry legislators, upset legislators. We're hearing from the people of New York State outside of our chambers here and now in this great Capitol. There is tough choices in this budget. I started the day talking about the revenue bill, talking about how even in a world of tough choices there could have been better choices made about how we raised our money in a variety of ways that would have helped us avoid specifically many of the cuts and much of the pain that we are going to be moving through this budget, much of which are in this bill tonight.

Senator Espaillat just very articulately discussed the concerns for public education in his and my great City of New York. But Senator Flanagan is right when he says these cuts are everywhere. They will impact every community, I agree with you, Senator Flanagan.

What I'm suggesting is we didn't have to end up here. We didn't have to end up here with these cuts to education, which we know will do harm to every one of our communities no matter whether we come from upstate or downstate, a big city or a small rural town.

And there are more cuts in this budget. My colleague Senator Velmanette Montgomery talked about the impact on human services, the complicating factors of cutting services to the lowest-income New Yorkers when the unemployment rate does not appear to be going down and job opportunities are scarce.

And these budget cuts will not only do enormous harm to particularly poor families, mostly women and children, but ironically those cuts are in categories of programs -- in fact, this entire bill is filled with cuts that actually move money into the communities to be spent as economic development money.

Because the one thing we can say about the aid to localities budget, the list of items of appropriation in this bill, is

these monies go directly to local governments and local communities where they are spent primarily on jobs for people or to provide basic living needs, which means people go out and go and shop in their food store, pay their rent, meet their children's basic needs, provide them with all the things we all want to provide our families.

So when I realize that in a $132 billion budget with other alternatives for revenue -- including those $29 billion in tax expenditures we never looked at or considered as options -- and yet we're going to make these level of cuts in education, human services, and real jobs for real people, I also find myself sharing the frustration of many of my colleagues and the emotional discussion you heard tonight. And I also will be voting no on this budget bill.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Seeing no other Senator wishing to be heard, debate is closed.

The Secretary will ring the bell.

Senator Oppenheimer, why do you

rise?

SENATOR OPPENHEIMER: To explain my vote.

ACTING PRESIDENT GRIFFO: We have not called the roll yet, Senator Oppenheimer.

I will remind all members of the Senate, though, that we will be enforcing the two-minute explanation of votes.

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 Zeldin to explain his vote.

SENATOR ZELDIN: Thank you, Mr. President.

During my campaign I committed to cut taxes, control spending, and assist with this private-sector job creation that was so important all across Long Island and around New York State. I stand to say thank you, thank you to Senator Skelos, thank you to Senator Flanagan for all of your work on this

education issue.

I am proud to say that I have three school districts -- William Floyd, South Country, and Hauppauge -- that actually are going to end up with more money next year than they did this year.

I went to public school, my daughters are about to start public school, my mother's a retired teacher, grandparents were teachers. I went to SUNY, my chief of staff went to SUNY, my deputy chief of staff went to SUNY. I believe in public school education.

And I'm happy that we have closed a $10 billion budget deficit for next year. And the following year's budget deficit, which was projected to be $15 billion, has been reduced to $2 billion.

Our work is not done here, but this is a good start. And I look forward to the dialogue about a tax cap, to get that tax cap done, to get mandate relief done, to get the MTA payroll tax repealed, hopefully get our school aid formula changed. Because Long Island should not be an ATM machine for New York City and elsewhere.

Republican or Democrat, upstate or downstate --

ACTING PRESIDENT GRIFFO: Senator Zeldin, how do you vote?

SENATOR ZELDIN: -- Assembly or Senate, we need to stick together. I vote aye.

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

Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Very briefly.

The reality is that we are living in very difficult times for our economy and for the state and local governments all across this nation. And there is no doubt that we need to change direction. And we should all applaud Governor Cuomo for providing strong leadership to turn the state government around.

There is no doubt that vital services will be badly impacted because this year is a crisis year and it's much larger than we would have thought. The need for a

change in direction is greater than ever. And the importance of the Legislature successfully working together is more paramount than ever before.

