

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 12, 2012

11 3:31 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JOSEPH A. GRIFFO, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

2 ACTING PRESIDENT GRIFFO: The
3 Senate will come to order.

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

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

9 ACTING PRESIDENT GRIFFO: For
10 today's invocation we are honored to have with
11 us the Most Reverend Nicholas DiMarzio, Bishop
12 of the Roman Catholic Diocese in Brooklyn and
13 in Queens.

14 Bishop?

15 BISHOP DiMARZIO: Let us pray.

16 Almighty God, we ask You for
17 today, in this Senate session as it begins,
18 the wisdom of Solomon for the Senators, the
19 courage of Daniel, and the compassion of
20 Jesus.

21 When Moses appointed the judges
22 to assist him, he asked only one thing from
23 the Lord God: Right judgment. Lord, give
24 right judgment to all who are here who vote in
25 this house.

1 May they in their deliberations be
2 concerned for those who are poor or marginalized,
3 for students and farmworkers, and for all who
4 need the assistance of others. Give them
5 strength and courage as needed.

6 And we ask this in Your holy name,
7 amen.

8 ACTING PRESIDENT GRIFFO: The
9 reading of the Journal.

10 THE SECRETARY: In Senate, Sunday,
11 March 11th, the Senate met pursuant to
12 adjournment. The Journal of Saturday,
13 March 10th, was read and approved. On motion,
14 Senate adjourned.

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

17 Presentation of petitions.

18 Messages from the Assembly.

19 Messages from the Governor.

20 Reports of standing committees.

21 Reports of select committees.

22 Communications and reports from
23 state officers.

24 Motions and resolutions.

25 Senator Libous.

1 SENATOR LIBOUS: Mr. President,
2 I believe Senator Breslin has a motion.

3 ACTING PRESIDENT GRIFFO:
4 Senator Breslin.

5 SENATOR BRESLIN: Thank you,
6 Mr. President.

7 On behalf of Senator Addabbo, on
8 page 9 I offer the following amendments to
9 Calendar Number 111, Senate Print Number 1271,
10 and ask that said bill retain its place on the
11 Third Reading Calendar.

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

16 SENATOR BRESLIN: Thank you,
17 Mr. President.

18 ACTING PRESIDENT GRIFFO: Thank
19 you, Senator Breslin.

20 Senator Libous.

21 SENATOR LIBOUS: Mr. President,
22 on behalf of Senator Grisanti, I wish to call
23 up his bill, Print Number 6084, recalled from
24 the Assembly, which is now at the desk.

25 ACTING PRESIDENT GRIFFO: The

1 Secretary will read.

2 THE SECRETARY: Calendar Number
3 193, by Senator Grisanti, Senate Print 6084, an
4 act to amend the Parks, Recreation and Historic
5 Preservation Law.

6 SENATOR LIBOUS: Mr. President, I
7 now move to reconsider the vote by which this
8 bill was passed.

9 ACTING PRESIDENT GRIFFO: Call the
10 roll on reconsideration.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 56.

13 SENATOR LIBOUS: Mr. President, we
14 hand up the following amendments.

15 ACTING PRESIDENT GRIFFO: The
16 amendments are received.

17 Senator Libous.

18 SENATOR LIBOUS: Mr. President, on
19 behalf of Senator Lanza, on page 12 I offer the
20 following amendments to Calendar Number 195,
21 Senate Print 5878B, and ask that said bill retain
22 its place on the Third Reading Calendar.

23 ACTING PRESIDENT GRIFFO: The
24 amendments are received and the bill shall retain
25 its place on third reading.

1 Senator Libous.

2 SENATOR LIBOUS: Mr. President,
3 could we now have the noncontroversial reading of
4 the calendar, please.

5 ACTING PRESIDENT GRIFFO: The
6 Secretary will read.

7 THE SECRETARY: Calendar Number
8 135, by Senator Fuschillo, Senate Print 526A, an
9 act to amend the Vehicle and Traffic Law.

10 ACTING PRESIDENT GRIFFO: Read the
11 last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect one year after it shall
14 have become law.

15 ACTING PRESIDENT GRIFFO: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 58.

19 ACTING PRESIDENT GRIFFO: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 199, by Senator Saland, Senate Print 1415C, an
23 act to amend the Penal Law.

24 ACTING PRESIDENT GRIFFO: Read the
25 last section.

1 THE SECRETARY: Section 9. This
2 act shall take effect on the 90th day.

3 ACTING PRESIDENT GRIFFO: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 58.

7 ACTING PRESIDENT GRIFFO: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 204, by Senator Grisanti, Senate Print 5862A, an
11 act to amend the Penal Law.

12 ACTING PRESIDENT GRIFFO: Read the
13 last section.

14 THE SECRETARY: Section 26. This
15 act shall take effect on the 60th day.

16 ACTING PRESIDENT GRIFFO: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 58.

20 ACTING PRESIDENT GRIFFO: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 241, by Senator Hannon, Senate Print 6500, an act
24 to amend the Public Health Law.

25 ACTING PRESIDENT GRIFFO: Read the

1 last section.

2 THE SECRETARY: Section 2. This
3 act shall take effect on the 180th day.

4 ACTING PRESIDENT GRIFFO: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 58.

8 ACTING PRESIDENT GRIFFO: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 262, by Senator Ranzenhofer, Senate Print 3192,
12 an act to amend the Domestic Relations Law.

13 ACTING PRESIDENT GRIFFO: Read the
14 last section.

15 THE SECRETARY: Section 3. This
16 act shall take effect on the 120th day.

17 ACTING PRESIDENT GRIFFO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 58.

21 ACTING PRESIDENT GRIFFO: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 271, by Senator Lanza, Senate Print 6332, an act
25 to amend the Multiple Dwellings Law.

1 ACTING PRESIDENT GRIFFO: Read the
2 last section.

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

5 ACTING PRESIDENT GRIFFO: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 58.

9 ACTING PRESIDENT GRIFFO: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 279, by Senator Seward, Senate Print 2704A, an
13 act to amend the Insurance Law.

14 ACTING PRESIDENT GRIFFO: Read the
15 last section.

16 THE SECRETARY: Section 6. This
17 act shall take effect on the 90th day.

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 58.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 283, by Senator LaValle, Senate Print 815, an act

1 to amend the Social Services Law.

2 ACTING PRESIDENT GRIFFO: Read the
3 last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect on the 180th day.

6 ACTING PRESIDENT GRIFFO: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 58.

10 ACTING PRESIDENT GRIFFO: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 284, by Senator Ranzenhofer, Senate Print 3228,
14 an act to amend the Domestic Relations Law.

15 ACTING PRESIDENT GRIFFO: Read the
16 last section.

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

19 ACTING PRESIDENT GRIFFO: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 58.

23 ACTING PRESIDENT GRIFFO: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 285, by Senator Savino, Senate Print 4090, an act
2 to amend the Domestic Relations Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

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

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 58.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 Senator Libous, that completes the
14 noncontroversial reading of the calendar.

15 SENATOR LIBOUS: Mr. President,
16 we're going to go back to motions and
17 resolutions, but we're not going to go back for a
18 couple of minutes yet. So I would say that we're
19 going to just take a deep breath.

20 We're not going to be at ease,
21 we're not going to recess, we're just going to
22 take -- the Senate will take a deep breath.

23 ACTING PRESIDENT GRIFFO: So
24 noted.

25 (Pause.)

1 ACTING PRESIDENT GRIFFO: The
2 Senate will come to order.

3 Senator Libous.

4 SENATOR LIBOUS: Mr. President, if
5 members could take their seats, we'll get started
6 on the resolution.

7 Before I bring the resolution to
8 the floor, Mr. President, I just want to make a
9 statement with unanimous consent, in consultation
10 with Senator Breslin.

11 Because this is a resolution,
12 normally members are not allowed to get up and
13 explain their vote. With unanimous consent,
14 Mr. President, we would waive that rule this time
15 and allow members, if they wish, to speak for two
16 minutes and explain their vote at the end of the
17 debate.

18 ACTING PRESIDENT GRIFFO: So
19 noted, Senator Libous. Without objection, the
20 chair will allow for explanation of votes within
21 a two-minute time period. All in favor say aye.

22 (Response of "Aye.")

23 ACTING PRESIDENT GRIFFO:
24 Opposed?

25 (No response.)

1 ACTING PRESIDENT GRIFFO: Senator
2 Libous.

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

5 Mr. President, at this time if we
6 can go back to motions and resolutions.

7 ACTING PRESIDENT GRIFFO: So
8 ordered. We will return to motions and
9 resolutions.

10 SENATOR LIBOUS: Mr. President, I
11 believe there's a privileged resolution at the
12 desk by Senator Skelos. I ask that its title be
13 read and then we move for its adoption.

14 ACTING PRESIDENT GRIFFO: The
15 Secretary will read.

16 THE SECRETARY: Senate Resolution
17 by Senator Skelos, adopting proposed amendments
18 to the 2012-2013 Executive Budget submission.

19 ACTING PRESIDENT GRIFFO: Senator
20 Skelos.

21 SENATOR SKELOS: Mr. President,
22 three months ago when we all attended or most of
23 us attended Governor Cuomo's State of the State,
24 I remarked how the major goal of our conference
25 and really what should be for the entire

1 Legislature was to continue to make New York more
2 business-friendly to attract and to grow
3 private-sector jobs.

4 This is really the long-term
5 solution to the budget problems that we have in
6 this state, and certainly our conference has not
7 taken our eyes off of that goal.

8 The budget resolution that we are
9 taking up today is a solid, fiscally responsible
10 plan that controls state spending, cuts taxes,
11 and will help businesses create new jobs and
12 build a stronger economy.

13 We made some very significant
14 progress in the budget last year when we closed a
15 \$10 billion budget deficit without raising taxes
16 and fees. This year we have another opportunity
17 to build on last year's success and to
18 continue -- working with the Governor, working
19 with the Assembly -- to get New York's fiscal
20 house in order.

21 The Senate budget keeps spending
22 growth under 2 percent, actually slightly less
23 than what the Governor proposed. Last year, as
24 I've mentioned, our budget would close the budget
25 deficit without any new taxes and fees. This

1 year we are going to do the same, and we propose
2 mandate relief measures that would save counties
3 \$170 million in Medicaid expenses.

4 The budget also rejects new
5 mandates and proposed cost-shifts that would
6 drive up local property taxes. And we are
7 working with the Governor to reform the pension
8 system and provide more relief for local
9 governments and property taxpayers. Our budget
10 also includes important fiscal reforms to control
11 spending and taxes in future budgets.

12 The most important part of the
13 budget resolution is that we want to do whatever
14 we can to help businesses, especially small
15 businesses, create jobs. We cut small-business
16 taxes, we increase tax credits for small
17 businesses, we create new credits for hiring new
18 employees; in particular, veterans. We would get
19 rid of the disastrous 500 percent energy tax.
20 And it all comes back to protecting taxpayers,
21 encouraging job growth, and building a stronger
22 economy.

23 This Senate budget achieves those
24 goals, and I look forward to our discussions with
25 the Governor and the Assembly so that we can move

1 forward in a positive way and not only have an
2 on-time budget but have an early budget.

3 ACTING PRESIDENT GRIFFO: Thank
4 you, Senator Skelos.

5 Senator DeFrancisco.

6 SENATOR DeFRANCISCO: I agree.

7 (Laughter.)

8 ACTING PRESIDENT GRIFFO: Thank
9 you.

10 SENATOR DeFRANCISCO: There are a
11 little more specifics on some of the areas that I
12 know I've heard mostly about during the budget
13 hearings, and that many of the members of both
14 sides of the aisle have heard, that I think are
15 of some interest in this budget.

16 And number one would be school
17 aid. The Governor proposed, as you know, in his
18 budget that \$250 million be used for performance
19 grants or grants to reward school districts who
20 were doing the right things. And if you recall,
21 last year we had \$50 million that was approved
22 for that very purpose, and it hasn't been spent
23 yet. And I'm sure most of you have heard what
24 I've heard, and that is that this money is needed
25 by the school districts now, especially

1 low-wealth, high-need districts.

2 So that \$50 million that was
3 appropriated last year is taken out of the
4 \$250 million that's in the Governor's budget.
5 And the other \$200 million that the Governor
6 proposed for performance grants are now, in this
7 budget proposal that we have in the Senate, being
8 distributed to high-need, low-wealth districts.

9 And as a result, I think most
10 school districts throughout the state will
11 appreciate that. At least that's what I heard
12 from the school districts last night when I went
13 to their event here in Albany.

14 Also, the other thing that we've
15 heard -- I've heard an awful lot about is the
16 EPIC program, that seniors were upset that last
17 year we were only able to restore part of the
18 EPIC program as it existed previously. They were
19 happy with the restorations but not really
20 happy. They felt that the money should be put in
21 the budget for the full amount that they used to
22 have, the senior programs for EPIC used to have.
23 And that also is in this budget.

24 The budget, although not specific
25 concerning pension reform -- because we

1 understand that presently the pension reform is
2 still being negotiated -- the Senate is saying in
3 its bill here that we agree that reform has to be
4 done. Since the Governor is changing, as we
5 speak, some of the proposal that he had
6 previously reached, we will consider that
7 proposal as soon as it's provided to us.

8 And depending upon what the new
9 bill provides, we will at least study it very
10 seriously to determine whether that new pension
11 reform that's different from what he originally
12 proposed, and which he's discussing right now, is
13 something that we should support.

14 Now, there's also many other
15 things. Like there's a series of -- and you can
16 look in the budget resolution, but there's a
17 series of restorations for agricultural programs
18 that are on page 3 of the resolution. There's a
19 proposal that would provide for a rebate check to
20 seniors. And those seniors that are already
21 receiving enhanced STAR would get an additional
22 rebate check. And that would be available to
23 homeowners 65 years of age or older whose
24 incomes are less than \$79,050.

25 And as a result, various checks

1 would be provided depending upon their
2 assessments. For example, in Oswego County a
3 senior would get a check of about \$500; Onondaga
4 County, about \$460. I don't know if I agree with
5 that; I think Onondaga County should get more
6 than Oswego County. But in any event, there's a
7 range, depending upon assessed values and what
8 the senior's property is worth, what they would
9 be provided for.

