NEW YORK STATE SENATE

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REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

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

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

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

Bishop?

BISHOP DiMARZIO: Let us pray.

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

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

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

And we ask this in Your holy name, amen.

ACTING PRESIDENT GRIFFO: The reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

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

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

SENATOR BRESLIN: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: The

Secretary will read.

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

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

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

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

ACTING PRESIDENT GRIFFO: The amendments are received.

Senator Libous.

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

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

Senator Libous.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the

last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

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

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

ACTING PRESIDENT GRIFFO: So noted.

(Pause.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

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

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

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

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

ACTING PRESIDENT GRIFFO: Senator Skelos.

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Thank you, Senator Skelos.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I agree.

(Laughter.)

ACTING PRESIDENT GRIFFO: Thank you.

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

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

low-wealth, high-need districts.

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

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

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

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

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

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

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

And as a result, various checks

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President.

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

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

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

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

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

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

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

Excuse me. Just a couple of other big items.

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

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

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

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

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

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT GRIFFO: The Senator will yield.

SENATOR KRUEGER: Thank you.

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

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

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

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

we get more specific information.

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

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

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you.

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

ACTING PRESIDENT GRIFFO: Are you

asking Senator DeFrancisco a question?

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

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

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

It was mentioned that the Majority wishes to phase out the 18A assessment on energy utilities this year, instead of next year as

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

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

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

coming year?

SENATOR DeFRANCISCO: No.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

SENATOR KRUEGER: Thank you.

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

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

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you.

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

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

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

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

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So if I

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

SENATOR DeFRANCISCO: Yes, I will respond.

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

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

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

SENATOR KRUEGER: Through you,

Mr. President, I will continue on the resolution.

ACTING PRESIDENT GRIFFO: Senator Krueger on the resolution.

SENATOR KRUEGER: Thank you so much.

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

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

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

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

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

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

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

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

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

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

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

And I would now like to cede my

time to the other members who are on your list.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Senator Breslin.

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

ACTING PRESIDENT GRIFFO: Senator Breslin on the resolution.

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

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

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

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

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

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

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

covered.

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

Senator Peralta.

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

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor will yield.

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

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

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

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

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Yes.

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

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

SENATOR PERALTA: Will he yield for another question?

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

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

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

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

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

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

SENATOR PERALTA: Yes, I'm sorry.

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

SENATOR PERALTA: Yes, please.

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

SENATOR DeFRANCISCO: Yes.

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

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

that is needless and ineffective.

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

ACTING PRESIDENT GRIFFO: Senator Peralta.

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

ACTING PRESIDENT GRIFFO: Does the sponsor continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator Peralta.

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Peralta.

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

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

various studies of a 54 percent success rate.

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

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

SENATOR PERALTA: No, I am --

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

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

ACTING PRESIDENT GRIFFO: Sponsor, will you yield?

SENATOR DeFRANCISCO: Yes, I will.

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

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

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

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

Now, if the sponsor would yield for another question.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Yes.

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Peralta.

SENATOR PERALTA: So --

ACTING PRESIDENT GRIFFO: Are you on the resolution?

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

ACTING PRESIDENT GRIFFO: The sponsor will continue to yield.

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

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

unproven.

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

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

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

But on the bill.

ACTING PRESIDENT GRIFFO: Senator Peralta on the resolution.

SENATOR PERALTA: On the resolution.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Perkins.

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

ACTING PRESIDENT GRIFFO: Senator Perkins on the resolution.

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

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

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

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

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

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

So my question is, if I may --

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

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR PERKINS: Thank you.

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

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

ACTING PRESIDENT GRIFFO: Senator Perkins.

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

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

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

ACTING PRESIDENT GRIFFO: Thank you.

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

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

SENATOR PERKINS: Through you,

Mr. President, thank you.

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

SENATOR PERKINS: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

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

SENATOR PERKINS: Why have they not been recognized?

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

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

That's the answer.

SENATOR PERKINS: Through you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Perkins.

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

But I think that's the distinction.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: According to the Institute of Taxation --

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

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

ACTING PRESIDENT GRIFFO: You are

asking questions?

SENATOR PERKINS: Yes.