Going forward, I want to bring to your attention the challenges that will continue to face education throughout our state. Reduced funding for school districts, the need to improve schools that fail and protect excellence where it exists, these present a multitude of pressures that we will have to address this year and next. Property taxpayers are already overtaxed. State resources are declining. But there are children who are in school now, one grade at a time, one year at a time, one childhood at a time. There are no do-overs.

We need to work together and with Governor and give special attention to the delicate, precarious place we have put our schools into. We need to help them reduce costs, provide mandate relief, improve teaching, make sure we protect a system that has already suffered incredible cuts. And you all know what I know, they are cutting in all

of our school districts -- music, art, physical ed, pre-K, full-day kindergarten --

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, how do you vote?

SENATOR OPPENHEIMER: All right. I just want to say that our work is much ahead of us. I'm voting yes.

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

Senator Carlucci to explain his vote.

SENATOR CARLUCCI: Thank you, Mr. President. I'll be voting in the affirmative on this bill.

However, I stand here tonight disappointed. I'm disappointed that the funding restoration to the Office of People with Developmental Disabilities that we fought here in this chamber to restore fell on deaf ears in the Assembly. And, you know, we're not talking about cutting bloated government salaries, we're talking about cutting vital services to our most vulnerable population.

However, I know that the people in my district and throughout New York State, the

good community services, the people that work everyday towards servicing our most vulnerable population when it comes to people living with developmental disabilities, I plan on working with them to make sure that our most vulnerable population does not fall through the cracks.

So with this, I vote in the affirmative. Thank you, Mr. President.

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

Senator Stewart-Cousins to explain her vote.

SENATOR STEWART-COUSINS: Yes, to explain my vote.

Tomorrow morning at about 7:00 a.m. hundreds of children will get up early so that they can rally in Yonkers because they don't have gym, they don't have art, they don't have music, they don't have psychologists, they don't have social workers. And where we are today with this budget, we will lay off possibly 600 people in the Yonkers School District.

I understand there's a lot of pain.

But for this school district, the pain has got to stop. I look at a run where there's percentages and it's all shared pain. But among the Big Five, I look at a school district like Yonkers that loses $6 million while another school district gains $6 million. I still don't understand how this continues to be called equitable and fair.

So I'm standing here voting no, walking with those children symbolically tomorrow, because education matters. Funding it right matters. We can no longer afford to keep deciding that it is something that maybe we'll get right. It's not right yet.

I vote no.

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 293, those recorded in the negative are Senators Adams, Diaz, Duane, Espaillat, Hassell-Thompson, L. Krueger, Parker, Peralta, Perkins and Stewart-Cousins.

Ayes, 52. Nays, 10.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we please take up Calendar Number 296, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 296, Senate Print 2801A, Senate Budget Bill, an act making appropriations for the support of government: LEGISLATURE AND JUDICIARY BUDGET.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. Just very quickly.

I will be voting for this bill, but

I wanted to state for the record my concern and disappointment that as a part of the additional savings that OCA was asked to come up with, a program for civil legal services was cut 50 percent, or $12.5 million.

I commend the Chief Judge for being an advocate for civil legal services. And I know he is deeply concerned with the prospect of layoffs in an already strained court system. However, I too must express my disappointment that such deep cuts took place in civil legal services even though I understand the position that Judge Lippman finds himself in.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: How do you vote, Senator Hassell-Thompson?

SENATOR HASSELL-THOMPSON: I said in the affirmative, sir.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 296, those recorded in the

negative are Senators Adams, Diaz, Duane, Parker and Perkins.

Ayes, 57. Nays, 5.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we please take up Calendar 294.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 294, Senate Print 2808D, Senate Budget Bill, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Dilan to explain his vote.

SENATOR DILAN: I just want to indicate that during the Finance Committee I had concern with language in this bill as it

pertains to the MTA. Namely, that language is on page 95, starting line 53 through 56, and page 96, line 1 through 9, where it appears that the MTA is taking a $200 million cut.