10 The Majority Leader talked about
11 the job creation plan. That part is, I think,
12 extremely important. We're not going to cut our
13 way out of this budget. We've got to grow jobs
14 and grow the amount of taxes that we receive. So
15 the proposal includes a 20 percent tax cut for
16 small businesses. And there's also a
17 small-business jobs credit, a 10 percent credit
18 for small businesses that have incomes less than
19 \$250,000 and that file under the personal income
20 tax.

21 And we would also eliminate, over
22 time, the disastrous 500 percent energy tax hike
23 that went into effect during the years -- I can't
24 remember if it was 2009 or 2010. Which is really
25 a drain on businesses, providing less funds in

1 order for them to be in a position to actually
2 make money -- which is a good thing, because when
3 businesses make money, jobs are created and
4 people that get those jobs pay taxes and the tax
5 base is increased.

6 There are many other proposals, but
7 I know people may have specific questions.
8 Rather than going through the balance of the
9 proposal, which all of you have, I'll be more
10 than happy to try to answer as many questions as
11 I possibly can.

12 Thank you, Mr. President.

13 ACTING PRESIDENT GRIFFO: Thank
14 you, Senator DeFrancisco.

15 Senator Krueger.

16 SENATOR KRUEGER: Thank you,
17 Mr. President.

18 Because it is a complicated budget
19 resolution, what I may do is speak a little bit
20 and then stop to ask a question or two.

21 But just to start off, there are a
22 number of serious concerns that the Senate
23 Democrats have with this budget resolution, and I
24 will be followed by several of my colleagues
25 talking about concerns around the health exchange

1 not being included, microstamping not being
2 included, the DREAM Act not being included,
3 reversal of the home heating sulfur bill being
4 included, the Tenant Protection Unit being
5 removed from the budget, wage theft legislation
6 we passed being removed via the budget, a loss of
7 funding for capital for the MTA, many social
8 service and human service cuts, concerns about
9 the way DNA expansion is built into this budget,
10 concerns around hydrofracking.

11 But if I could just start by
12 highlighting some concerns based on what I have
13 already heard. I've heard that there are goals
14 to expand funding for businesses and to support
15 job creation in the budget resolution -- and yet
16 they reject \$50 million of the Governor's Empire
17 State Development economic development fund
18 monies. They reject \$16.2 million of the Jobs
19 Now program. They reject \$250 million for
20 nanoscale and science engineering in the
21 multiregion investment project that's already
22 been established. They reject \$75 million to
23 provide funding for New York Works economic
24 development fund -- I think one of the keynotes
25 of the Governor's proposal for this year. And

1 they reject continuation of \$130 million for the
2 Regional Economic Development Councils.

3 So in fact there are many proposed
4 programs that I believe this legislative house
5 voted to create last year -- and many people have
6 voiced support for the Governor's proposals for
7 job creation and economic development, but
8 frankly this budget resolution cuts the heart out
9 of the Governor's proposals for new improved
10 models for economic development. And that's
11 certainly a great concern for us in the
12 Democratic conference.

13 The Senate Republicans in their
14 referendum have denied the on-bill loan repayment
15 system in green energy which this house was very
16 proud to pass and move into law. So I'm very
17 concerned about not expanding on or continuing
18 that piece of the Green Jobs Program that we all
19 know is so important for job creation in New York
20 State.

21 Excuse me. Just a couple of other
22 big items.

23 Oh, here's one we're very happy to
24 see in the budget resolution. We share the view
25 of the Majority that the \$48 million for Elderly

1 Pharmaceutical Insurance Coverage programs should
2 be reinstated; we agree with them on that. There
3 are a number of small supports for libraries and
4 higher education and full-time-equivalents for
5 community colleges that we can also support.

6 But I think my focus right now will
7 be on the concern that we say we're offering a
8 balanced budget resolution but there are a large
9 number of tax cuts that are not actually
10 explained, either the evidence that they could
11 work or an explanation of how much they would
12 cost.

13 So to start, we did hear from
14 Senator DeFrancisco that the STAR rebate program,
15 at the tune of \$275 million, would be brought
16 back to the budget. Can you show me, Senator
17 DeFrancisco -- excuse me. If Senator DeFrancisco
18 would yield for some questions.

19 ACTING PRESIDENT GRIFFO: Senator
20 DeFrancisco, will you yield for a series of
21 questions?

22 SENATOR DeFRANCISCO: Yes, I
23 would.

24 ACTING PRESIDENT GRIFFO: The
25 Senator will yield.

1 SENATOR KRUEGER: Thank you.

2 So you mentioned the senior STAR
3 rebate program at a cost of \$275 million. Do you
4 actually put an appropriation in the budget of
5 where you're going to get the money for that?

6 SENATOR DeFRANCISCO: First I will
7 answer that and I'll -- yes. There's no approp
8 because it's going to be handled similarly to a
9 tax refund. Which is the way tax refunds are
10 handled, there's no appropriation for tax
11 refunds.

12 But let me just disabuse the rest
13 of the members of the Senate here that some of
14 the comments you made about us rejecting all
15 those economic development plans -- the problem
16 with those plans and the reason they were
17 rejected is we don't know what they are, where
18 the money is going to go.

19 In the past the Legislature had the
20 ability to be participating in, for example, an
21 MOU or some kind of language that explains where
22 the money is going to go. And I know you heard
23 all of this from many people on many topics
24 during the hearings. We want to have more
25 specific information. We're rejecting it until

1 we get more specific information.

2 And the on-loan bill repayment,
3 we're not rejecting the entire program. The
4 program called for the creation of a new mortgage
5 instrument, which we felt from a legal standpoint
6 was problematic. And we want to make sure that
7 we don't start new instruments but keep the
8 mortgage recording system and the documents the
9 same as they've always been. The program itself
10 is not being rejected.

11 I hope that answered your question
12 and clarified a few other points.

13 ACTING PRESIDENT GRIFFO: Senator
14 Krueger.

15 SENATOR KRUEGER: Thank you.

16 Well, it did clarify some points.
17 It clarified if I'm tallying up what the Senate
18 Republicans are proposing spending and cutting,
19 that if they're not rejecting the Governor's
20 program they're just waiting until they get more
21 details -- if I add those up, we'd have another
22 \$500 million in costs that we would have to
23 account for at some later date that's not
24 included in this referendum.

25 ACTING PRESIDENT GRIFFO: Are you

1 asking Senator DeFrancisco a question?

2 SENATOR KRUEGER: I think it was
3 more a statement. But I see he's rising, so I'm
4 happy to yield.

5 ACTING PRESIDENT GRIFFO: Senator
6 DeFrancisco.

7 SENATOR DeFRANCISCO: We didn't
8 take a savings from rejecting those programs
9 because we were simply rejecting the -- not the
10 amounts of the programs, not the fact that the
11 programs are good. We were simply rejecting it
12 on the grounds that we needed more specifics on
13 the details that I'm sure every member of this
14 house would like to have before they approve it.
15 We did not take a benefit from that.

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

19 SENATOR DeFRANCISCO: Yes.

20 ACTING PRESIDENT GRIFFO: The
21 sponsor yields.

22 SENATOR KRUEGER: Thank you.
23 It was mentioned that the Majority
24 wishes to phase out the 18A assessment on energy
25 utilities this year, instead of next year as

1 planned. What will that cost the state in lost
2 revenue?

3 SENATOR DeFRANCISCO: That would
4 be a one-time \$300 million cost. But it's not in
5 this year's budget because what we're asking to
6 do, rather than it expiring in 2014, to expire in
7 2013.

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

11 SENATOR DeFRANCISCO: Yes.

12 ACTING PRESIDENT GRIFFO: The
13 sponsor yields.

14 SENATOR KRUEGER: Thank you.

15 There's a proposal here, it's
16 Section MM, which is a formula for a growth
17 factor of what they're calling excess collection
18 returned to taxpayers from the New York State
19 personal income tax. So a growth factor allowing
20 an amount of 2 percent, or 99 percent of the
21 previous year's collections plus the rate of
22 inflation.

23 If this were to become law, can you
24 tell me how much revenue from PIT the state
25 would, quote, unquote, have to return in the

1 coming year?

2 SENATOR DeFRANCISCO: No.

3 SENATOR KRUEGER: Through you,
4 Mr. President, if the sponsor would continue to
5 yield.

6 SENATOR DeFRANCISCO: Yes.

7 ACTING PRESIDENT GRIFFO: The
8 sponsor yields.

9 SENATOR KRUEGER: Thank you.

10 So we don't know how much that
11 would cost the State of New York. We have
12 something that we call personal income tax
13 guaranteed bonds that we float here in the State
14 of New York. If we were actually legally
15 obligated to return personal income tax above a
16 certain number, do we know how that would impact
17 our ability to continue to make our payments on
18 PIT, personal income tax, back bonds or to
19 continue to get PIT bonds?

20 SENATOR DeFRANCISCO: If she would
21 please repeat that, I'd be happy to answer it. I
22 didn't hear the whole question.

23 SENATOR KRUEGER: Thank you.

24 ACTING PRESIDENT GRIFFO: Senator
25 Krueger, if you can repeat the question, please.

1 SENATOR KRUEGER: Yes. We have a
2 type of bonds that we float here in New York
3 State where we borrow money based on a calculated
4 assumption that we will have the personal income
5 tax revenue in future years to be able to make
6 the payments on the bonds. They are, in
7 shorthand, called PIT bonds.

8 So if we pass a law limiting the
9 dollar value the State of New York could actually
10 collect in personal income taxes, how will that
11 impact our ability to pay our outstanding bonds
12 or be able to go back to the market to apply for
13 bonds in the future if we need to?

14 ACTING PRESIDENT GRIFFO: Senator
15 DeFrancisco.

16 SENATOR DeFRANCISCO: Thank you.

17 First of all, the reason I don't
18 know the number as to what this number would be
19 is that in order for us to have to make that
20 computation and make a determination as far as
21 the amount of revenue that would be lost, this
22 spending cap would have to be in place.

23 The spending cap is a
24 constitutional change. So as a result, if we
25 passed it this year and passed it again next

1 year, it could possibly go to the voters in
2 November of 2013. Ultimately the cap wouldn't go
3 into effect until the 2014 or 2015 budget. So
4 this is a constitutional amendment that we don't
5 have a number for because it hasn't passed the --
6 we haven't passed this amendment yet and the
7 voters haven't approved it.

8 But the theory behind it is very
9 simple. We're demanding that the localities cap
10 their tax rates, but we don't have a similar
11 mechanism in state government. And to be
12 consistent, we should impose upon ourselves a
13 spending cap, and we want that constitutional
14 change. If and when it occurs, and we're
15 starting the process this year, then we will have
16 to make those estimates and account for it in our
17 future budgets as far as the potential lost
18 revenue.

19 SENATOR KRUEGER: Through you,
20 Mr. President, if the sponsor would continue to
21 yield.

22 SENATOR DeFRANCISCO: Yes.

23 ACTING PRESIDENT GRIFFO: The
24 sponsor yields.

25 SENATOR KRUEGER: So if I

1 understand my esteemed colleague correctly, there
2 isn't really this proposal this year, this would
3 only tie in if there was a constitutional
4 amendment. There is no -- even though it's
5 Section MM of the Majority budget resolution,
6 this doesn't exist if there is not a
7 constitutional amendment put into place?

8 SENATOR DeFRANCISCO: Yes, I will
9 respond.

10 We can't have a spending cap in the
11 State of New York unless the Constitution
12 changes. It would be irresponsible for us to
13 start budgeting for a 2 percent spending cap when
14 it isn't in place yet.

15 This is Step 1, just as we may get
16 into Step 1 later on in the session of whether
17 casino gambling should be allowed in the State of
18 New York. We can't count on the revenues from
19 casino gambling unless the constitutional
20 amendment happens; namely, another year of
21 passage and then the voters approve it.

22 So this is really Step 1. It's
23 real. You can't get to Step 2 and 3 unless you
24 take Step 1.

25 SENATOR KRUEGER: Through you,

1 Mr. President, I will continue on the resolution.

2 ACTING PRESIDENT GRIFFO: Senator
3 Krueger on the resolution.

4 SENATOR KRUEGER: Thank you so
5 much.

6 In fact, as I read Part MM of the
7 resolution before us, the Senate proposes
8 limiting the growth of personal income tax
9 collections by a growth factor with excess
10 collections returned to taxpayers, I read this as
11 we would actually have to, after a maximum amount
12 of PIT collection, we would have to return it to
13 voters.

14 There may be a debate about whether
15 or not there needs to be a spending cap in place
16 in order to trigger this. So I will assume and
17 accept the sponsor's argument that there will
18 need to be a spending cap in place, in addition,
19 for this to become operational.

20 This makes it even more disturbing
21 for me. We have studied what happened in other
22 states who put in spending caps and tax caps.
23 Colorado I think is the best and most famous
24 example, where voters approved a TABOR, a
25 Taxpayer Bill of Rights bill in '92, with a

1 constitutional amendment that capped state
2 revenue growth at the annual rate of inflation
3 plus population growth. The law required excess
4 revenues be refunded and that voters approve tax
5 increases.

6 Doesn't sound that dissimilar from
7 what Senator DeFrancisco just proposed, even if
8 that is not explained fully in the resolution.

9 And then Colorado sent rebate
10 checks to taxpayers as described here. However,
11 this model in Colorado and several other states
12 caused a fiasco during recession. They had to
13 dramatically cut their state budget.

14 Ironically, they had to
15 dramatically increase other fees and taxes to
16 taxpayers because, having artificially put a
17 limit on personal income taxes and a requirement
18 to refund back, they ended up charging higher
19 fees and taxes at other municipal levels of
20 government and state levels of government. And
21 ironically, in Colorado they created whole new
22 government districts and off-budget entities so
23 that they could charge fees.

24 I think that this is a model
25 whose time has come and gone with plenty of

1 evidence that it was not good public policy. It
2 did not reduce taxes to the taxpayers, it shifted
3 the tax burden to other taxpayers versus the
4 personal income taxpayers.

5 Now, going on to the sections of
6 the bill that discuss various tax credits,
7 everyone wants to lower taxes. We want our
8 businesses to create jobs and hire people. When
9 I look at the resolution's proposals, I actually
10 see a revisit or redux, R-E-D-U-X, of the
11 Empire Zone models where, rather than doing
12 targeted incentives to companies who met
13 benchmarks who showed that they were creating new
14 jobs here in New York State, they are
15 across-the-board types of tax credits and tax
16 cuts.

