

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 28, 2012

11 11:28 a.m.

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14 REGULAR SESSION

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18 SENATOR JOSEPH A. GRIFFO, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

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

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

9 ACTING PRESIDENT GRIFFO: In the  
10 absence of clergy, I ask all present to please  
11 bow their heads in a moment of silent  
12 reflection.

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

15 ACTING PRESIDENT GRIFFO: The  
16 reading of the Journal.

17 THE SECRETARY: In Senate,  
18 Tuesday, March 27th, the Senate met pursuant  
19 to adjournment. The Journal of Monday,  
20 March 26th, was read and approved. On motion,  
21 Senate adjourned.

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

25 Presentation of petitions.

1 Messages from the Assembly.

2 Messages from the Governor.

3 Reports of standing committees.

4 Reports of select committees.

5 Communications and reports from  
6 state officers.

7 Motions and resolutions.

8 Senator Carlucci.

9 SENATOR CARLUCCI: Thank you.

10 Mr. President, I move that my  
11 bill, Senate Print 6667, be discharged from  
12 its respective committee and be recommitted  
13 with instructions to strike the enacting  
14 clause.

15 ACTING PRESIDENT GRIFFO: So  
16 ordered.

17 SENATOR CARLUCCI: Thank you.

18 ACTING PRESIDENT GRIFFO:  
19 Senator Libous.

20 SENATOR LIBOUS: Mr. President,  
21 thank you very much.

22 At this time there will be an  
23 immediate meeting of the Finance Committee in  
24 Room 332, an immediate meeting of the Finance  
25 Committee in Room 332.

1                   In the interim, the Senate will  
2 stand at ease.

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

6                   The Senate stands at ease.

7                   (Whereupon, the Senate stood at ease  
8 at 11:30 a.m.)

9                   (Whereupon, the Senate reconvened at  
10 11:45 a.m.)

11                  ACTING PRESIDENT GRIFFO:    The  
12 Senate will come to order.

13                  Senator Libous.

14                  SENATOR LIBOUS:    Mr. President,  
15 may we return to the reports of standing  
16 committees. I believe there's a report of the  
17 Finance Committee at the desk.

18                  ACTING PRESIDENT GRIFFO:    Reports  
19 of standing committees.

20                  The Secretary will read the report  
21 of the Finance Committee.

22                  THE SECRETARY:    Senator  
23 DeFrancisco, from the Committee on Finance,  
24 reports the following bills direct to third  
25 reading:

1                   Senate Print 6255D, Senate Budget  
2 Bill, an act to amend the Executive Law;  
3                   Senate 6258D, Senate Budget Bill,  
4 an act to authorize funding; and  
5                   Senate 6260C, Senate Budget Bill,  
6 an act to amend the Racing, Pari-Mutuel Wagering  
7 and Breeding Law.  
8                   ACTING PRESIDENT GRIFFO:     So  
9 ordered. All bills reported to third reading.  
10                  Senator Libous.  
11                  SENATOR LIBOUS:     Mr. President,  
12 may we have the reading of the noncontroversial  
13 calendar.  
14                  ACTING PRESIDENT GRIFFO:     The  
15 Secretary will read.  
16                  THE SECRETARY:     Calendar Number  
17 471, Senate Budget Bill, Senate Print 6255D, an  
18 act --  
19                  SENATOR BRESLIN:     Lay it aside.  
20                  ACTING PRESIDENT GRIFFO:     The bill  
21 is laid aside.  
22                  THE SECRETARY:     Calendar Number  
23 472, Senate Budget Bill, Senate Print 6258D, an  
24 act to authorize.  
25                  SENATOR BRESLIN:     Lay it aside.

1                   ACTING PRESIDENT GRIFFO:    The bill  
2 is laid aside.

3                   THE SECRETARY:    And Calendar  
4 Number 473, Senate Budget Bill, Senate Print  
5 6260C, an act to amend the Racing --

6                   SENATOR BRESLIN:   Lay it aside.

7                   ACTING PRESIDENT GRIFFO:   The bill  
8 is laid aside.

9                   Senator Libous.

10                  SENATOR LIBOUS:    Mr. President,  
11 may we have the controversial reading of the  
12 calendar.

13                  ACTING PRESIDENT GRIFFO:   The  
14 Secretary will ring the bell.

15                  The Secretary will read.

16                  THE SECRETARY:    Calendar Number  
17 471, Senate Budget Bill, Senate Print 6255D, an  
18 act to amend the Executive Law.