However, members of the Majority and members of the Majority staff and my staff have also spoken to the MTA, and they assured me that at the end of the day the MTA will only wind up with the $100 million cut that was discussed at our table. And as a result of maybe some additional revenues, that they may actually have additional revenue of $45 million, maybe.

So I'm going to accept those assurances and vote yes on this bill.

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

Senator Kennedy to explain his vote.

SENATOR KENNEDY: Yes, thank you, Mr. President.

I will be voting against this bill. I'm deeply disappointed this budget does not include policy reforms necessary to spark the economic growth in Western New York with the

UB 2020 plan.

I appreciate Governor Cuomo's commitment to helping us rebuild the Western New York economy, and I look forward to the summit he'll host to discuss how we'll make UB 2020 a reality. But this budget is a budget of priorities. And the budget bill that we are voting on right now does not include UB 2020 as a priority of this Senate.

And UB 2020 is arguably the number-one priority piece of legislation for the people of Western New York that I represent and that my colleagues across the aisle represent. We have argued in favor of this bill on both sides of this house, on both sides of this chamber, out of Western New York.

It is absolutely essential that UB 2020 be enacted. I am extremely disappointed that it is not a part of this budget. And therefore I will be voting in the negative.

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

Senator Diaz to explain his vote.

SENATOR DIAZ: Just a few words, Mr. President, to address myself of what my colleague Senator Kennedy just said.

I am from downtown, from lower New York, and UB 2020 supposed to be a remedy to help the Western New York. Senator Grisanti introduced this bill. And there was a, you know, like big thing because we were -- first time we were going to help Western New York. And now there is no UB 2020.

So Senator Grisanti, what happened? No UB 2020. I'm voting no.

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

Senator Hassell-Thompson to explain her vote.

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

Again, I think you've heard it several times already tonight, but I must reiterate that as someone who signed onto the CFE lawsuit, it is incumbent upon me to continue to vote against any budget that does not keep good faith with that.

It also would not be in the

interests of my district to vote for a budget that is going to cut $8 million out of the school budget for the City of Mount Vernon, which is a high-needs district.

When I tried to leave this afternoon -- many of you were able to duck out the other way, you were diverted. But I walked through the crowd. And I walked through and I met a lady that I didn't know but who knew me. And she said, "I'm trusting you to vote no against this budget because it's bad for us. This is my son. We're going to stay here all night. And I want him to see government and how it works."

And so I can't vote on behalf of this budget, on behalf of that 7-year-old who does not have instruments in his school, who doesn't have enough textbooks in his classroom, who doesn't have enough computers for him to be able to learn.

And for us to stand fast and look at the budget cuts that are going to affect New York City, of which I also represent, is not in my best interests and is certainly not in the best interests of the people that I

serve.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Ruth Hassell-Thompson to be recorded in the negative.

Senator Parker to explain his vote.

SENATOR PARKER: I get that everybody wants to give the Governor a win. And I don't mind the Governor having a win. But the least you guys could have done is give people a chance to speak on the bill. Real basic.

I get we're in the minority. I know my little vote doesn't mean anything. I know the little votes of all the people who are making a lot of noise tonight don't mean anything to anybody. I get it. I get it. Suck it up, go home, you don't get anything in the budget, you got nothing.

But I'm not going -- you know, I've come here because people elected me at least to speak truth to power and to say that this is not right. And I'm annoyed now because you guys rushed this thing through so you can get this thing -- I know everybody wants to get it

early, and I don't know why that's like such a big deal. Nobody's going to get elected or unelected, and nobody's going to hold on to the majority or lose the majority or gain the majority based on the floor debate on the budget in 2011.

You guys could have gave us a chance to talk on the bill. I mean, this what we're doing right now is not correct. What we're seeing happening right now with the gallery being closed is not correct. What we see with the police being walked around this building as storm troopers is not correct. This is the people's house. And as much as we talk about we're here to represent people tonight, we've denied people their voice. That's why people are here angry. And that's why I'm angry, because there's no reason for this to happen in this manner.

Politics is a place where not just what you do matters, but how you do it is absolutely critical. And how dare us deny people voice? How dare us? You guys have been -- when I say you guys, all of us. We've been pushing through B.S. on the people of

this state for hundreds of years without -- you know, without denying them basic access to democratic rights.