17 And I believe that we would find,
18 if these became law, that we would have the same
19 outcome that we found in Empire Zones and some of
20 the other tax credit models that Governor Cuomo
21 ended when he came into office. I do not believe
22 they would create the jobs, and I do not believe
23 they're in the best interest of the State of
24 New York.

25 And I would now like to cede my

1 time to the other members who are on your list.

2 Thank you.

3 ACTING PRESIDENT GRIFFO: Thank
4 you, Senator Krueger.

5 Senator Breslin.

6 SENATOR BRESLIN: Thank you,
7 Mr. President. I have a couple of items that I'd
8 like to speak on the resolution.

9 ACTING PRESIDENT GRIFFO: Senator
10 Breslin on the resolution.

11 SENATOR BRESLIN: First, the
12 Senate Republican resolution denies the Albany
13 PILOT project payment of \$7.85 million.

14 For those in this chamber who don't
15 know, roughly 75 percent of the properties in the
16 City of Albany are tax-exempt. And there was a
17 bill that was passed here -- I think if not
18 unanimously, close to it -- a couple of years ago
19 giving the City of Albany \$5.5 million. And
20 former Governor Paterson vetoed that bill. It
21 caused tremendous heartache within the City of
22 Albany, the loss of those dollars.

23 And there was a study done about
24 Albany versus other cities around this state, and
25 it tried to look at the state support that came

1 to each of those cities. It noted that Albany
2 received \$139 per resident compared to \$189 for
3 Schenectady, \$286 for Utica, \$437 for Rochester,
4 \$533 for Syracuse, \$550 for Yonkers, and finally
5 \$611 for Buffalo, New York. Binghamton I think
6 did very, very well.

7 In addition, Mr. President, Albany
8 is the home to all these state agencies, all
9 these buildings that don't pay any taxes and
10 don't provide in return any compensation for the
11 services they provide with police and fire.

12 The Governor understood that, and
13 he placed this amount of money in his budget.
14 The Assembly understood that, and they placed
15 that amount of money in their budget. And this
16 resolution in fact does not. It takes it out.
17 And I tried to impress upon this entire body how
18 important it is to the City of Albany that's in
19 my district.

20 Secondly, Mr. President, in another
21 area, in the area of health exchanges.
22 New York's consumers, the 2.8 million folks who
23 don't have any health insurance -- and, over a
24 given time in a year, upwards of 5 million who
25 don't have insurance -- are crying out to be

1 covered.

2 The health exchange would reduce
3 the number of uninsured at lower cost for
4 New York families and small businesses. And
5 those small businesses are hurting. They need
6 the price of health insurance reduced.

7 There is absolutely no reason not
8 to do a health exchange at this point in time.
9 We don't need a new commission to study it. This
10 bill, the Affordable Care Act, has been in
11 existence for over two years.

12 And in fact, although a lot of
13 people don't understand it, the Affordable Care
14 Act is already working. Young adults can now
15 stay on their parents' insurance policies until
16 the age of 26. Seniors in that doughnut hole we
17 all refer to got a \$250 rebate in 2010 and are
18 getting a 50 percent discount on brand-name drugs
19 and a 7 percent discount on generics this next
20 year.

21 Uninsured people -- importantly,
22 uninsured people with preexisting conditions can
23 now get healthcare under the New York Bridge
24 Plan. New Yorkers have saved millions of dollars
25 as a result of the Affordable Care Act.

1 I recall back in June when there
2 was an agreement made between and among the
3 Assembly, the Senate, and the Governor to pass
4 this bill, to pass it then because we have so
5 much to do before we implement the Affordable
6 Care Act. And as most of you know, if we don't
7 implement the health exchange, the federal
8 government does it for us. That doesn't mean any
9 advantages in terms of dollars. They charge us
10 for it.

11 And because of this, one of the
12 most important pieces of legislation this country
13 will ever see, I think we ought to get it right.
14 And if we don't get it right and we don't have
15 that health exchange, shame on us. Because at
16 the beginning of next year, the federal
17 government is going to look at us and say, What
18 have you done to prepare for that? And then we
19 really risk losing tremendous -- millions and
20 millions.

21 So this resolution that we're
22 discussing now does not include any mention of
23 what was a slam-dunk back in June. And I urge
24 the Senate on this resolution to rethink it and
25 to go forward with the health exchange.

1 Thank you, Mr. President.

2 ACTING PRESIDENT GRIFFO: Thank
3 you, Senator Breslin.

4 Senator Peralta.

5 SENATOR PERALTA: Yes, thank you,
6 Mr. President. Through you, if Senator
7 DeFrancisco can yield to a question.

8 ACTING PRESIDENT GRIFFO: Senator
9 DeFrancisco, will you yield to a question from
10 Senator Peralta?

11 SENATOR DeFRANCISCO: Yes.

12 ACTING PRESIDENT GRIFFO: The
13 sponsor will yield.

14 SENATOR PERALTA: The Assembly
15 budget bill, their budget resolution, responded
16 to the elimination of the CoBIS program by
17 calling for microstamping to fill the void. And
18 my question is, why did the Majority proposal
19 fail to provide law enforcement with any
20 substitute investigative tool?

21 ACTING PRESIDENT GRIFFO: Senator
22 DeFrancisco.

23 SENATOR DeFRANCISCO: For the main
24 reason that it doesn't work. It's very
25 costly and it doesn't work and no other state has

1 it. So we didn't think it would be wise to put
2 in a program that doesn't work, that costs a lot
3 of money, to add to the burdens of the taxpayers
4 of the State of New York.

5 SENATOR PERALTA: If the sponsor
6 would yield for another question.

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

9 SENATOR DeFRANCISCO: Yes.

10 ACTING PRESIDENT GRIFFO: Yes.

11 SENATOR PERALTA: How much was
12 this program going to cost the taxpayers in this
13 budget?

14 SENATOR DeFRANCISCO: If it
15 doesn't work -- I don't know the number. If it
16 doesn't work, anything it costs is not worth it.

17 SENATOR PERALTA: Will he yield
18 for another question?

19 ACTING PRESIDENT GRIFFO: Senator
20 DeFrancisco continues to yield, Senator Peralta.

21 SENATOR PERALTA: So you don't
22 know the cost.

23 SENATOR DeFRANCISCO: Well, I know
24 the cost and it's -- not in a dollar sense. I do
25 know the cost in that if you implement something

1 that manufacturers are going to have to
2 implement, it's going to make their product more
3 costly. And if their product is more costly and
4 they don't bring in as much money, then it's a
5 jobs issue.

6 SENATOR PERALTA: The question was
7 how much was it going to cost the State of
8 New York in the budget.

9 ACTING PRESIDENT GRIFFO: Senator
10 Peralta, would you direct through the chair,
11 please.

12 SENATOR PERALTA: Yes, I'm sorry.

13 ACTING PRESIDENT GRIFFO: Are you
14 asking the sponsor to continue to yield?

15 SENATOR PERALTA: Yes, please.

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

18 SENATOR DeFRANCISCO: Yes.

19 SENATOR PERALTA: The question was
20 how much was it going to cost the State of
21 New York.

22 SENATOR DeFRANCISCO: It'll cost
23 the State of New York the equivalent of the
24 number of jobs that are lost as a result of
25 providing mandates on businesses to do something

1 that is needless and ineffective.

2 So if it's needless and
3 ineffective, you shouldn't require companies to
4 do those things and incur more costs and either
5 go out of business or go elsewhere. And there's
6 a lot of places to go elsewhere since nobody
7 has that microstamping.

8 ACTING PRESIDENT GRIFFO: Senator
9 Peralta.

10 SENATOR PERALTA: Yes, if the
11 sponsor would continue to yield.

12 ACTING PRESIDENT GRIFFO: Does the
13 sponsor continue to yield?

14 SENATOR DeFRANCISCO: Yes.

15 ACTING PRESIDENT GRIFFO: Senator
16 Peralta.

17 SENATOR PERALTA: Massachusetts
18 has a similar law, and actually Remington was the
19 first one to get involved in it. So if that's
20 the case in Massachusetts and it's okay for
21 Massachusetts, why not in New York?

22 ACTING PRESIDENT GRIFFO: Senator
23 DeFrancisco.

24 SENATOR DeFRANCISCO: The -- I
25 guess the best -- and I don't know what

1 Massachusetts has done, but the best analogy in
2 how similar the plan would be is to the plan
3 that's being proposed in the Assembly,
4 one-house.

5 But if you recall, we approved a
6 few years ago CoBIS, which was a similar-type
7 thing. And it was so -- it cost a fortune to get
8 this in place. And guess what? We repealed it.
9 And no one seems to complain about the repeal,
10 because it didn't do the job it was supposed to
11 do.

12 So I don't know what Massachusetts
13 is doing, but I know it's not the same as what's
14 being proposed by the Assembly. But even if it
15 is, it doesn't work, just like CoBIS didn't work.

16 ACTING PRESIDENT GRIFFO: Senator
17 Peralta.

18 SENATOR PERALTA: Yes, I agree,
19 CoBIS did not work. It actually had a very low
20 success rate.

21 And in fact the current proposal of
22 keeping -- of going towards a national program,
23 the National Integrated Ballistics Information
24 Network, or NIBIN, has a 2 percent success rate
25 in comparison to microstamping, according to

1 various studies of a 54 percent success rate.

2 So if CoBIS doesn't work and NIBIN
3 has a 2 percent success rate, why not make
4 microstamping an alternative just like the
5 Assembly house did?

6 ACTING PRESIDENT GRIFFO: Senator
7 Peralta, are you on the resolution now?

8 SENATOR PERALTA: No, I am --

9 ACTING PRESIDENT GRIFFO: Are you
10 asking the sponsor to yield?

11 SENATOR PERALTA: If the sponsor
12 would yield for a question, yes.

13 ACTING PRESIDENT GRIFFO: Sponsor,
14 will you yield?

15 SENATOR DeFRANCISCO: Yes, I will.

16 First of all, I'm not sure where
17 those numbers come in as far as a success rate,
18 since no state has implemented microstamping.

19 As you know, having been in the
20 Legislature for some time, you can produce a
21 study that will say just about anything. But
22 unless it's implemented somewhere and it actually
23 works -- we had all kinds of studies, by the way,
24 with CoBIS. It was a wonderful thing, we bought
25 it hook, line and sinker, we spent a ton of

1 money, and now we repealed it. Same logic with
2 respect to microstamping.

3 SENATOR PERALTA: It actually came
4 from a study based on what many of the critics
5 used against microstamping. The success rate
6 actually came from that study.

7 Now, if the sponsor would yield for
8 another question.

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

11 SENATOR DeFRANCISCO: Yes.

12 ACTING PRESIDENT GRIFFO: Yes.

13 SENATOR PERALTA: If we're talking
14 in particular about upstate New York, wouldn't
15 microstamping be a particularly useful tool for
16 upstate law enforcement agencies, given that
17 60 percent of upstate gun crimes are committed
18 using firearms purchased in-state?

19 SENATOR DeFRANCISCO: No. Because
20 it doesn't work. And it hasn't been proven to
21 work. A study based upon theory is not a study
22 that we should rely on to increase the cost to
23 manufacturers. So no.

24 The best way to do it is to make
25 sure that those who use guns get prosecuted to

1 the full extent of the law and are removed from
2 the ability to be able to cause crimes with guns.

3 ACTING PRESIDENT GRIFFO: Senator
4 Peralta.

5 SENATOR PERALTA: So --

6 ACTING PRESIDENT GRIFFO: Are you
7 on the resolution?

8 SENATOR PERALTA: Yes. One more
9 question, if the sponsor will yield.

10 ACTING PRESIDENT GRIFFO: The
11 sponsor will continue to yield.

12 SENATOR PERALTA: So we are
13 willing to spend over \$2 million on CoBIS, that
14 was very expensive in comparison to
15 microstamping, which has various studies
16 conducting how successful it is, a 55 percent
17 success rate, and yet we're still not
18 including -- this budget resolution does still
19 not include microstamping in this resolution
20 today.

21 SENATOR DeFRANCISCO: That's
22 correct. And the reason we spent \$2 million and
23 threw it down a hole that could have been used
24 for something else in the budget is because
25 somebody came up with similar studies that were

1 unproven.

2 And I was just informed by Mr.
3 here that California apparently implemented it a
4 while back and has delayed the implementation or
5 passed the bill for five times because there has
6 been no ability to show that it's going to work.

7 So I think if -- I think we should
8 be learning from our CoBIS situation rather than
9 replicating it with another costly program that
10 hasn't been proven.

11 SENATOR PERALTA: Mr. President, I
12 just want to clarify that the reason that it was
13 delayed in California was because of a patent
14 dispute, not because it wasn't shown to work. It
15 was a patent dispute that held up the
16 implementation of microstamping in California.

17 But on the bill.

18 ACTING PRESIDENT GRIFFO: Senator
19 Peralta on the resolution.

20 SENATOR PERALTA: On the
21 resolution.

22 I want to take a moment to thank
23 our Assembly colleagues for including
24 microstamping in this budget resolution.
25 Throughout New York State hundreds of shooting

1 cases, including murders, go unsolved every year
2 because police are unable to connect evidence
3 found at the scene of a shooting to a
4 perpetrator. Often the best leads at the scene
5 are shell cases. But in the absence of
6 microstamping technology, police are rarely able
7 to connect a shell casing back to the gun that
8 fired it.

9 Microstamping is a 21st-century law
10 enforcement tool that can make cities and towns
11 across New York safer by helping to put violent
12 gun criminals behind bars.

13 And that's why I would also like to
14 take a moment to urge my Republican Senate
15 colleagues to either include microstamping in
16 their own budget resolution or at least let the
17 microstamping bill come to the floor for a debate
18 and a vote. The bill has passed the Assembly in
19 three consecutive sessions and in 2010 fell just
20 two votes short here in the Senate, as we all
21 remember.

22 More than 100 mayors and more than
23 80 police departments and law enforcement
24 organizations throughout the state want to see
25 microstamping become the law in New York. That

1 includes the New York City Patrolmen's Benevolent
2 Association, the New York State District
3 Attorneys Association, and the New York State
4 Association of Chiefs of Police.

5 I believe microstamping lends
6 itself to bipartisan support. After all, who
7 doesn't want to see justice done by victims of
8 the gun violence? When law enforcement
9 organizations call for microstamping, who wants
10 to deny them an important resource to help keep
11 us safe?