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

SENATOR DeFRANCISCO: Yes, I do.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR PERKINS: Thank you.

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

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

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

ACTING PRESIDENT GRIFFO: Senator

DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

Go ahead, Senator Perkins.

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

SENATOR DeFRANCISCO: I thought you asked me a question.

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Perkins.

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

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

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

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

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

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

SENATOR DeFRANCISCO: Yes.

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

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

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

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

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

SENATOR PERKINS: Through you, Mr. President.

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

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

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

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Perkins.

Senator Espaillat.

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

ACTING PRESIDENT GRIFFO: Senator Espaillat on the resolution.

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

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

undocumented students to pay in-state tuition rates.

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

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

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

SENATOR ESPAILLAT: Yes, I am.

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

SENATOR DeFRANCISCO: Yes. Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

Senator Espaillat.

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

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

ACTING PRESIDENT GRIFFO: Senator Espaillat.

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

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

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

SENATOR ESPAILLAT: Through you,

Mr. President.

ACTING PRESIDENT GRIFFO: Yes.

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Espaillat, will you yield?

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

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

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

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

If I may, Mr. --

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

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

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

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

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

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

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

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

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

by Governor Cuomo.

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

ACTING PRESIDENT GRIFFO: Senator Espaillat, you're asking Senator DeFrancisco to yield?

SENATOR ESPAILLAT: Yes, I am, Mr. President.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. I got the question.

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

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

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

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

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

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

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

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

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

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

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

Madison Square Garden. It was a wonderful visit otherwise.

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

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

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

SENATOR DeFRANCISCO: Yes. Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

Senator Espaillat.

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

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

SENATOR ESPAILLAT: Okay, thank you.

Mr. President, on the resolution.

ACTING PRESIDENT GRIFFO: Senator Espaillat on the resolution.

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

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

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

not included in this resolution.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President.

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

ACTING PRESIDENT GRIFFO: On the resolution.

SENATOR RIVERA: Thank you, Mr. President.

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

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

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

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

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

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

time.

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

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

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

SENATOR DeFRANCISCO: I have a point of clarification.

There was a typo in the budget

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

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

SENATOR RIVERA: Mr. President, through you.

ACTING PRESIDENT GRIFFO: Senator Rivera.

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

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

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

ACTING PRESIDENT GRIFFO: Senator Dilan.

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

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

SENATOR DeFRANCISCO: Yes, I do.

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

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

ACTING PRESIDENT GRIFFO: Excuse me, Senator Dilan.

Can we have some order in the chamber, please?

Senator Dilan, will you please rephrase the question?

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

SENATOR DeFRANCISCO: I will get

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

SENATOR DILAN: You don't have it?

SENATOR DeFRANCISCO: Nope.

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

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

SENATOR DILAN: Yes, sir.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

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

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

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

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

SENATOR DeFRANCISCO: Can I answer your last question first?

SENATOR DILAN: You can do

whatever you like, Senator.

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

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

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

SENATOR DeFRANCISCO: $247 million.

SENATOR DILAN: Did I hear 247?

SENATOR DeFRANCISCO: $247 million, with an M.

ACTING PRESIDENT GRIFFO: $247 million.

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

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

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

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

SENATOR DILAN: Can he restate his answer?

SENATOR DeFRANCISCO: It's basically --

SENATOR DILAN: The total.

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

SENATOR DILAN: All right. Thank you.

Will he yield for another question?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

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

ACTING PRESIDENT GRIFFO: Senator Dilan.

SENATOR DeFRANCISCO: I'll yield.

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

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

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

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

by the MTA, has been denied?

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

SENATOR DILAN: For the same reason.

Another question, sir?

ACTING PRESIDENT GRIFFO: Sure.

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

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

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

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

SENATOR DILAN: Would he yield for another question.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR DeFRANCISCO: Yes.

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

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

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

SENATOR DILAN: Final question.

ACTING PRESIDENT GRIFFO: Final question.

SENATOR DILAN: You know, for that

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

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

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

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

SENATOR DILAN: On the resolution.

ACTING PRESIDENT GRIFFO: Senator Dilan on the resolution.

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

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

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

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

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

Thank you.

ACTING PRESIDENT GRIFFO: Senator Squadron.