And so what we're doing here tonight is a disgrace and I'm ashamed to be part of this body. I'm voting no, Mr. President, because -- not just because this budget is bad and it's bad for my community, but this process is horrible.

I have more to say, but I know I'm only limited to two minutes. And my only regret is I only have two minutes to speak on behalf of not just the people of my district but everybody who's being disenfranchised and people who will be put out on the street because of this vote.

I vote no.

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

Senator Grisanti to explain his vote.

SENATOR GRISTANTI: I'm going to vote yes on this bill.

And one thing that I want to say to my friends across the aisle who doubt UB 2020,

if you want to have and sit there and denounce the commitment of your own Governor, who has stated five times in a press conference that there will be a summit in Buffalo -- you don't have to attend. That's fine. If you want to doubt what happened here in this Senate of a 55-to-1 vote, that's fine.

But what I didn't see is I didn't see the Democrats on that side talking to their Democratic friends in the Assembly to push that bill forward, as I was doing not only with the Republicans but meeting with Debra Glick and other members.

This bill is not dead. This bill has moved faster in the last 90 days than it has in three years. When the Democrats were in the majority, the bill couldn't even pass. I've been here 90 days and this bill has gone further than ever.

It is not dead. We have talked to the Governor. We have commitments. There's a summit. If you want to use it for political gain, that's fine. But I've talked to the people at UB 2020 about this bill, I've talked to the tradespeople and they are ecstatic as

to where UB 2020 lays at this point in time.

So if you want to have shame and shoot me down for UB 2020, go ahead. We'll see what happens at the end of session. But UB 2020 is not dead, it's alive. I know it's important to Western New York. But I'm not a one-issue person. There are other things in bill -- restoring funding to Roswell Park -- that the Senate did on this side, no help from the Assembly, no help from the Governor.

Restoration of basically Darwin Martin House, Olmsted Park Highway, Hoyt Lake projects, restoring funding to education. These are things we did on this side. And I appreciate what the Senate did, but don't doubt my word. UB 2020 is not dead. It's alive and well.

I will be voting in the affirmative.

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

Senator Stavisky to explain her vote.

SENATOR STAVISKY: Yes, Mr. President, I'd like to correct the Senator

on the other side of the aisle that when I chaired the Committee on Higher Education in 2009, with the help of Senator Maziarz and Senator Stachowski and a whole host -- Senator Volker -- that bill passed this house. You are mistaken. You are wrong.

I vote aye.

ACTING PRESIDENT GRIFFO: Senator Stavisky votes in the affirmative.

Senator Adams to explain his vote.

SENATOR ADAMS: Did you hear them tonight? Did you hear them? They're staying over tonight. They're staying over. They're going to sleep in the rafters tonight.

And I don't care -- don't tell me about rules, because you all don't follow rules. I got my pillow and my blanket. I'm going to join them. I'm going to sleep with them tonight. Because when people get so angry, they don't drop bombs, they don't fight wars, they use their voices. I'm going to sleep on that hard slab up there with them.

What we did tonight was wrong. They all participated. When Strahan tackled to get his last sack, there was an asterisk

next to it. You know that? Because it was cheating. So we're going to beat the clock. You rushed it through, you didn't allow us to debate it, you didn't allow us to argue it, all for one reason only, because we've got to beat the clock.

So I'm going to sleep with those children, those college students, those people who are losing their homes, those people who are concerned, those people who are being locked out. I'm going to lay down on that concrete with them and I'm going to stay with them throughout the entire night. Because what we did to them during this budget cycle, it was wrong.

And I'm uncharacteristically calm by saying it. We were wrong. And we should be ashamed of ourselves as Democrats. Don't tell me I'm voting for a bill because I like something in the bill. This is wrong. What happened during this cycle is wrong.

I'm voting nay.

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

Senator Gallivan to explain his

vote.

SENATOR GALLIVAN: Thank you, Mr. President.