12 The bill represents a rare
13 opportunity to do a great deal of good at very
14 little cost. It is incumbent upon us as
15 legislators to set aside partisan politics and
16 rhetoric. We owe it to the memories of the
17 thousands of victims of gun violence whose cases
18 remain unsolved to pass this legislation.

19 And if it's not included in this
20 resolution, then I urge my colleagues to vote nay
21 on this resolution.

22 ACTING PRESIDENT GRIFFO: Senator
23 Perkins.

24 SENATOR PERKINS: Yes, I'd like to
25 speak on the resolution.

1 ACTING PRESIDENT GRIFFO: Senator
2 Perkins on the resolution.

3 SENATOR PERKINS: Let me begin by
4 pointing out that despite different backgrounds,
5 party affiliations, different sides of the aisle,
6 we share a common background more or less as
7 immigrants. From different boats, maybe. But
8 yet the resolution has not one sentence, not one
9 dime of recognition of undocumented immigrants.

10 Back in October of 2011 during the
11 Unidad Latina Conference in Manhattan, Senate
12 Republicans stated that the Unidad Latina
13 Conference, quote, is an outreach by the Senate
14 Majority to the Latino community. "We want to
15 listen, we want to learn, and we're going to help
16 you grow."

17 If the rights of Latino Americans
18 is a priority for your conference, then why
19 exclude access to financial aid for thousands of
20 Latino Americans, a growing population of the
21 State of New York? Why exclude state financial
22 aid for undocumented students, which is clearly a
23 priority for the Latino community?

24 I introduced Senate Bill 4179B,
25 which establishes the New York DREAM Act. I have

1 also filed a request out with the clerk of the
2 Finance Committee and filed a motion for
3 committee consideration on the legislation. As
4 of yet, no action has been taken by the
5 Republican majority.

6 The Senate resolution could have
7 included language giving undocumented immigrants
8 the opportunity to access higher education by
9 making state financial aid available. But
10 instead, they chose to ignore this growing
11 constituency and prevent these individuals from
12 gaining access to higher education, higher
13 education that would cost less than 2 percent,
14 according to the Fiscal Policy Institute, of the
15 total TAP appropriation.

16 So my question is, if I may --

17 ACTING PRESIDENT GRIFFO: Are you
18 asking the sponsor to yield, Senator Perkins?

19 SENATOR PERKINS: -- of
20 Mr. DeFrancisco is why --

21 ACTING PRESIDENT GRIFFO: Senator
22 DeFrancisco, do you yield?

23 SENATOR DeFRANCISCO: Yes.

24 ACTING PRESIDENT GRIFFO: The
25 sponsor yields.

1 SENATOR PERKINS: Thank you.

2 -- does the state Republican budget
3 resolution exclude Article VII language on state
4 financial aid for undocumented students?

5 SENATOR DeFRANCISCO: Yes, it only
6 provides state financial aid for legal immigrants
7 and those that can prove such, and those that can
8 prove that they are legally in the country.

9 ACTING PRESIDENT GRIFFO: Senator
10 Perkins.

11 SENATOR PERKINS: In that case,
12 why has it not been --

13 ACTING PRESIDENT GRIFFO: Senator
14 Perkins, are you on the resolution?

15 SENATOR PERKINS: Yes, on the
16 resolution, thank you.

17 ACTING PRESIDENT GRIFFO: Thank
18 you.

19 SENATOR PERKINS: In that case,
20 why has it not recognized that undocumented
21 students deserve to be recognized?

22 ACTING PRESIDENT GRIFFO: Senator
23 Perkins, are you speaking on the resolution or
24 requesting the sponsor to yield?

25 SENATOR PERKINS: Through you,

1 Mr. President, thank you.

2 ACTING PRESIDENT GRIFFO: Are you
3 requesting the sponsor to yield?

4 SENATOR PERKINS: Yes.

5 ACTING PRESIDENT GRIFFO: Senator
6 DeFrancisco, do you yield?

7 SENATOR DeFRANCISCO: Why
8 shouldn't they be recognized? Is that what
9 you're saying?

10 SENATOR PERKINS: Why have they
11 not been recognized?

12 SENATOR DeFRANCISCO: Because the
13 state has a finite amount of assets. And the
14 finite amount of assets should be provided to
15 those people who can prove that they're in the
16 country legally.

17 There's \$63 million we're told is
18 the estimate as to what this would cost the State
19 of New York. And if we provided education
20 benefits, then there may be other benefits. I
21 think we have an obligation first, with a very
22 limited budget, to provide financial aid to those
23 students who are either citizens or legally in
24 this country and can document it.

25 That's the answer.

1 SENATOR PERKINS: Through you,
2 Mr. President.

3 ACTING PRESIDENT GRIFFO: Senator
4 Perkins.

5 SENATOR DeFRANCISCO: And by the
6 way, the millions of Latinos and all the other
7 different ethnic groups, they do get TAP aid and
8 financial aid and the like to go to college. But
9 they have to -- and it's not against any ethnic
10 group, it's against -- if they're here legally
11 and they're citizens, of course they should.
12 Just like Italian immigrants and Polish
13 immigrants. Oh, Senator Maziarz isn't here.

14 But I think that's the distinction.

15 ACTING PRESIDENT GRIFFO: Senator
16 Perkins.

17 SENATOR PERKINS: According to the
18 Institute of Taxation --

19 ACTING PRESIDENT GRIFFO: Senator
20 Perkins, are you on the resolution now or are you
21 still asking questions?

22 SENATOR PERKINS: Thank you very
23 much. I'm on the resolution and still asking
24 questions.

25 ACTING PRESIDENT GRIFFO: You are

1 asking questions?

2 SENATOR PERKINS: Yes.

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

5 SENATOR DeFRANCISCO: Yes, I do.

6 ACTING PRESIDENT GRIFFO: The
7 sponsor yields.

8 SENATOR PERKINS: Thank you.

9 According to the Institute for
10 Taxation and Economic Policy, undocumented
11 immigrants paid over \$662 million in taxes to
12 New York State in 2010, making it the state with
13 the fourth highest revenue in taxes from
14 undocumented immigrants.

15 Undocumented immigrants paid
16 approximately \$104.4 million in personal income
17 taxes, \$95 million in property taxes, and over
18 \$463 million in sales taxes. It is unjust to
19 collect over half a billion dollars in tax
20 revenue from undocumented immigrants only to deny
21 them financial support.

22 Through you, Mr. President, I'd
23 like to ask Senator DeFrancisco, don't you think
24 that it's unfair --

25 ACTING PRESIDENT GRIFFO: Senator

1 DeFrancisco, do you yield?

2 SENATOR DeFRANCISCO: Yes.

3 ACTING PRESIDENT GRIFFO: Senator
4 DeFrancisco yields.

5 Go ahead, Senator Perkins.

6 SENATOR PERKINS: Through you,
7 Mr. President, I'd like to speak again on the
8 resolution.

9 SENATOR DeFRANCISCO: I thought
10 you asked me a question.

11 SENATOR PERKINS: It was a
12 question, but I thought --

13 SENATOR DeFRANCISCO: No, I missed
14 the question, I'm sorry.

15 SENATOR PERKINS: I said
16 recognizing the statistics that I've just
17 presented, don't you think it's unfair not to
18 recognize undocumented students considering their
19 contribution to our economy? Even before they
20 get the opportunity for higher education.

21 SENATOR DeFRANCISCO: There are
22 many, many, many, many other benefits that
23 undocumented individuals received. But when
24 you're going to expand it to TAP funding or
25 tuition assistance and it's going to cost to the

1 tune of like \$63 million, I think we have to
2 weigh things.

3 And it's not an either/or. We have
4 to weigh the respective merits. And it seems to
5 me we would be better suited using that \$63
6 million to people who are legally in this country
7 and can document that they're legally in the
8 country. Because -- well, that's my answer.

9 ACTING PRESIDENT GRIFFO: Senator
10 Perkins.

11 SENATOR PERKINS: Through you,
12 Mr. President. I'd still like to speak on the
13 resolution and ask some questions too.

14 ACTING PRESIDENT GRIFFO: On the
15 resolution itself, Senator Perkins?

16 SENATOR PERKINS: The National
17 Skills Coalition reports that New York is facing
18 a shortage of workers who have the required skill
19 level for most job openings. New York would
20 benefit greatly from undocumented students
21 receiving access to a college education. In
22 fact, the National Skills Coalition also
23 estimates that 39 percent of all future job
24 openings will require at least an associate
25 degree.

1 Currently state law prohibits
2 undocumented immigrant students from receiving
3 state financial aid; i.e., general awards,
4 academic performance awards, and certain
5 benefits.

6 Nevertheless, it will be less than
7 2 percent, according to the Fiscal Policy
8 Institute, of the TAP that's used and therefore
9 would not be a burden on the tuition assistance
10 for other students as well.

11 Through you, Mr. President, I'd
12 like to ask Senator DeFrancisco to yield to a
13 question.

14 SENATOR DeFRANCISCO: Yes.

15 ACTING PRESIDENT GRIFFO: Senator
16 DeFrancisco yields. State your question, Senator
17 Perkins.

18 SENATOR PERKINS: So in light of
19 those statistics and the minimal impact, the
20 minuscule impact it will have, yet the great
21 benefit it will have not only to them but to our
22 economy, how do you respond?

23 SENATOR DeFRANCISCO: Well, as I
24 said, the estimate that we have is this would
25 cost \$63 million, which is not minimal. That's

1 number one. And in addition, it's not like the
2 State of New York does nothing for undocumented
3 immigrants. We do provide free public education,
4 we do provide in-state college tuition. We do
5 provide different social services benefits.

6 But at some point there has to be a
7 balance, when you have limited dollars for direct
8 assistance to help pay for that in-state
9 college. And at least from my perspective, I
10 would balance that scale, if additional money was
11 available, to balance it to provide students that
12 are actually legally in the country and can prove
13 it.

14 SENATOR PERKINS: Through you,
15 Mr. President.

16 Again, the resolution could have
17 included language giving undocumented immigrant
18 students the opportunity to access higher
19 education by making state financial aid available
20 to them, but instead they chose to ignore this
21 growing constituency and prevent these
22 individuals from gaining financial access to
23 higher education.

24 Again, it's less than 2 percent of
25 the TAP and relatively minuscule in terms of its

1 impact on the budget, as well as in terms of
2 preventing others from having access to the
3 higher education.

4 Thank you.

5 ACTING PRESIDENT GRIFFO: Thank
6 you, Senator Perkins.

7 Senator Espaillat.

8 SENATOR ESPAILLAT: Thank you,
9 Mr. President. I would like to also address the
10 resolution.

11 ACTING PRESIDENT GRIFFO: Senator
12 Espaillat on the resolution.

13 SENATOR ESPAILLAT: Yes, I would
14 like to continue the questions posed by Senator
15 Perkins to further ask if -- why did the budget
16 resolution not include a second bill which
17 addresses the DREAM Act, which does not call for
18 an actual TAP allocation but for the creation of
19 a special fund that would create the funding for
20 undocumented students to be able to afford going
21 to college?

22 This state already recognizes that
23 we have a significant number -- a number of
24 undocumented students. Former Governor Pataki
25 signed into law legislation that allows

1 undocumented students to pay in-state tuition
2 rates.

3 There is a second bill, a second
4 DREAM Act bill that calls for the establishment
5 of a special fund where private-sector companies
6 that are companies that are interested in having
7 a very competent and educated workforce in the
8 future, just any individual could contribute to
9 this fund and get a tax credit.

10 This particular measure has passed
11 in the State of Illinois. And we recognize that
12 the number of undocumented students looking to
13 access higher education is not a back-breaker.
14 It's not -- I know that you said \$63 million. My
15 question, Mr. President, through you, is how many
16 students will this \$63 million benefit,
17 approximately?

18 ACTING PRESIDENT GRIFFO: Senator
19 Espaillat, are you asking the sponsor to yield?

20 SENATOR ESPAILLAT: Yes, I am.

21 ACTING PRESIDENT GRIFFO: Senator
22 DeFrancisco, will you yield for a question?

23 SENATOR DeFRANCISCO: Yes. Yes.

24 ACTING PRESIDENT GRIFFO: Senator
25 DeFrancisco yields.

1 Senator Espaillat.

2 SENATOR DeFRANCISCO: And the
3 question is why we didn't put it in the budget?

4 SENATOR ESPAILLAT: The first
5 question is -- through you, Mr. President -- if I
6 may.

7 ACTING PRESIDENT GRIFFO: Senator
8 Espaillat.

9 SENATOR ESPAILLAT: The first
10 question is why doesn't the resolution include a
11 second bill addressing this issue that doesn't
12 call for a straight-out allocation of TAP but for
13 the creation of a special DREAM Fund for students
14 to access financial aid.

15 SENATOR DeFRANCISCO: If the DREAM
16 Fund you're referring to is private
17 contributions, is what I understand it to be, and
18 there's no public money involved in it, if that's
19 the case, then it has nothing to do with the
20 budget and it's a separate bill that should be
21 dealt with independent from the budget.

22 The budget is how we account for
23 what we received and how we're going to spend
24 what we received.

25 SENATOR ESPAILLAT: Through you,

1 Mr. President.

2 ACTING PRESIDENT GRIFFO: Yes.

3 SENATOR ESPAILLAT: Well, the
4 budget often includes language that is not
5 fiscally directed to a specific area. The budget
6 very often addresses policy issues. The budget
7 very often, in its language, impacts on an array
8 of things.

9 And in this particular bill that
10 I'm addressing, there will be a tax credit issued
11 to the contributors of this fund to offset their
12 contributions so that they will be able to
13 contribute to the fund and in turn benefit the
14 students that will be the next workforce of this
15 state.

16 So my question is why isn't this
17 bill, this second bill, which doesn't address the
18 TAP issue, why is this not then included in the
19 resolution?

20 SENATOR DeFRANCISCO: Well, it
21 wasn't proposed by the Governor, number one.

22 Number two, it wasn't a budget
23 priority of the Majority.

24 And thirdly, I'm not quite sure --
25 maybe, if you would yield, maybe can I learn

1 something about this, because this sounds like an
2 interesting bill. Would you yield?