19                  SENATOR BRESLIN:   Explanation.

20                  ACTING PRESIDENT GRIFFO:   Can I  
21 have some order in the chamber, please.

22                  Senator Skelos.

23                  SENATOR SKELOS:    Mr. President, if  
24 I could make some opening comments and then I  
25 know that Senator DeFrancisco, chair of the

1 Finance Committee, awaits the questions but even  
2 more so will have the answers.

3 For many years, as all of us know,  
4 especially those of us who have served in the  
5 Senate for a number of years, late budgets were  
6 the norm. We never passed a budget on  
7 March 28th, but it became more like June 28th,  
8 July, or even August in 2009.

9 Today the Senate begins the process  
10 of passing our budget bills that will be passed  
11 early for the second year in a row. And it shows  
12 that state government is functioning.

13 We are restoring the people's faith  
14 in competence, not just with us but in state  
15 government. They know that we can work in a  
16 bipartisan fashion and enact a fiscally  
17 responsible state budget that meets the needs of  
18 the people of this great state.

19 I want to give credit to  
20 Governor Cuomo for not only working with us but  
21 listening to us and understanding that a budget  
22 is one of compromise that brings all the  
23 interests of this state together.

24 And I want to thank Assembly  
25 Speaker Silver, all of the members of the Senate

1 Republican Conference, and the members of the  
2 Senate Minority for participating in the  
3 conference committee process and giving positive  
4 input that resulted in this very good budget.

5               Staff on both the Majority and the  
6 Minority side worked extremely hard. Special  
7 tribute to Robert Mujica, secretary of the  
8 Finance Committee, all the Finance staff for the  
9 great work that they did -- sleepless nights,  
10 many sleepless nights, but just a fabulous job --  
11 and to our counsel, Diane Burman, and  
12 Counsel's Office for their equally good work.

13               This budget realizes long-held  
14 Senate Republican priorities, including a  
15 commitment to spending restraint, no new taxes,  
16 and initiatives that will help the private sector  
17 create new jobs.

18               For the second year in a row,  
19 overall spending has been reduced. We have held  
20 the line on taxes and eliminated nearly  
21 \$13 billion in combined deficits without raising  
22 taxes. We were able to cut taxes just a few  
23 months ago when we reduced state income-tax rates  
24 for 4.4 million New Yorkers to the lowest level  
25 in 58 years. And we repealed the job-killing MTA



1 payroll tax, which officially goes away on  
2 April 1st for most people who paid it.

3           This budget will create thousands  
4 of new jobs across the State of New York through  
5 the New York Works program that invests in our  
6 state's roads, highways, and bridges.

7           There are many positive things we  
8 are achieving with this budget: A second round  
9 of Regional Council award funding, \$500 million  
10 to continue the important work we did in last  
11 year's budget to rebuild our regional economies.  
12 Keeping all 11 DOT regional offices open. We  
13 gained a commitment to getting the MTA capital  
14 plan and DOT capital plan back on the same track  
15 to ensure regional parity and fairness.

16           School aid increases, 4 percent,  
17 and it's distributed fairly across the state.  
18 Restoring the EPIC program to help seniors afford  
19 the cost of prescription drugs. Helping property  
20 taxpayers by providing mandate relief for  
21 counties and New York City.

22           The state will take over the growth  
23 and local share of Medicaid costs, saving local  
24 governments and property taxpayers \$1.2 billion  
25 over the next five years. This is in addition to

1 the major pension reform we passed earlier this  
2 month that will also reduce the burden on local  
3 government and property taxpayers.

4 This is a budget that we all can be  
5 proud of. It's a budget that benefits the people  
6 of this state because it reduces spending, does  
7 not raise any taxes, and will create jobs.