My colleagues, both the product and process of this budget are a testament of the leadership provided by the Governor and the bipartisan recognition in the Legislature that business as usual in state government has become unsustainable and unacceptable.

It took years of shortsighted governance to deliver New York into its current condition, but tonight marks the first step down a new path. This budget eliminates our current deficit, markedly improves the state's outlook for the next fiscal year, consolidates and eliminates inefficient bureaucracy, and encourages private-sector job growth, particularly in Western New York, the district I represent.

One year's budget will not erase decades of poor fiscal management, but this year's budget agreement, the manner in which it was reached, signifies there's just cause to be optimistic in New York's future. The Legislature and the Governor were able to work

together with a sense of common purpose to make the difficult but responsible choices to ensure New York's future is brighter today than it was before.

I vote in the affirmative.

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

Maziarz to explain his vote.

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

I rise not to make a similar announcement that Senator Adams made, but just to reference very briefly UB 2020.

There are aspects of UB 2020 in this budget. There's a lot of differences between what the UB 2020, Senator Stavisky, that was passed in 2009 and the UB 2020 bill that was sponsored by Senator Grisanti. Obviously that bill, I think, had almost 20 members in opposition. This one had but one.

There is a great deal of satisfaction with the support of the Governor. That is different. We didn't have that before. The Buffalo News editorial board is satisfied with the direction that we are going

in. Funding to implement UB 2020 is contained in this budget. I think it's a lot further ahead than it's ever been before.

Thank you, Mr. President. It should be permanent, by the way.

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

Senator Martins to explain his vote.

SENATOR MARTINS: Thank you, Mr. President.

You know, one of the priorities that we had through this budget process was to remember that there are people out there that are in real need throughout New York State and to try and reach a balance between the needs of those people -- our constituents, our residents, our neighbors, our friends, our family -- that are in need throughout New York State but at the same time remember those people who have simply been taxed to the breaking point and have been enduring more and more taxes. We are the highest-taxed state in the entire country.

And we made one commitment to them,

we would balance those two interests. And I have heard time and time again the need for us to focus on the needs of those people who are most in interest. And I agree with you, that is our commitment, all of our commitment. You do not balance a budget on the backs of those people who are most in need.

But at the same time, we have an equal commitment to those people who have continuously reached into their pockets and paid, time and again, more and more taxes. We have a commitment to both.

I believe that this budget addresses both needs. I believe that you do not just continue to spend more and more money in the hopes that you get a better result. And I believe that we have met not only our commitment to those people who are most in need but to the taxpayers of this state because we have finally restored fiscal order to New York State, and that's why I'm voting in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Martins votes in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 294, those recorded in the negative are Senators Adams, Diaz, Duane, Espaillat, Hassell-Thompson, Kennedy, L. Krueger, Parker, Peralta, Perkins, Rivera, Smith and Stewart-Cousins.

Ayes, 49. Nays, 13.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I just want to stand and thank everyone who has been involved in this budget process, especially staff, who have worked tirelessly to get the product together so that we can vote in an orderly fashion.

And I also want to thank members of both sides of the aisle and, as far as for the Minority, Senator Liz Krueger. She was always prepared, always asked good questions, and always cordial. And that's the way that this process should work. And hopefully it will work like this in the future in all future years as well.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

Senator Sampson.

SENATOR SAMPSON: Thank you very much Mr. President.

Before I speak, I would just like all of my colleagues to take a moment and really congratulate our staffs for doing a phenomenal job these last couple of days to make sure they had all the information and got the work done. So we need to give them a round of applause, my colleagues.

(Applause.)

SENATOR SAMPSON: They want a raise, yeah. Senator Skelos, they want a raise.

First of all, I want to say when you look at New York State, it's at a crossroads. Governor Cuomo deserves credit for his leadership to bring us to an on-time budget but most of all restore New York's standing as the Empire State.

Meeting a deadline may not seem like much of an accomplishment outside of Albany. Every day you have workers across

this state do it because that's what they do. They go to work, do their job, go home and enjoy their family.