3 ACTING PRESIDENT GRIFFO: Senator
4 Espaillat, will you yield?

5 SENATOR ESPAILLAT: I would be
6 more than happy to yield and then we can discuss
7 a budget amendment.

8 ACTING PRESIDENT GRIFFO: Senator
9 DeFrancisco.

10 SENATOR DeFRANCISCO: Yes.
11 Senator, what you described are private
12 companies, private individuals contributing to a
13 fund and getting a charitable deduction, I
14 assume. Can you tell me why the current laws
15 that provide for charities, 501(3)(c)s or any
16 other organization receiving money and
17 distributing it for a charitable purpose, why you
18 need a separate bill.

19 SENATOR ESPAILLAT: We need a
20 separate bill to ensure that this fund is
21 created, that it's codified, that it actually has
22 a governing body, and that in fact those that
23 choose to contribute to this fund will be
24 guaranteed that this funding will be specifically
25 geared towards helping undocumented students.

1 But let me just add that even the
2 Board of Regents, Mr. President, has estimated
3 the cost of the DREAM Act Fund, both versions,
4 the version mentioned by Senator Perkins and
5 myself, to be no more than \$900,000. Less than a
6 million dollars will prepare young people that
7 will be the workforce of this state in the
8 future, a qualified workforce that will be
9 competitive with other states and other
10 countries.

11 If I may, Mr. --

12 ACTING PRESIDENT GRIFFO: Are you
13 asking a question, Senator Espaillat?

14 SENATOR ESPAILLAT: And I made a
15 statement on the last one, Mr. President.

16 ACTING PRESIDENT GRIFFO: Right.
17 Are you -- do you want to continue on the
18 resolution or do you want --

19 SENATOR ESPAILLAT: Yes, I do. I
20 would like to speak to another aspect of the
21 resolution.

22 ACTING PRESIDENT GRIFFO: Okay.
23 You may continue, Senator Espaillat.

24 SENATOR ESPAILLAT: Yes. The
25 resolution also failed to address another

1 important issue facing all New Yorkers. Last
2 year, we were very successful in passing and
3 extending rent regulations. And as a result,
4 over a million tenants across the City of
5 New York were protected through rent
6 regulations.

7 The Governor of the State of
8 New York, Governor Cuomo, was an equal partner in
9 this endeavor. With his background first as an
10 advocate of the homeless during the Mario Cuomo
11 administration and later on as Secretary of HUD
12 in Washington, the Governor emphasized the
13 priority of passing rent regulations last year.
14 And we did that.

15 But in addition to that, the
16 Governor again, and the Assembly this time
17 around, proposed to create a Tenant Protection
18 Unit so millions of tenants across the State of
19 New York and particularly in the City of
20 New York, will be protected from rent
21 overcharges, illegal holdover proceedings,
22 questions about major capital improvement
23 applications, also applications for individual
24 apartment improvements and the rest. And yet the
25 resolution zeroes out that proposal put forward

1 by Governor Cuomo.

2 And we would like to know from --
3 through you, Mr. President -- from Senator
4 DeFrancisco, why is this the case? Why did the
5 resolution zero out -- again, not a very
6 expensive proposal. In fact, \$4.8 million, a
7 drop in the bucket, that will guarantee the
8 protection of millions of New Yorkers that on a
9 regular basis face harassment, rent overcharges,
10 and other unscrupulous actions from some
11 landlords.

12 ACTING PRESIDENT GRIFFO: Senator
13 Espaillet, you're asking Senator DeFrancisco to
14 yield?

15 SENATOR ESPAILLET: Yes, I am,
16 Mr. President.

17 ACTING PRESIDENT GRIFFO: Senator
18 DeFrancisco.

19 SENATOR DeFRANCISCO: Yes. I got
20 the question.

21 The cost of this new Tenant
22 Protection Unit is about \$4.8 million. And the
23 way it's worded, the way I understand it, the way
24 it's proposed is that that would be a charge that
25 would have to be borne by the City of New York.

1 The City of New York is a separate
2 entity. And as in many, many bills, we try not
3 to pass on costs to cities who haven't asked for
4 those costs to be passed on to them.

5 So it's quite simply if the City of
6 New York said that they wanted this and said they
7 want to pay for it, then we would be more than
8 happy to look at it differently than we look at
9 it now by keeping it out of the budget.

10 SENATOR ESPAILLAT: Through you,
11 Mr. President, if the sponsor would like to
12 yield.

13 ACTING PRESIDENT GRIFFO: Sponsor,
14 do you continue to yield?

15 SENATOR DeFRANCISCO: Yes.

16 ACTING PRESIDENT GRIFFO: Senator
17 DeFrancisco yields.

18 SENATOR ESPAILLAT: Well, perhaps
19 what we ought to have done was to include the
20 funding in the resolution and have the state pay
21 for it, rather than ask the city to pay for it.
22 But to zero it out completely and leave millions
23 of tenants unprotected is not the answer.

24 Perhaps the answer could have been
25 to include the \$4.8 million in the state budget

1 and that we -- I think the city would have been
2 very happy if we would have done that, as opposed
3 to zeroing out the measure altogether.

4 In fact, there are certain
5 activities right now conducted by HPD, the city
6 housing agency -- or conducted by the state, by
7 HCR, the state housing agency, that is reimbursed
8 by the city. Many activities that are conducted
9 by state agencies in the housing arena are
10 currently reimbursed by the city.

11 But why zero it out? \$4.8 million
12 is really a drop in the bucket, and it's very
13 important to seniors, single moms, and people
14 that are trying to make ends meet and often face
15 a bad landlord that tries to overcharge them on
16 rent or perhaps evict them eventually.

17 SENATOR DeFRANCISCO: If that's a
18 question, my response is simply this. There are
19 tenants who need protection in Syracuse,
20 Rochester, Buffalo, Albany, Binghamton, any other
21 urban district. And if you do it for one and pay
22 for this additional cost, it's not fair to
23 provide those services for one city -- although a
24 great city, where I was at this weekend, very
25 upset that Syracuse lost the semifinal game at

1 Madison Square Garden. It was a wonderful visit
2 otherwise.

3 I think you'd have to add the other
4 cities. And then it's some substantial cost that
5 would have to be taken from some other program.
6 And since New York has not asked for it, the
7 city, we thought we'd have better places to spend
8 the money.

9 SENATOR ESPAILLAT: One last
10 question, Mr. President, before I speak on the
11 resolution.

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

14 SENATOR DeFRANCISCO: Yes. Yes.

15 ACTING PRESIDENT GRIFFO: The
16 sponsor yields.

17 Senator Espaillat.

18 SENATOR ESPAILLAT: Did you ask
19 the city if they want this zeroed out? Or was
20 this just sort of like a unilateral decision made
21 by us? Did the city say "No, we don't want this
22 Tenant Protection Unit, zero it out"?

23 SENATOR DeFRANCISCO: Yes. They
24 told us that "We didn't ask for it, we don't want
25 it, we don't want to pay for it."

1 SENATOR ESPAILLAT: Okay, thank
2 you.

3 Mr. President, on the resolution.

4 ACTING PRESIDENT GRIFFO: Senator
5 Espaillat on the resolution.

6 SENATOR ESPAILLAT: Last year we
7 were very proud to have passed the rent
8 regulations legislation in this house in
9 conjunction with the Assembly and the Governor,
10 who I think was very forceful and an equal
11 partner in this endeavor.

12 This year the resolution proposes
13 to zero out a very small but very important
14 measure, a Tenant Protection Unit that will
15 protect senior citizens that often face
16 eviction notices because they can't pay their
17 rent; tenants that are going into a new apartment
18 and often find that the rent is too high and that
19 in fact they may be overcharged; people that have
20 to face increases because a major capital
21 improvement that was supposed to be done but
22 wasn't done resulted in an increase of rent.

23 So this is a critical and important
24 measure for the fabric of the City and the State
25 of New York, and I am deeply troubled that it was

1 not included in this resolution.

2 Thank you, Mr. President.

3 ACTING PRESIDENT GRIFFO: Senator
4 Rivera.

5 SENATOR RIVERA: Thank you,
6 Mr. President.

7 Although I would look forward to
8 the opportunity to spar again with my colleague,
9 Senator DeFrancisco, I'm sure that in the budget
10 bills we will have many opportunities to do
11 that. So for the moment I will only speak on the
12 resolution.

13 ACTING PRESIDENT GRIFFO: On the
14 resolution.

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

17 I'll speak on one particular part,
18 and that is Part 5 of this resolution. Part 5 of
19 the majority revenue bill actually changes a
20 requirement, it would repeal a requirement that
21 relates to the wage theft bill that we passed
22 back in 2010.

23 Now, I repeat that we passed it
24 back in 2010. And it's only been operating for
25 about a year, maybe not even that. And during

1 that period of time I contend that we have no way
2 of knowing whether it actually is as wasteful as
3 my colleagues in the Majority argue.

4 They argue that it is a something
5 that is wasteful on businesses and that therefore
6 we should eliminate it. I think that it is part
7 of a larger plan to eliminate the entire Wage
8 Theft Prevention Act, which I think we should all
9 resist.

10 Because to remind ourselves what it
11 is the Wage Theft Prevention Act does, there is a
12 rampant problem of wage theft in the State of
13 New York. And I think that all my colleagues in
14 the Senate Majority would agree that if a worker
15 has something stolen from his or her locker, that
16 they are able to report that theft and try to
17 bring whomever actually stole that, whatever it
18 is from their locker, to actually be found
19 accountable and responsible.

20 This is precisely what the Wage
21 Theft Prevention Act does. And the part of the
22 bill that they want to repeal is something that,
23 again, we have no way of knowing whether it
24 actually is an undue burden on businesses because
25 it has been operating for such a brief period of

1 time.

2 I'll finish with this. We must
3 remember that the Wage Theft Prevention Act
4 actually helps both employees and employers. On
5 the employee side, it obviously creates real
6 penalties for bad actors, for employers that are
7 actually stealing their workers' wages. It
8 protects workers that come forward to report wage
9 theft. And it provides tools and closes
10 loopholes that help the Department of Labor and
11 courts actually get some of these wages back.

12 It protects employers because some
13 of the bad actors might actually make it more
14 expensive for people who actually follow the
15 law. If they're paying their employees what
16 they're supposed to pay them and then you have
17 some bad actors who are not paying their wages
18 the way that they're supposed to, then all of a
19 sudden, there are some -- I'm going to wait
20 because there's a question coming.

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

23 SENATOR DeFRANCISCO: I have a
24 point of clarification.

25 There was a typo in the budget

1 language. All that this intended to do, and it
2 will be corrected, is to roll into the budget
3 that part of the Wage Theft Act that we passed
4 the bill on a week or two ago. Not to repeal the
5 entire act, it's just to roll that section into
6 this bill.

7 And it will be corrected. I'm glad
8 you brought it up, because that was a typo.

9 SENATOR RIVERA: Mr. President,
10 through you.

11 ACTING PRESIDENT GRIFFO: Senator
12 Rivera.

13 SENATOR RIVERA: To not respond,
14 but we -- this bill that we debated only a couple
15 of days ago, we opposed it then based on this
16 issue and we oppose it again.

17 And again, the main reasoning here,
18 ladies and gentlemen, is that it does not -- it
19 is not an undue burden on businesses and that the
20 Wage Theft Prevention Act, we must make sure that
21 it stays as strong as it is because it protects
22 both employers and employees.

23 So I will be voting in the negative
24 on this resolution, but thank you so much,
25 Mr. President, for the opportunity.

1 ACTING PRESIDENT GRIFFO: Senator
2 Dilan.

3 SENATOR DILAN: Mr. President,
4 would Senator DeFrancisco answer several
5 questions?

6 ACTING PRESIDENT GRIFFO: Senator
7 DeFrancisco, do you yield to a question from
8 Senator Dilan?

9 SENATOR DeFRANCISCO: Yes, I do.

10 SENATOR DILAN: I would like to
11 ask questions related to the capital funding for
12 DOT and MTA.

13 And my first question is, what is
14 the level of appropriations scheduled for the DOT
15 capital program this fiscal year?

16 ACTING PRESIDENT GRIFFO: Excuse
17 me, Senator Dilan.

18 Can we have some order in the
19 chamber, please?

20 Senator Dilan, will you please
21 rephrase the question?

22 SENATOR DILAN: What is the level
23 of appropriation scheduled for DOT's capital
24 program this fiscal year?

25 SENATOR DeFRANCISCO: I will get

1 that for you. I don't have that amount.

2 SENATOR DILAN: You don't have it?

3 SENATOR DeFRANCISCO: Nope.

4 SENATOR DILAN: Would you say that
5 it's slightly over --

6 ACTING PRESIDENT GRIFFO: Senator
7 Dilan, are you asking Senator DeFrancisco to
8 continue to yield?

9 SENATOR DILAN: Yes, sir.

10 ACTING PRESIDENT GRIFFO: Senator
11 DeFrancisco yields.

12 SENATOR DILAN: Would you say that
13 it's slightly over \$5 billion?

14 SENATOR DeFRANCISCO: No. But I
15 will tell you exactly what it is momentarily.

16 SENATOR DILAN: Okay. Would he
17 yield to another question?

18 ACTING PRESIDENT GRIFFO: Senator
19 DeFrancisco yields.

20 SENATOR DILAN: Are you aware of
21 how much is being allocated through the New York
22 Works program?

23 SENATOR DeFRANCISCO: Can I answer
24 your last question first?

25 SENATOR DILAN: You can do

1 whatever you like, Senator.

2 SENATOR DeFRANCISCO: That
3 question, we just got the information. It's
4 approximately \$4.5 billion, with a B.

5 And if you'd restate the second one
6 because I wasn't paying attention.

7 SENATOR DILAN: My second question
8 is: Of this allocation, how much funding is
9 allocated through the New York Works program?

10 SENATOR DeFRANCISCO: \$247
11 million.

12 SENATOR DILAN: Did I hear 247?

13 SENATOR DeFRANCISCO: \$247
14 million, with an M.

15 ACTING PRESIDENT GRIFFO: \$247
16 million.

17 SENATOR DILAN: I have a number of
18 \$1.6 billion -- \$1.16 billion, for the New York
19 Works program, which is additional funding for
20 our roads and bridges Long Island and upstate.