SENATOR SQUADRON: Thank you,

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco yields.

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

SENATOR SQUADRON: Thank you. I appreciate that.

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

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

SENATOR SQUADRON: If the sponsor can continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

SENATOR DeFRANCISCO: Absolutely.

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

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

SENATOR SQUADRON: If the sponsor continues to yield.

SENATOR DeFRANCISCO: Yes.

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

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

SENATOR SQUADRON: If the sponsor continues to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: It is

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

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

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

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

SENATOR SQUADRON: I'm getting there.

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

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

SENATOR DeFRANCISCO: We're

getting that number.

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

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

SENATOR SQUADRON: Fair enough.

SENATOR DeFRANCISCO: $27 million.

SENATOR SQUADRON: Thank you very much.

On the resolution.

ACTING PRESIDENT GRIFFO: Senator Squadron on the resolution.

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

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

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

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

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

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

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

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

If the sponsor would yield on another topic briefly.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

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

(Laughter.)

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

SENATOR DeFRANCISCO: $508,000. For the Supplemental Homeless Intervention Program, we added $205,000. Emergency Homeless,

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

But I'll answer another question.

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

SENATOR LIBOUS: Through you, Mr. President.

SENATOR SQUADRON: Through you, Mr. President.

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

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

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

SENATOR SQUADRON: Which is in

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

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

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Libous.

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

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

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

Senator Squadron.

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

SENATOR DeFRANCISCO: We're the

only two that probably were.

(Laughter.)

SENATOR SQUADRON: Through you, Mr. President.

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

ACTING PRESIDENT GRIFFO: Senator Squadron on the resolution.

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

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

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

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

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

SENATOR DeFRANCISCO: Yes, I will yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: Thank you very much.

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

SENATOR DeFRANCISCO: Twenty percent higher.

SENATOR SQUADRON: In inflation-adjusted --

ACTING PRESIDENT GRIFFO: Senator Squadron.

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

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

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR SQUADRON: In inflation-adjusted dollars.

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

SENATOR SQUADRON: If the sponsor would yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

SENATOR SQUADRON: Thank you.

On the resolution.

ACTING PRESIDENT GRIFFO: Senator Squadron on the resolution.

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

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

And those dollars are ones that go

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson.

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

The Governor -- Governor Cuomo --

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

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

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

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

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

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

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

I made attempts to petition the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Avella.

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

ACTING PRESIDENT GRIFFO: Senator Avella on the resolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Montgomery.

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

ACTING PRESIDENT GRIFFO: Senator Montgomery on the resolution.

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

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

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

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

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

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

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

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

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

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

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

And ultimately you know what that's

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

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

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

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

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

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

You heard about rejecting funding for supportive housing. Delaying funding for supportive housing is the same as rejecting funding.

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

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

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

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

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

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

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

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

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

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

for a Monday session.

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

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

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

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

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

The jobs program will be helpful in

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(Response of "Nay.")

ACTING PRESIDENT GRIFFO: The resolution is adopted.

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

the resolution, please.

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

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

Senator Farley to explain his vote.

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

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

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

ACTING PRESIDENT GRIFFO: Senator Marcellino.

SENATOR MARCELLINO: Thank you,

Mr. President.

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

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

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

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

Thank you, Mr. President. I vote aye.

ACTING PRESIDENT GRIFFO: Senator Grisanti.

SENATOR GRISANTI: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Grisanti.

Senator Perkins to explain his vote.

SENATOR PERKINS: Yes, thank you very much.

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

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

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

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

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

And therefore I will be voting no on the resolution.

ACTING PRESIDENT GRIFFO: Senator Diaz to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

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

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

Okay, I now call upon Senator Skelos to close.

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

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

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

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

So I vote aye.

ACTING PRESIDENT GRIFFO: The Secretary will announce the results.

THE SECRETARY: Ayes, 39. Nays, 21.

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous, that concludes the business before the desk.

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

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

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

ACTING PRESIDENT GRIFFO: There is?

SENATOR LIBOUS: Yes.

Has the desk received an announcement from the Assembly?

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

SENATOR LIBOUS: Thank you, Mr. President.

Is there any further business at

the desk?

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

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

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

Senate adjourned.

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