But an on-time budget, my colleagues, is important because it gives New Yorkers a reason to begin to trust their leaders enough to follow them towards a brighter future.

Was this a tough budget? Is this tough times? And we made tough choices. I am supporting this budget, but I cast my vote with eyes wide open to the choices we are making and the political impact on middle-class families and working poor. History will judge us all by those choices, by whether we stood up to ease the burden on middle-class families or sat back while they continued to carry the sole burden of the shared sacrifices needed to solve these fiscal crisis.

The severity of these economic challenges facing New York demand a new direction, a new beginning. And Governor Cuomo is leading us in that direction.

We were sent here to make the tough

choices, to solve the tough problems, and above all never forget our districts. The budget did not raise taxes. But I wish it did not give a tax break to what I call the true millionaires, 70,000 people who are making over a million dollars, at a time when we have 3 million schoolchildren facing these deep cuts at this time.

We were successful in making some educational restorations. And I want to commend Senator Andrea Stewart-Cousins for helping rectify the unfair treatment Yonkers received. But I fear the educational restorations don't go far enough. Sacrificing the promise of tomorrow by delaying the fulfillment of the promise of the Campaign for Fiscal Equity is incorrect. Allowing critical programs such as art, music, athletics, language arts means that our children will only read about the Renaissance and not experience the Renaissance.

We cut spending, we consolidated agencies to deliver a government that works better, costs less, and even restored vital funding for human services like Title 20 to

our seniors and also summer youth employment. And our children will commend us for that. But I wish we had done more to cut with care, to balance the budget in line with our values, protecting our most vulnerable citizens.

There were significant restorations to CUNY and SUNY critical to building the well-educated workforce that we desperately need especially during these economic times. But I wish we had included UB 2020 to build a stronger university system and a stronger economy for Western New York.

Senator Grisanti, I love your passion and I agree with your passion. And I trust your word. Working along with my colleague Senator Kennedy and the rest of our colleagues from Western New York, I believe it will become a reality.

As I said, this was a hard vote for me, a hard vote especially in my district. But these are hard choices facing New York, that they had to be made to put us on the right track. My colleagues, the only reason I voted this way is because I trust and I have faith in the Governor that these choices that

we are making today will put us on the road to fiscal prosperity.

As I vote for this budget, I hope the spirit of bipartisanship that we have experienced these last couple of days will continue and our promises will be kept. My conference is here; we made hard choices in supporting parts of this budget that goes, some of us, against our grain. But we knew we had to make tough choices.

Senator Skelos, I commend you for your leadership, I commend all my colleagues for their leadership for getting us to this point. But now I'm asking that you join us in making equally hard choices as we move forward.

I'm asking that you work with all of us and pass the extension of the rent regulation laws to present a disaster, what I call a tenant tax for 2.5 million people not only in New York City but in Nassau County, Rockland County and in Westchester.

I'm asking you also to work together so we can reach an agreement -- we talk about property tax, but at the same time

we need mandate relief, especially to help those middle-class families.

I'm asking that you work with all of us to pass an ethics package that restores faith in the Legislature and gives New Yorkers a reason to believe in a New York where anything is possible. We made the first step tonight by passing an on-time budget. The next step is ethics reform.

And I'm asking that you work with us to keep the promise that 54 out of 62 of us made that we pass a nonpartisan redistricting bill to make sure that politics are out of the way of drawing our electoral lines.

And I'm asking -- and I'm glad Senator Diaz is not here tonight -- that you partner with all of us to end the inequality same-sex couples face by bringing marriage equality to the floor.

Now that this budget is complete, we have the time, we have the responsibility to work on this in a bipartisan manner. I say to my colleagues: Is this ambitious? Yes, it is. Is this impossible? I say no. Is it essential? I say absolutely yes.

So, my colleagues, we're on the right track. Let's continue to be on the right track to make sure that New York State is on the road to being the Empire State, on the road to fiscal prosperity, but most of all investing in one of the most precious commodities that we have, and that is our children.

So once again, thank you, Mr. President. And thank you, all my colleagues. Now tomorrow is the time we get back to work. Thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Sampson.