8 Thank you, Mr. President.

9 ACTING PRESIDENT GRIFFO: Thank  
10 you, Senator Skelos.

11 Senator DeFrancisco.

12 SENATOR DeFRANCISCO: Yes. Before  
13 explaining the first budget bill -- we're dealing  
14 with Public Protection and General Government,  
15 the Article 7 -- I just wanted to add one thing,  
16 you know, that should be emphasized. And that is  
17 that most states are having the same problems  
18 that New York State is presently having. And in  
19 most states we're seeing a lot more difficulty in  
20 balancing budgets, a lot more incivility in the  
21 process.

22 And the way in which this process  
23 has been conducted these last couple of years has  
24 really been refreshing, number one.

25 Number two is we have to be

1 fiscally prudent in the State of New York so that  
2 we can make it viable for businesses actually to  
3 create jobs so more people are working and  
4 there's a bigger tax base.

5                   And, incredibly, the All Funds  
6 budget is less this year than it was last year,  
7 and last year was less than the year before. The  
8 last time two state budgets had less overall  
9 spending two consecutive years was about 30 years  
10 ago.

11                   So despite that, we're increasing  
12 essential services for Medicaid by 4 percent and,  
13 in addition, increasing education spending by  
14 4 percent, unlike most states.

15                   So this has been a lot of hard work  
16 by a lot of people, and it is a budget we should  
17 all be proud of no matter what side of the aisle  
18 we're on.

19                   With respect to 6255D, which is the  
20 Public Protection and General Government section,  
21 I'll point out a couple of highlights and then  
22 I'll be happy to answer any questions.

23                   First of all, for the cities that  
24 are listed in the bill, there was a spin-up which  
25 allows early access to funds -- and all the

1 cities that have the spin-up are listed, and the  
2 amounts are listed in the bill -- which will help  
3 them. And the only purpose, the only use that  
4 they can make of this is to resolve a budget  
5 deficit. It can't be for more spending on new  
6 programs, it's to resolve the budget deficit so  
7 they would be in a position to balance their  
8 books as well.

9                   With respect to the DNA bill that  
10 we recently passed, the expansion, the effective  
11 date is moved closer to August 1 instead of the  
12 original date of October 1 of this year, and  
13 approximately \$2 million has been set aside to  
14 help move the process and make sure there's  
15 funding enough to collect the samples and to  
16 perform what has to be performed to make that  
17 work.

18                   There's a repeal of the ill-advised  
19 CoBIS system. That's where we spent an awful lot  
20 of money and got no results from a system that  
21 didn't work. And there's authorization to  
22 replace it with a nationally recognized  
23 alternative, and that alternative is NIBIN, which  
24 I'll be happy to explain further if necessary.

25                   Many outdated state procurement

1 procedures and printing practices have been  
2 modified in this bill, and there's several of  
3 them that I can expand on if necessary. And in  
4 addition, we have had a renaming of the Office of  
5 Technology to the Office of Information  
6 Technology Services, which more accurately  
7 reflects what it does.

8                   And as far as the MTA, we're paying  
9 the MTA for costs associated with promoting  
10 access to employment through reimbursements for  
11 E-ZPass tolls paid by residents of Broad Channel,  
12 Rockaway Peninsula, and over the Cross-Bay  
13 Veterans Memorial Bridge.

14                   And on Friday we'll talk more about  
15 the capital expenditures that have been  
16 authorized for the MTA as well as the other  
17 transportation benefits that are needed to fix  
18 our infrastructure throughout the state.

19                   There's been an issue about  
20 facility parole officers, that we're losing that  
21 title. We were able to negotiate language that  
22 indicates that that parole officer would be in a  
23 position to take the place of a retired parole  
24 officer so that they are still in the pecking  
25 order that they were as far as that position,

1 which certainly is better than just being taken  
2 out of the facility parole officer  
3 classification.

4           There are other things in this bill  
5 that if there's interest in exploring them I'd be  
6 more than happy to answer those questions. And  
7 that is how I'll end my opening statement about  
8 this particular bill.