21 SENATOR DeFRANCISCO: That 1.6
22 includes federal. And the 247 million is what
23 will have to be paid --

24 SENATOR DILAN: So overall we'll
25 be getting 1.16?

1 ACTING PRESIDENT GRIFFO: Senator
2 Dilan, could you direct the question through the
3 chair, please.

4 SENATOR DILAN: Can he restate his
5 answer?

6 SENATOR DeFRANCISCO: It's
7 basically --

8 SENATOR DILAN: The total.

9 SENATOR DeFRANCISCO: -- the state
10 obligation this fiscal year is \$247 million.
11 There's federal monies involved as well.

12 SENATOR DILAN: All right. Thank
13 you.

14 Will he yield for another
15 question?

16 ACTING PRESIDENT GRIFFO: Senator
17 DeFrancisco yields.

18 SENATOR DeFRANCISCO: Is there a
19 way to waive this yield business? And I'll be
20 happy to stand here and answer.

21 ACTING PRESIDENT GRIFFO: Senator
22 Dilan.

23 SENATOR DeFRANCISCO: I'll yield.

24 SENATOR DILAN: From my
25 understanding of the Majority resolution, there

1 is \$770 million in capital funds from the
2 proposed Executive Budget that is being removed
3 in the Majority's Senate resolution. Is this
4 correct? Capital funding.

5 SENATOR DeFRANCISCO: There's two
6 reasons that it's eliminated. We didn't take a
7 credit -- as far as removing the money from the
8 budget, there's two reasons. Number one, we want
9 specifics so we can at least know what these
10 projects are and make sure there's some
11 legislative input.

12 And the second reason I forgot.
13 Oh, that's right, the roads and -- you know, we
14 don't have too many MTA trains going through
15 Syracuse. We also want to make sure there's
16 parity for roads and bridges as well, because
17 traditionally there's been parity for dollars for
18 roads and bridges and MTA capital funding.

19 SENATOR DILAN: Thank you. Would
20 he yield for another question.

21 ACTING PRESIDENT GRIFFO: The
22 sponsor yields.

23 SENATOR DILAN: Is it also correct
24 that an increase in the MTA's capital bonding cap
25 from \$3.49 billion to \$41 billion, as requested

1 by the MTA, has been denied?

2 SENATOR DeFRANCISCO: That's
3 correct. For the same reasons.

4 SENATOR DILAN: For the same
5 reason.

6 Another question, sir?

7 ACTING PRESIDENT GRIFFO: Sure.

8 SENATOR DeFRANCISCO: You know, if
9 I can expand on that. We went through the
10 hearings ad nauseam, and there was a common
11 thread in many areas, especially transportation,
12 that "We'll let you know later, you know, what
13 projects, what roads, what bridges, what MTA
14 projects, we'll let you know later."

15 And in fact at one point I
16 questioned the Commissioner of Transportation and
17 after both Assemblypeople and Senators were
18 saying "Can you give us some specifics?" "Well,
19 we can't now, but we will. We can't now, but we
20 will." Finally I asked her, after a lot of
21 similar questions, I said, "When will you get us
22 this information? Will you get it to us before
23 we have to vote on a final budget?" "Yes."

24 With that assurance, I think it
25 behooves all of us to make sure that we hold the

1 commissioner to what she promised and know what
2 we're voting on before we vote with a blank
3 check.

4 SENATOR DILAN: Would he yield for
5 another question.

6 ACTING PRESIDENT GRIFFO: The
7 Senator yields.

8 SENATOR DeFRANCISCO: Yes.

9 SENATOR DILAN: Are you aware that
10 by limiting the MTA's borrowing capability the
11 MTA may likely lose its stake in a \$2.2 billion
12 railroad rehabilitation and improvement financing
13 loan known as RRIF?

14 SENATOR DeFRANCISCO: Well, unless
15 RRIF is going to be riffed from our usage in the
16 next week and a half or two weeks -- we're not
17 vulnerable, in other words.

18 We're going to pass a budget by
19 April 1, and hopefully we'll get the specifics
20 and nothing will be in jeopardy, except that the
21 legislators will know what they're voting on.

22 SENATOR DILAN: Final question.

23 ACTING PRESIDENT GRIFFO: Final
24 question.

25 SENATOR DILAN: You know, for that

1 matter, was there any consideration given to the
2 more than 130,000 jobs in upstate New York that
3 rely on MTA contracts as part of the capital
4 program?

5 SENATOR DeFRANCISCO: Same
6 answer. We want these projects. We didn't
7 deduct from our budget bill the money for these
8 projects or the authorization for bonding. We
9 didn't do anything like that. And we're not
10 going to jeopardize jobs in this next week and a
11 half to two weeks.

12 We want to get the commitment
13 fulfilled that we have more information to vote
14 on. And if we don't get the information, then
15 we're going to have to consider, on the time when
16 we have to vote on a budget, whether we just say
17 "Fine, we'll just leave it up to the Governor and
18 the various agencies and we'll vote yes."

19 I don't think we want to do that at
20 all if we don't have to.

21 SENATOR DILAN: On the resolution.

22 ACTING PRESIDENT GRIFFO: Senator
23 Dilan on the resolution.

24 SENATOR DILAN: First of all, as I
25 see the Senate resolution, I see that the road

1 and bridge program will be getting approximately
2 \$5 billion in capital funds. This year MTA is
3 losing \$770 million, or otherwise getting zero.

4 As a result of the loss of the
5 \$770 million, the MTA will lose any chance of
6 getting the RRIF loan, which will result in a
7 halt to the East Side Access Project --
8 therefore, the loss of thousands of jobs -- the
9 halt of work on the Second Avenue subway line --
10 again, the result of thousands of jobs.

11 It will also prevent the MTA to
12 purchase new passenger cars from upstate vendors
13 and result in the loss of more jobs. It would
14 also prevent the replacement of the Massapequa
15 platform. It will result in various elevator
16 projects not being completed in Long Island and
17 other projects in the Lower Hudson Valley.

18 So the result of not providing
19 \$770 million will result in the loss of the
20 possibility of hundreds of thousands of jobs in
21 New York State.

22 Thank you.

23 ACTING PRESIDENT GRIFFO: Senator
24 Squadron.

25 SENATOR SQUADRON: Thank you,

1 Mr. President. If the sponsor would yield for a
2 question.

3 ACTING PRESIDENT GRIFFO: Senator
4 DeFrancisco yields.

5 SENATOR DeFRANCISCO: I'll yield
6 depending on the question.

7 SENATOR SQUADRON: Thank you. I
8 appreciate that.

9 Does the sponsor know how much was
10 spent in the state budget in each of the last two
11 years on homeless prevention programs?

12 SENATOR DeFRANCISCO: I don't.
13 But I can try to get that for you.

14 SENATOR SQUADRON: If the sponsor
15 can continue to yield.

16 ACTING PRESIDENT GRIFFO: The
17 sponsor yields.

18 SENATOR DeFRANCISCO: The best
19 homeless protection is a job. And the best way
20 to get a job is to provide for the business
21 incentives we have in this plan.

22 ACTING PRESIDENT GRIFFO: The
23 sponsor yields.

24 SENATOR SQUADRON: Thank you. And
25 I assume the sponsor also agrees with me that a

1 home is better than a homeless shelter for
2 individuals and families.

3 SENATOR DeFRANCISCO: Absolutely.

4 SENATOR SQUADRON: In fact, does
5 the sponsor know how much it costs to house an
6 individual or family in a shelter for a year?

7 SENATOR DeFRANCISCO: I'll get
8 that information. I can't tell you off the top
9 of my head.

10 SENATOR SQUADRON: If the sponsor
11 continues to yield.

12 SENATOR DeFRANCISCO: Yes.

13 SENATOR SQUADRON: It's
14 significantly more than someone staying in their
15 own home or someone being in supportive housing
16 or being in a homeless prevention program within
17 their home; is that correct?

18 SENATOR DeFRANCISCO: I have no
19 idea. I don't know.

20 SENATOR SQUADRON: If the sponsor
21 continues to yield.

22 SENATOR DeFRANCISCO: Yes.

23 ACTING PRESIDENT GRIFFO: The
24 sponsor yields.

25 SENATOR SQUADRON: It is

1 significantly cheaper. It is \$38,000 a year to
2 shelter a family in a homeless shelter, and it's
3 \$18,000 a year to shelter an individual.
4 Homeless prevention programs, per family or
5 individual, are a thousand dollars or less a
6 year. Supportive housing --

7 ACTING PRESIDENT GRIFFO: Senator
8 Squadron, do you have a question?

9 SENATOR SQUADRON: I do,
10 Mr. President. Thank you.

11 ACTING PRESIDENT GRIFFO: Would
12 you present your question, please.

13 SENATOR SQUADRON: I'm getting
14 there.

15 Supportive housing and supportive
16 housing services cost less than \$5,000 a year and
17 also make it much more likely that the folks in
18 those programs will have jobs, which I know are
19 very, very important to myself and to the
20 sponsor.

21 And so I want to know from the
22 sponsor if he knows, based on this year's budget,
23 how many homeless prevention dollars exist in the
24 budget resolution before us right now.

25 SENATOR DeFRANCISCO: We're

1 getting that number.

2 But the Governor made a proposal
3 for homeless prevention, and in our budget
4 proposal we're accepting the Governor's budget
5 recommendation.

6 And we'll get you the number. It's
7 coming hot off the press right now. No, it's
8 not.

9 SENATOR SQUADRON: Fair enough.

10 SENATOR DeFRANCISCO: \$27 million.

11 SENATOR SQUADRON: Thank you very
12 much.

13 On the resolution.

14 ACTING PRESIDENT GRIFFO: Senator
15 Squadron on the resolution.

16 SENATOR SQUADRON: A couple of
17 years ago we spent close to \$43 million on
18 homeless prevention programs that worked
19 throughout the state, from the eastern tip of
20 Long Island to Western New York. They kept tens
21 of thousands of families in their homes.

22 In addition, we spent tens of
23 millions of dollars, close to a hundred million
24 dollars a year on something called the Advantage
25 Rent Subsidy, which no longer exists.

1 I know that in the Assembly's
2 one-house budget they have restored a great deal
3 of these homeless prevention dollars.
4 Significantly, they've also created the
5 Settlement House Homeless Intervention Program.

6 Settlement houses in the New York
7 City area and also in cities like Syracuse and
8 Rochester and Buffalo provide a great deal of the
9 homeless prevention on the front lines and had
10 their entire direct funding stream zeroed out in
11 this year's budget proposal. And the resolution
12 before us leaves settlement houses at zero,
13 whereas the Assembly restores those dollars and
14 creates, as I said, the Settlement House Homeless
15 Intervention Program.

16 The Assembly proposal increases the
17 Emergency Homeless Program, the Homeless
18 Intervention Program, the Supplemental Homeless
19 Intervention Program, all of which make up the
20 Governor's new STEP program. The resolution
21 before us doesn't do that.

22 And I know the concern of the
23 sponsor and of the Majority in saving dollars.
24 And the fact is, it is penny-wise and
25 pound-foolish not to invest in homeless

1 prevention, because at the end of the day our
2 localities have an enormous outlay, an enormous
3 financial obligation in addition to their moral
4 obligation when homelessness increases.

5 And the fact is, this is going to
6 cut into county budgets, it's going to cut into
7 city budgets, it's going to cut into the state if
8 we don't have sufficient homeless prevention.
9 And this resolution certainly does not.

10 If the sponsor would yield on
11 another topic briefly.

12 ACTING PRESIDENT GRIFFO: Senator
13 DeFrancisco, do you yield?

14 SENATOR DeFRANCISCO: Yes.

15 But before I do, could I just
16 mention one other thing. There's a program in
17 the budget called Supportive Services for
18 Families and Young Adults. We added \$508 million
19 for -- excuse me, \$508,000 --

20 (Laughter.)

21 SENATOR SQUADRON: I'll take your
22 first offer, Senator DeFrancisco.

23 SENATOR DeFRANCISCO: \$508,000.

24 For the Supplemental Homeless Intervention
25 Program, we added \$205,000. Emergency Homeless,

1 \$180,000. So there was a small increase in that
2 number.

3 But I'll answer another question.

4 SENATOR SQUADRON: Thank you. And
5 in fact, it's related. Do you know what the
6 resolution before us does to the Supportive
7 Housing Capital Fund?

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

10 SENATOR SQUADRON: Through you,
11 Mr. President.

12 SENATOR DeFRANCISCO: We don't do
13 anything as far as capital funding at all.
14 Beyond what the Governor has proposed.

15 SENATOR SQUADRON: Through you,
16 Mr. President, if the sponsor would continue to
17 yield, I believe that this resolution actually
18 delays, which is in effect a cut, the Supportive
19 Housing Fund by \$52.5 million.

20 ACTING PRESIDENT GRIFFO: Senator
21 DeFrancisco.

22 SENATOR DeFRANCISCO: Yes, I just
23 looked. I didn't realize this, but we are
24 delaying it for a period of nine months.

25 SENATOR SQUADRON: Which is in

1 effect a delay of a year, in terms of the
2 calendar, of how those dollars get outlaid, which
3 will --

4 ACTING PRESIDENT GRIFFO: Senator
5 Squadron, are you on the resolution?

6 SENATOR LIBOUS: Mr. President.

7 ACTING PRESIDENT GRIFFO: Senator
8 Libous.

9 SENATOR LIBOUS: Could I, just for
10 a point of order, have both parties -- they need
11 to speak through the President and not back and
12 forth. Otherwise, we will have total chaos in
13 the chamber.

14 ACTING PRESIDENT GRIFFO: I've
15 been very lenient -- thank you very much, Senator
16 Libous.

17 I've been very lenient. Senator
18 DeFrancisco wanted to have some direct exchange.
19 But we will ask you both to please come through
20 the chair.

21 Senator Squadron.

22 SENATOR SQUADRON: Thank you,
23 Mr. President. I know the sponsor and I were
24 both enjoying the conversation.

25 SENATOR DeFRANCISCO: We're the

1 only two that probably were.

2 (Laughter.)

3 SENATOR SQUADRON: Through you,
4 Mr. President.

5 The delay of nine months -- on the
6 resolution, briefly.

7 ACTING PRESIDENT GRIFFO: Senator
8 Squadron on the resolution.

9 SENATOR SQUADRON: The delay of
10 nine months and \$52.5 million is in effect a
11 cut. It's going to mean that a number of
12 supportive housing units that are in the pipeline
13 or should be in the pipeline won't get built or
14 won't get built in time and won't be able to get
15 the other funding they need.

16 Which in effect means we're going
17 to increasing homelessness in this state and
18 cutting down on the ability of families and
19 individuals to have jobs and live independently.
20 Which doesn't make any sense. And that's a
21 significant cut of \$52.5 million.