Senator Skelos.

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

And I'm delighted that this chamber has passed not only an on-time budget but an early budget. And I'm hopeful that the Assembly Democrats will be able to accomplish the same thing that we have accomplished so that we do have an early budget.

You know, this is a responsible

budget that has met the goals of our conference: Cut spending, reduce taxes, and empowering the private sector to create jobs. Many of you in this chamber, especially those within the Republican Conference, have heard me say this on more than numerous occasions. And in fact, when we were sitting on that side of the aisle, I think you heard me say it on more than numerous occasions. And I think that's why we are now on this side of the aisle.

But what I do want to thank is Senator John DeFrancisco, chair of the Finance Committee, who has done just a great job in debating the bills that have come before this chamber. John, I congratulate you on a great job.

(Applause.)

SENATOR SKELOS: Senator Krueger, we thank you for your spirited debate. I think it is totally appropriate and what should occur in this chamber when Republicans and Democrats gather and exchange ideas. So I congratulate you also on this spirited debate, and certainly all of us in this chamber for

participating in this great duty that we have in putting a budget together.

I want to thank Robert Mujica, secretary of the Finance Committee, and Diane Burman, our counsel. And all the members, the Senate, the Assembly, staff, Republican side, Democrat side, everybody did work together to make this day possible.

I'm also pleased that we partnered with Governor Cuomo, who really did set the right tone and worked with both Democrats and Republicans to get a sound budget in place.

And, Senator Sampson, I thank you for your cooperation and certainly your leadership in accomplishing what is very difficult choices for all of us in this chamber.

I also want to thank the Speaker for his cooperation, all of us who participated in the joint conference committees. It worked. We talked about the Budget Reform Act of 2007. You probably heard me say it so many times last year. Well, we followed the law this year, and we have an early budget. So it shows if you follow the

law, it works, and you can have an on-time budget.

You know, in the past unfortunately New York leaders have shouted past each other and have left critical challenges unmet. This budget, which has charted a new course and has made Albany functional -- and yes, Senator Diaz, I'm delighted to say it's functional and accountable to the people. And I believe that we will continue on that course.

Today we have enacted in this chamber, at least, the first early budget since 1983. And because of the hard work of all the Senators in this chamber, I think we should all be very proud of that.

As we move forward, we are committed to passing a responsible ethics reform bill. We are prepared to pass mandate relief, which is critically necessary for all local levels of government. I'm very proud that our conference was able to restore millions and millions of dollars that would have been cost-shifted to local governments. I'm proud of our conference that we've done that.

And as we move forward, we have to deal with pension relief and other issues that are critically important not just to this chamber but for the people of the State of New York.

And finally, jobs. It's about jobs. I believe we've set the right tone now with the business community that they see this chamber, the Assembly means business, the Governor in particular. No new taxes. You can't tax your way into prosperity. You can't tax your way out of economic problems. You have to cut spending in a responsible way. We've done that. We've sent the message to the business community that we want you to stay here, we want you to invest here, we want you to grow here and we want you to create jobs here.

And yes, we will, as Governor Cuomo indicated, finally have a UB 2020 plan before this session is over. The Governor has guaranteed it, and I believe that when the Governor guarantees something, it will occur.

So again, I thank all of my colleagues here. I look forward to seeing you

tomorrow.

And if I may, is there any other further business to come before the Senate?

ACTING PRESIDENT GRIFFO: There is no further business before the Senate, Senator Skelos.

SENATOR SKELOS: Senator Libous, am I doing this okay?

SENATOR LIBOUS: Keep going. Eleven a.m. tomorrow.

SENATOR SKELOS: I move that we stand adjourned until 11:00 a.m. Thursday, March 31st, 11:00 a.m. And there will be a Republican conference at 10:30.

ACTING PRESIDENT GRIFFO: There will be a Republican conference at 10:30 tomorrow.

On motion, the Senate stands adjourned until Thursday, 11:00 a.m., March 31st. Senate is adjourned.

(Applause.)

(Whereupon, at 11:50 p.m., the Senate adjourned.)