9           ACTING PRESIDENT GRIFFO:    Thank  
10 you, Senator DeFrancisco.

11           Senator Krueger.

12           SENATOR KRUEGER:    Thank you very  
13 much, Mr. President. Good morning.

14           ACTING PRESIDENT GRIFFO:    Good  
15 morning.

16           SENATOR KRUEGER:    I have a couple  
17 of questions for the sponsor, please.

18           ACTING PRESIDENT GRIFFO:    Senator  
19 DeFrancisco will yield.

20           SENATOR DeFRANCISCO:    Yes.

21           SENATOR KRUEGER:    Thank you.

22           I guess, as a statement, I don't  
23 think there's a lot of disagreement over this  
24 bill today with my colleagues. So there's not  
25 that many questions I have on this bill.

1                   But Senator DeFrancisco in his  
2 opening comments was referencing the spin-up of  
3 AIM funding for various cities. I don't see that  
4 language in the PPGG bill. Could he help me see  
5 where that is in this bill that we're debating  
6 right now?

7                   SENATOR DeFRANCISCO: It's sort of  
8 a preview of what's to come. There's an  
9 amendment to another bill where the actual  
10 dollars will be in the bill, but I have a list of  
11 those if people are interested. But it's  
12 actually the -- the specific bill is part of --  
13 the specific section is part of another bill.

14                  SENATOR KRUEGER: Thank you.

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

17                  SENATOR DeFRANCISCO: Yes.

18                  ACTING PRESIDENT GRIFFO: The  
19 sponsor yields.

20                  SENATOR KRUEGER: And I appreciate  
21 that. I also thought it was in a different bill,  
22 not this bill.

23                  Where's the AIM funding for the  
24 City of New York, which of these two bills?

25                  SENATOR DeFRANCISCO: I'm sorry,

1 what?

2                   SENATOR KRUEGER:    The AIM funding  
3 for the City of New York.  It's not in this  
4 bill.  Might we be seeing that in a later bill?

5                   SENATOR DeFRANCISCO:  You might  
6 not.  There's no acceleration of New York City  
7 AIM funding.

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

11                   SENATOR DeFRANCISCO:  Yes.

12                   ACTING PRESIDENT GRIFFO:  The  
13 sponsor yields.

14                   SENATOR KRUEGER:  Thank you.

15                   So there's AIM funding and then  
16 there's acceleration of AIM funding.  I believe,  
17 that before we were talking about what -- we use  
18 the term spin-up, which is really -- the Senator  
19 is correct, it's really not additional money,  
20 it's acceleration of the payment of committed  
21 money of AIM.  So I don't think we disagree  
22 there.

23                   But in following up on his last  
24 statement, so he's saying there's not  
25 acceleration of AIM money for New York City,



1 although there is for quite a long list of other  
2 locations. Is there any AIM funding for New York  
3 City, whether accelerated or not?

4               SENATOR DeFRANCISCO: No, there is  
5 not. There's no AIM funding for anybody. This  
6 is just an acceleration of funding that these  
7 cities would be able to receive eventually, just  
8 pushing it into their current budget year to help  
9 them avoid a deficit situation.

10              This has been done in prior years,  
11 and in view of the fiscal difficulties that these  
12 cities are having, it was negotiated that this  
13 spin-up would be appropriate for this year.

14              SENATOR KRUEGER: Through you,  
15 Mr. President, one additional question.

16              ACTING PRESIDENT GRIFFO: The  
17 Senator yields.

18              SENATOR KRUEGER: Thank you.

19              Again, just to clarify, because  
20 we're talking about one topic that may not be in  
21 this bill but is in future bills, for me to just  
22 make sure I have understood correctly, there is  
23 AIM funding for other cities, there is spin-up  
24 acceleration for some of that funding, but there  
25 is no AIM funding for the City of New York. Is

1 that a correct analysis?

2                   SENATOR DeFRANCISCO:   That's  
3 correct. Because there's other benefits in the  
4 budget that go to New York City, especially the  
5 takeover of Medicaid, a greater share of the  
6 Medicaid burden.

7                   And 70 percent of all Medicaid  
8 dollars are spent in New York City. So this was  
9 done in order to compensate or help other cities  
10 who will not realize those types of savings.