22 And I hope that now the sponsor is
23 aware of this cut, he will agree with me that
24 this resolution is not one that we should pass
25 today.

1 In the area of social services, I
2 do want to take one moment to point out that this
3 resolution does include \$4 million for the Nurse
4 Family Partnership, which is a \$4 million
5 increase over the Executive's proposal. Senator
6 Gallivan, who's not in the chamber today, and I
7 know Senator Savino as well deserve great credit
8 for pushing that. It is a significant
9 improvement in this budget, and in the spirit of
10 bipartisanship I wanted to point that out.

11 However, I would like to ask the
12 sponsor to yield on one final issue.

13 SENATOR DeFRANCISCO: Yes, I will
14 yield.

15 ACTING PRESIDENT GRIFFO: The
16 sponsor yields.

17 SENATOR SQUADRON: Thank you very
18 much.

19 Does the sponsor know what the
20 welfare grant in inflation-adjusted dollars is
21 today relative to, let's say, the last time it
22 was increased, the last period of time it was
23 increased, 1990?

24 SENATOR DeFRANCISCO: Twenty
25 percent higher.

1 SENATOR SQUADRON: In

2 inflation-adjusted --

3 ACTING PRESIDENT GRIFFO: Senator
4 Squadron.

5 SENATOR SQUADRON: Through you,
6 Mr. President, if the sponsor would yield for a
7 clarification.

8 SENATOR DeFRANCISCO: Oh,
9 inflation-adjusted dollars? I have no idea.

10 SENATOR SQUADRON: Through you,
11 Mr. President, if the sponsor would just clarify
12 in inflation-adjusted dollars what the welfare
13 grant is today compared to 22 years ago.

14 ACTING PRESIDENT GRIFFO: Senator
15 DeFrancisco.

16 SENATOR SQUADRON: In inflation-
17 adjusted dollars.

18 SENATOR DeFRANCISCO: I can't
19 answer that question -- I can't answer that
20 question. I don't know.

21 SENATOR SQUADRON: If the sponsor
22 would yield.

23 SENATOR DeFRANCISCO: Yes.

24 ACTING PRESIDENT GRIFFO: The
25 sponsor yields.

1 SENATOR SQUADRON: Is it the
2 sponsor's view that it was too high in 1990?

3 SENATOR DeFRANCISCO: No. But my
4 response is if you don't have the money, you
5 can't provide an additional increase. No matter
6 what the inflation is and whether it was too high
7 or too low in 1990.

8 SENATOR SQUADRON: Thank you.
9 On the resolution.

10 ACTING PRESIDENT GRIFFO: Senator
11 Squadron on the resolution.

12 SENATOR SQUADRON: The welfare
13 grant is significantly lower than it was in 1990,
14 it's significantly lower than it was in 1977. It
15 is in fact as low as it's ever been, except for
16 the period before a couple of years ago when we
17 made a promise that we were going to increase it
18 in a careful and fiscally prudent way over a
19 three-year period.

20 Of course that three-year period
21 has become a four-year period. And if this
22 Senate resolution passes, that three-year period
23 will actually never be made good on, that promise
24 will never be made good on.

25 And those dollars are ones that go

1 into local economies. Those are the dollars that
2 are most likely to get spent in local small
3 businesses, get spent on rent if families are
4 able to maintain their homes despite the cut in
5 homeless prevention. And to simply cut it
6 entirely is actually counterproductive for the
7 state's economy and, frankly, counterproductive
8 for the regular folks who really need a whole lot
9 of help at a time like this.

10 So I would urge the Majority to
11 reconsider that draconian cut breaking that
12 promise that was made a couple of years ago to
13 those in the state who most need it, and to also
14 restore and improve homeless prevention funding
15 in this budget and to support settlement houses.

16 Thank you, Mr. President.

17 ACTING PRESIDENT GRIFFO: Senator
18 Hassell-Thompson.

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

21 The Governor -- Governor Cuomo --

22 ACTING PRESIDENT GRIFFO: Senator
23 Hassell-Thompson, are you on the resolution?

24 SENATOR HASSELL-THOMPSON: I'm on
25 the resolution.

1 ACTING PRESIDENT GRIFFO: Senator
2 Hassell-Thompson on the resolution.

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

5 Governor Cuomo has called for
6 legislation that will expand the number of
7 predicate offenses that compel submission of a
8 DNA sample for inclusion in the state's
9 database. The bill requires persons convicted of
10 any Penal Law offense, as well as any non-Penal
11 Law felonies, to provide a sample of DNA for the
12 database.

13 The Governor's stated objective is
14 to make more efficient and effective the
15 prosecution of criminal conduct, to prevent
16 wrongful convictions, and to exonerate the
17 innocent. Fairness is the standard cited by the
18 Governor in advancing such legislation.

19 Some weeks ago I stood on the floor
20 here in the Senate and talked about the proposed
21 DNA bill that had been put forth in this house
22 and was sorely disappointed that there was no
23 willingness to accept amendments or any of the
24 suggestions that I made.

25 I made attempts to petition the

1 Governor before the execution of this bill into
2 the budget, because it was clear that he was not
3 going to get an agreement in the other house.

4 I'm sad to say that none of the
5 precautionary measures that have been suggested
6 by not just me but several authorities on the
7 subject of DNA, including our Civil Liberties
8 Union -- so that this proposal that is being
9 proposed in the budget and being supported today
10 by my colleagues here continues not to ensure
11 that justice be a part of what we do.

12 The following legislative proposals
13 should be consistent with and that are necessary
14 to achieve what the Governor says he wants to see
15 happen and certainly the things that I have
16 suggested should happen.

17 One, we need to be able to enhance
18 oversight and accountability. The manner in
19 which forensic DNA is collected and retained as
20 well as the uses to which it is put by law
21 enforcement officials has changed significantly
22 since the database was established in 1995.

23 What's more, the Governor's
24 proposal and his ideas, concepts, would require
25 the processing and analysis of tens of thousands

1 of additional DNA specimens annually. And in
2 order to maintain the integrity of this database
3 and to ensure effective oversight in the manner
4 in which forensic DNA is used, the following
5 provisions should be incorporated in any proposal
6 to expand the state's DNA database:

7 Establishing an independent and
8 expert task force charged with analyzing policies
9 and practices related to the collection,
10 analysis, storage, and usage of forensic DNA;

11 Establishing a judicial procedure
12 regarding the use of partial-match DNA evidence
13 for the purposes of pursuing criminal
14 investigations of persons whose DNA does not
15 match crime scene evidence, better known as
16 familial searching;

17 Prohibit the maintenance of a DNA
18 identification index or a compilation of DNA
19 identification profiles except those authorized
20 by Executive Law.

21 The second would be to reform our
22 law enforcement practices involving witness
23 investigation, identification, and custodial
24 interrogation. The two factors most frequently
25 cited as causes of wrongful convictions based

1 upon post-conviction DNA testing are mistaken
2 eyewitness identification and false confession.

3 Any legislative effort to address
4 wrongful convictions must address two significant
5 problems. It should require video recordings of
6 persons interrogated while in police custody and
7 mandate adoption of best-practice eyewitness
8 identification procedures, including techniques
9 to ensure that examiners are blinded as to the
10 identity of witnesses.

11 And the third piece that must be
12 clearly included must be to ensure that access to
13 forensic evidence by persons charged or convicted
14 of a crime for purposes of establishing innocence
15 must be included.

16 When asked the question on the
17 floor, I was told by the sponsor at that time
18 that this evidence was in fact available. That
19 is not accurate. Because even when forensic
20 evidence has been retrieved from a crime scene,
21 persons accused are often denied access to such
22 evidence for purposes of establishing their own
23 innocence.

24 As a matter of basic fairness,
25 persons charged with or convicted of a crime must

1 have access to forensic evidence. A requirement
2 to this effect is consistent with the directives
3 of the Governor that forensic DNA that must be
4 utilized fairly.

5 The recommendations that have been
6 put forth are that we need to authorize judges to
7 order comparisons of DNA evidence and
8 fingerprints that are obtained at a crime scene
9 with DNA and fingerprint databases and to order
10 searches of inventoried evidence upon petition
11 for purposes of post-conviction testing.

12 All of the things that I have
13 indicated here and others that have been put
14 forth in this chamber are not things that are
15 going to cost or will break the bank, which seems
16 to be of a major concern, but rather will help us
17 to ensure that as cases are investigated the best
18 chance for justice will be incorporated in the
19 process.

20 DNA is being touted as the savior
21 of investigative procedures. But it's very clear
22 to all who have been working with forensic
23 evidence that the collection, storage and
24 preservation, and proper identification, are
25 essential if we're going to convict the right

1 person. There have been too many instances that
2 have been cited where false information has been
3 given and the true perpetrator continues to be
4 free at large to continue to commit crimes.

5 I would think that this conference
6 and this state would like to produce the best
7 bill possible. And since it is a part of the
8 budget plan, without these elements to ensure
9 that justice is done, we would not be producing
10 the best bill if we were to ignore the
11 recommendations that are being made.

12 Thank you, Mr. President. I will
13 be voting no on the resolution.

14 ACTING PRESIDENT GRIFFO: Senator
15 Avella.

16 SENATOR AVELLA: Thank you,
17 Mr. President. On the resolution.

18 ACTING PRESIDENT GRIFFO: Senator
19 Avella on the resolution.

20 SENATOR AVELLA: First of all, I
21 want to thank my Republican colleagues for some
22 of the items in the resolution that we both agree
23 on; specifically, the EPIC restorations.

24 But as my Democratic colleagues
25 have said today, there are many things that we

1 differ on. And one of the issues that I want to
2 bring up is which is a clear difference between
3 the Republican Majority Conference and the
4 Democratic Conference is the issue of
5 hydrofracking.

6 There are many members of
7 Republican Majority who are great supporters of
8 hydrofracking -- Senator Libous I can see
9 smiling. There are many of us on the Democratic
10 Conference side who believe that hydrofracking is
11 the wrong way to go, including myself as the
12 author of the bill to ban hydrofracking in
13 New York State.

14 But no matter which side of the
15 aisle you're on, we need to do a health impact
16 assessment of any health problems that may occur
17 if New York State should go along with
18 hydrofracking.

19 There is a proposal which
20 unfortunately is not included in the Senate
21 Republican resolution for a \$300,000 study by one
22 of the medical schools of SUNY to conduct a
23 health impact assessment. I have in front of me
24 two letters sent to the Governor and Senator
25 Skelos from over 300 doctors and medical

1 professionals throughout the entire state,
2 including cancer prevention organizations,
3 basically asking for this study.

4 And I'm just going to quote from
5 one of the letters: "More than 25 percent of the
6 chemicals used in natural gas operations have
7 been demonstrated to cause cancer or mutations.
8 Between 2005 and 2009, according to the Committee
9 on Energy and Commerce, hydraulic fracturing
10 companies used 95 products containing 13 known
11 and suspected carcinogens all producing cancer."

12 And in addition to obviously the
13 toxic chemicals involved in the process, we also
14 have to remember that these chemicals will be
15 trucked through throughout New York State on a
16 daily basis.

17 Again, reading from the same
18 letter: "Natural gas drilling in New York State
19 is predicted to increase heavy truck traffic on
20 local roads by as much as 1.5 million more trips
21 per year, with an average of 90 and up to a
22 thousand trucks per day at a single well pad.
23 For each individual site, hundreds of tanker
24 trucks hauling fracking fluids for injection and
25 flowback fluids for disposal will roll through

1 our communities and neighborhoods, and yet no one
2 has calculated the impact on public health."

3 I would urge the Republican
4 Majority to include \$300,000 for a study on the
5 possible health impacts. The Assembly has
6 already included funding for such a study.

7 And I would urge my colleagues to
8 vote no on the resolution for that reason as well
9 as the other reasons my colleagues have stated.

10 Thank you, Mr. President.

11 ACTING PRESIDENT GRIFFO: Senator
12 Montgomery.

13 SENATOR MONTGOMERY: Thank you,
14 Mr. President. On the resolution.

15 ACTING PRESIDENT GRIFFO: Senator
16 Montgomery on the resolution.

17 SENATOR MONTGOMERY: Yes. There
18 are just a couple of areas that I would like to
19 mention.

20 One, I want to thank and compliment
21 my colleagues on the other side of the aisle,
22 particularly the chair of Children and Families,
23 Senator Savino, for several areas that I feel
24 especially strong about. One area is in
25 education, several things in education that I

1 feel that you've paid attention to and are
2 important to young people across the state.

3 I'm happy to see that you've
4 restored \$3.48 million in Higher Education
5 Opportunity Program awards. That is extremely
6 important. And I believe that that in fact is
7 the Arthur O. Eve HEOP programs. I appreciate
8 that.

9 I'm happy to see that we have an
10 additional \$3.16 million for library aid.
11 Libraries are an extremely important part of our
12 education system, should be viewed as such, and
13 we need to continue to increase our support for
14 them, as well as the \$1.7 million for Liberty
15 Partnerships.

16 I'm happy to see that Senator
17 Savino in particular and my colleagues over there
18 on that side have restored a program which came
19 into being when I was once chair, many times ago,
20 that we had a small program, \$4 million in a
21 program that we referred to as Community
22 Reinvestment for Juvenile Justice Alternative to
23 Detention.

24 The Governor suggested in his
25 budget that he eliminate that entire program. It

1 comes back in, restored in your proposal, and I
2 appreciate that very much, as well as the Child
3 Care Facilitated Enrollment program.

4 I do, however, raise a significant
5 issue with you. And I asked -- I just have to
6 ask and wonder why we find this particular
7 provision in your proposal for this budget in
8 education. And that is you're proposing that we
9 authorize for-profit businesses and corporations
10 to establish and run charter schools in the State
11 of New York.

12 Now, we passed legislation in '09,
13 I believe, '09 or '10, which would reform the
14 charter school law in our state, improve it. One
15 of the key provisions of that, if you recall, was
16 that we would not allow for-profit entities to be
17 involved with charter schools.

18 I come back this year and see this
19 language -- very appalling. Because we all know
20 what the results of having corporate money in
21 public elections, public education for sure,
22 public anything. So why are we now looking to
23 allow corporate funding to come into our -- to
24 take over our charter school system?

25 And ultimately you know what that's

1 going to mean. It is going to open us up to all
2 kinds of money and pressure from the corporate
3 community to take over the entire education
4 system. This is a very dangerous proposal, my
5 brothers and sisters on the other side.

6 So I hope that you will remove this
7 and make it very clear to the corporate community
8 that we are not in the business of opening up our
9 educational system. The same as we're not in the
10 business of opening up our prison system and
11 we're not in the business of opening up entirely
12 our -- certainly our healthcare system. We're
13 trying to preserve a public healthcare system,
14 public university system. Why do we now want to
15 turn over our charter school system to the
16 corporate community?

17 So for that reason I think it sends
18 a very bad message. It's a signal that we're
19 opening up our education system for sale. And I
20 certainly would not want that to be the legacy of
21 this Legislature or of our state.

22 So, Mr. President, I will be voting
23 no on this resolution for that reason.

24 ACTING PRESIDENT GRIFFO: Senator
25 Krueger.

1 SENATOR KRUEGER: Thank you,
2 Mr. President, to close.

3 I want to thank my colleagues for
4 their detailed critique of what they found
5 missing in this budget resolution and what they
6 found wrong in this budget resolution.

7 I want to thank my colleagues for
8 their hard work on the Republican side of the
9 aisle. To be honest, I wish we had seen
10 paperwork before around 11 o'clock last night. I
11 think that we could have had a better discussion,
12 a broader discussion of the pros and cons had we
13 worked together in some way collaboratively or
14 even had an opportunity the way you usually do on
15 budget bills at least three days aging before
16 you're here on the floor of the Senate debating.

17 But for so many reasons I'm going
18 to urge a no vote on this budget resolution
19 today. For one, we've seen that some of the
20 priorities -- protecting cigar taxes for people
21 who purchase very expensive cigars, but cutting
22 funding for public assistance for the very
23 poorest New Yorkers, going back to failed
24 special-interest tax-credit models and Empire
25 Zone-type tax credits and expansion and extension

1 of brownfields credits -- these are things we
2 needed to fix and we thought we fixed years ago,
3 and now we're reversing ourselves on this.

4 I'm amazed that the Senate
5 Republicans wish to delay the low-sulfur fuel law
6 that we passed in this house after delays for
7 years and years and years. Speaking for the city
8 many of us come from, we are desperate to make
9 sure that that law is implemented as currently
10 established very soon.

11 You heard about rejecting funding
12 for supportive housing. Delaying funding for
13 supportive housing is the same as rejecting
14 funding.

15 You heard a very strong debate some
16 of our colleagues on the DREAM Act and giving
17 non-citizen college students the ability to
18 complete their education. There was debate about
19 the costs. But I've seen materials from the
20 Department of Education and the State DOB saying
21 the cost would be under \$1 million. This is not
22 a budget-crasher for this house.

23 And I am very disturbed to hear, as
24 was debated and discussed by Senator Dilan, that
25 the risk to MTA capital funding by the proposals

1 in this resolution could result in a loss of an
2 additional \$2.1 billion in federal capital money
3 for the MTA system.

4 Perhaps most disturbingly to me,
5 after listening to my colleagues and asking
6 questions, is that many of the items in this
7 resolution are, quote, more theater for this year
8 but could end up costing the State of New York an
9 enormous amount of money in outyears without ever
10 explaining what we would cut to pay for those.

11 So the Article 18 taxes being
12 reduced a year early could cost us \$500 million.
13 I need to know where we would replace that or
14 what we would cut. The \$275 million in STAR
15 credits, I'd need to know what are we cutting out
16 of the 13-months-from-now budget to replace
17 that.

18 The \$770 million in Highway Trust
19 Fund money that is being proposed to be phased
20 back out of the General Fund for specific highway
21 purposes, I don't necessarily disagree with
22 that. That's been a free-standing bill. And I
23 understand that issue. But we have to replace
24 the money, and there is no explanation here where
25 we would replace the money.

1 And most disturbingly, if in fact
2 tax caps and formulas for returning PIT taxes
3 beyond a certain formula were implemented and law
4 of the Constitution, we will literally be seeing
5 billions of dollars in revenue taken from our
6 budget. But no explanation about the kinds of
7 cuts that we would have to face or what we would
8 do instead.

9 So perhaps most disturbingly to me,
10 for all the things that are not in the budget
11 resolution -- and for all the things that are
12 there that I don't agree with -- is that it sets
13 us up in the future as a state to have a
14 completely unbalanced budget in future outyears.
15 And that is not responsible.

16 And so I am urging my colleagues,
17 both sides of the aisle, to vote no on this
18 budget resolution. And at the same time,
19 recognizing it is a one-house resolution, that I
20 look forward to working with my colleagues on the
21 actual budget negotiations through budget
22 conference committees sometime soon.

23 And again, I think we all get a
24 better product if we're not seeing materials for
25 the first time at 11 o'clock on a Sunday night

1 for a Monday session.

2 So in closing, I will be voting no
3 and urging a no vote. Thank you, Mr. President.

4 ACTING PRESIDENT GRIFFO: Senator
5 DeFrancisco to close debate on the resolution.

6 SENATOR DeFRANCISCO: Yes. First
7 of all, as far as procedure, I kind of smile. I
8 wish I got the budget the night before when I was
9 in that chair. And I wish I got a few answers
10 when I asked questions when I was in
11 Senator Krueger's chair.

12 But irrespective of the process, I
13 think this is a good budget. The Governor wants
14 us to spend less than last year. We even spent
15 less than the Governor proposed. We've restored
16 various funding that is essential. The schools
17 ought to be very happy about the \$200 million
18 being redirected to the formula for low-wealth,
19 high-need districts rather than in performance
20 grants.

21 Seniors should be ecstatic if we
22 can accomplish in the negotiations the total
23 restoration of the monies cut from the EPIC
24 program.

25 The jobs program will be helpful in

1 the long run because we're only going to grow our
2 way out of this problem, not tax or spend our way
3 out of it.

4 So I really think it's a balanced
5 approach. Senator Krueger is right in one
6 respect, and that is the process is not over.
7 The Governor is going to be weighing in on both
8 of the one-house budgets. And hopefully the
9 negotiations will get a budget that everyone can
10 agree to and a budget that will be passed again
11 this year on time.

12 Thank you, Mr. President.

13 ACTING PRESIDENT GRIFFO: Thank
14 you, Senator DeFrancisco.

15 The chair will call the question on
16 the resolution. All in favor signify by saying
17 aye.

18 (Response of "Aye.")

19 ACTING PRESIDENT GRIFFO:
20 Opposed?

21 (Response of "Nay.")

22 ACTING PRESIDENT GRIFFO: The
23 resolution is adopted.

24 SENATOR BRESLIN: Yes,
25 Mr. President. May we have a show of hands on

1 the resolution, please.

2 ACTING PRESIDENT GRIFFO: The
3 secretary will call the roll. All those in the
4 negative please raise your hand.

5 I also want to remind members, upon
6 unanimous consent the chair will allow an
7 exception as to the resolution voting process and
8 permit explanation of votes, but there will be a
9 strict limit on those vote explanations.

10 Senator Farley to explain his vote.

11 SENATOR FARLEY: Adhering to the
12 two-minute rule, I'll keep it in one minute.

13 I think this is a brilliant
14 document. It's one where education is improved.
15 I want to just speak to one thing. The regional
16 high schools that are in there is an excellent
17 idea. It's something that needs to be done for
18 the rural areas of our state. Libraries are
19 well-supported and funded in this budget.

20 And on balance, there's a positive
21 approach towards jobs and economic development.
22 I enthusiastically vote yes.

23 ACTING PRESIDENT GRIFFO: Senator
24 Marcellino.

25 SENATOR MARCELLINO: Thank you,

1 Mr. President.

2 I rise to support this budget
3 resolution as well. It's a good start for
4 negotiations. For the second year in a row, we
5 spend less than the year before. We don't raise
6 taxes. We incentivize job creation, which as
7 Senator DeFrancisco rightly points out, is the
8 only way we're going to get out from the mess
9 that we're in. We have to create jobs to grow
10 our economy, and that's the only way to do --
11 that's the right thing to do, and this budget
12 does just that.

13 We don't do gimmicks, we don't have
14 one-shots in this budget, we don't do borrowing.
15 We're not kicking the can down the road and
16 passing the expenses on to future generations.

17 This is a significant budget. It
18 puts us in a good position to go into
19 negotiations with both the Governor and the
20 Assembly, and I look forward to doing that.

21 I thank Senator Skelos and his
22 staff for helping to create this budget and
23 moving us forward in the right direction.

24 Thank you, Mr. President. I vote
25 aye.

1 ACTING PRESIDENT GRIFFO: Senator
2 Grisanti.

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

5 I want to thank Senator Skelos
6 also, and his staff, for putting forward a
7 resolution that I think will help us to achieve a
8 budget that's either early or on time.

9 But in particular, besides what was
10 mentioned about job creation, the incentives for
11 jobs and small businesses not only in Western
12 New York but New York State as a whole, there are
13 several factors in there that I support and I
14 hope that continue on through negotiations.

15 One in particular is Roswell Park
16 Cancer Institute, which is world-renowned, known
17 for excellent cancer research, just recently came
18 to a development on cancer research. And we're
19 pushing to have actually it become an independent
20 and drop it from state aid from 2014-2015, to be
21 extended further, and also to support that
22 funding.

23 So I think that's important for
24 Roswell Park. There's actually state contracts
25 that they have no control over and it's going to

1 take them a lot longer just to find some help
2 with regards to staying independent more than two
3 years from now.

4 I also want to thank the leader and
5 the conference for supporting and funding for the
6 NFTA to receive additional funding on top of the
7 monies that the Governor has already promised.

8 A lot of mandate relief, protection
9 for the 4201 schools, Mr. President. Legislation
10 for a power proceeds bill, the sale of the unused
11 power in New York. That's something that's a
12 long time coming. With those fundings, it can
13 stay in there.

14 Also important for all New York
15 residents, supporting the \$25 million back to the
16 mortgage foreclosure program. Those proceeds
17 will help many individuals across New York
18 State.

19 And those are just a few of them,
20 Mr. President. I support this resolution in
21 particular because there's a lot of important
22 Avenues in there for Western New York, but New
23 York State as a whole, to become the Empire State
24 once again.

25 Thank you, Mr. President.

1 ACTING PRESIDENT GRIFFO: Thank
2 you, Senator Grisanti.

3 Senator Perkins to explain his
4 vote.

5 SENATOR PERKINS: Yes, thank you
6 very much.

7 First I want to join with my
8 colleague Senator Montgomery in expressing my
9 concern about the for-profit charter school
10 language that is in the bill. I think that it is
11 going to be crippling to our public education
12 system, not only in the city but I think even
13 more so throughout the state.

14 It is a wolf that used to be in
15 sheep's clothing but has now outed itself to let
16 us realize that the whole charter school movement
17 was a gimmick to begin with and is not for the
18 benefit of education but for the benefit of
19 profit.

20 Secondly, I want to join the
21 American Lung Association against Part 10 of the
22 Senate Republicans advancing legislation to
23 extend the implementation deadline for the
24 reduction of sulfur content of home heating oil
25 for three years until July 1, 2015. Obviously,

1 as the sponsor of S1145C when we passed the
2 Senate bill, I'm obviously still a believer that
3 that bill will have a very important
4 environmental impact on our community.

5 And last but not least, you know,
6 I'm very concerned about the fact that the
7 Republicans somehow believe that the DREAM Act
8 would cost more than \$60 million, or more than
9 7 percent of TAP, yet conveniently fail to
10 identify their source of this wildly inaccurate
11 statistic.

12 And therefore I will be voting no
13 on the resolution.

14 ACTING PRESIDENT GRIFFO: Senator
15 Diaz to explain his vote.

16 SENATOR DIAZ: Thank you,
17 Mr. President.

18 I think that there are things that
19 we don't like. But especially when they talk
20 about charter schools, I am pro-charter schools,
21 I love charter schools, I like charter schools.
22 And because of that, I'm voting yes.

23 ACTING PRESIDENT GRIFFO: No other
24 member wishes to be heard at this point in time
25 to explain their votes?

1 Okay, I now call upon Senator
2 Skelos to close.

3 SENATOR SKELOS: Thank you,
4 Mr. President, very quick.

5 This is the beginning of the
6 process of getting an early budget done. We will
7 be starting joint conference committees hopefully
8 tomorrow. That is being discussed with the
9 Assembly.

10 And I think what's significant
11 about our budget resolution is that we talk about
12 cutting taxes, we talk about empowering the
13 private sector to create jobs, and we're focused
14 on mandate relief and doing things within this
15 state to continue the direction that was set in
16 last year's budget, with Governor Cuomo, of
17 cutting taxes, cutting spending, and creating
18 private-sector jobs.

19 And I hope that our good friends on
20 the Democrat side, after they made all their
21 statements -- and totally appropriate -- on
22 spending, they will join us on talking about
23 controlling spending, cutting taxes, and
24 private-sector jobs.

25 So I vote aye.

1 ACTING PRESIDENT GRIFFO: The
2 Secretary will announce the results.

3 THE SECRETARY: Ayes, 39. Nays,
4 21.

5 ACTING PRESIDENT GRIFFO: The
6 resolution is adopted.

7 Senator Libous, that concludes the
8 business before the desk.

9 SENATOR LIBOUS: Mr. President, is
10 there any further business at the desk at this
11 time?

12 ACTING PRESIDENT GRIFFO: There is
13 no other further business, Senator Libous.

14 SENATOR LIBOUS: There is,
15 Mr. President. There is further business.

16 ACTING PRESIDENT GRIFFO: There
17 is?

18 SENATOR LIBOUS: Yes.
19 Has the desk received an
20 announcement from the Assembly?

21 ACTING PRESIDENT GRIFFO: The desk
22 does have an announcement from the Assembly.

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

25 Is there any further business at

1 the desk?

2 ACTING PRESIDENT GRIFFO: There
3 is no other further business, Senator Libous.

4 SENATOR LIBOUS: There being no
5 further business, I move that the Senate
6 adjourn until Tuesday, March 13, at 3:00 p.m.

7 ACTING PRESIDENT GRIFFO: On
8 motion, the Senate stands adjourned until
9 Tuesday, March 13th, at 3:00 p.m.

10 Senate adjourned.

11 (Whereupon, at 5:46 p.m., the
12 Senate adjourned.)

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