11                  SENATOR KRUEGER:   I don't have any  
12 other questions for the Senator, just I guess a  
13 follow-up statement.

14                  We will be getting to the Health  
15 budget and Medicaid spending I believe on Friday,  
16 as scheduled. And so in fact, for the record,  
17 there is not an increased percentage share for  
18 Medicaid takeover for the City of New York. All  
19 counties are being treated equally from a  
20 percentage perspective.

21                  I am going to vote yes on this  
22 budget, and I appreciate the sponsor's answers to  
23 my questions.

24                  Thank you very much, Mr. President.

25                  ACTING PRESIDENT GRIFFO:   Thank

1 you, Senator Krueger.

2 Senator Diaz.

3 SENATOR DIAZ: Thank you,  
4 Mr. President. Ladies and gentlemen --

5 ACTING PRESIDENT GRIFFO: Senator  
6 Diaz, are you on the bill?

7 SENATOR DIAZ: On the bill.

8 ACTING PRESIDENT GRIFFO: Senator  
9 Diaz on the bill.

10 SENATOR DIAZ: On the bill.

11 Ladies and gentleman, today we  
12 start our voting on the budget. Today we start,  
13 ending maybe Friday. We are going to start  
14 discussing and voting for a budget that three men  
15 in a room got together and decided.

16 We are going to hear throughout  
17 this week, many times we're going to hear  
18 praising the Governor, how great the Governor has  
19 done, we're going to hear how great the  
20 Legislature has done in getting a budget on time.

21 Last year the Governor got a budget  
22 on time. And you should know and what you should  
23 know is that I was the only one, together with  
24 Senator Duane, who voted against that budget, and  
25 that I'm planning to do the same throughout this

1 week.

2                   And this week we will hear and we  
3 will brag about it, about that the budget  
4 eliminated close to \$13 billion without  
5 increasing taxes. Wow. The elimination of close  
6 to \$13 billion without increasing taxes. What a  
7 marvelous achievement for Governor Cuomo.

8                   Only one problem, ladies and  
9 gentlemen. Only one problem. That if you  
10 eliminate \$13 billion without increasing taxes,  
11 somebody has to pay for it. Somebody, somewhere,  
12 is going to get hurt. You cannot eliminate  
13 \$13 billion without increasing taxes and somebody  
14 won't get hurt.

15                   And who is going to get hurt? The  
16 same people that always get hurt. Black,  
17 Hispanic, and the poor people throughout the  
18 state. So we are going to brag about balancing  
19 the budget on the backs of the poor.

20                   Last year, for example, last year  
21 you all voted for a wonderful budget,  
22 Governor Cuomo's budget that cut, that eliminated  
23 \$48 million from a program called EPIC for senior  
24 citizens. Last year you all eliminated  
25 \$48 million to a program called EPIC geared to

1 help senior citizens pay for their prescription  
2 drugs. And you, with the Governor, forced the  
3 3-point-some-million citizens in the state to pay  
4 25 percent of the value of their prescription  
5 drugs.

6                   You did it. The Governor, Governor  
7 Andrew Cuomo did it last year. You are forcing  
8 more than 3 million senior citizens in the State  
9 of New York to put up 25 percent of their  
10 prescription drugs.

11                   I have to give credit to the  
12 Republican Conference in the Senate this year --  
13 a little credit, a little bit only, not the whole  
14 credit. Because they tried, they tried to  
15 reinstate this year the \$48 million. And to the  
16 shame of the other side, the Assembly, the  
17 Democratic Assembly, they rejected that.

18                   Let me repeat that again. The  
19 Republican Senate pushed Governor Cuomo and  
20 everybody else to reinstate the \$48 million that  
21 were taken away, that were taken away from the  
22 senior citizens' EPIC program last year, to  
23 include it in this year. But the  
24 Democratic-controlled Assembly rejected that.

25                   So they had to come an agreement.

1 Okay, let's take \$10 million. And we all say  
2 bingo, whoop-de-doo. We are reinstating  
3 \$30 million in EPIC for the senior citizens.  
4 What a wonderful idea. Wait, wait a moment.  
5 Wait a moment, ladies and gentlemen. There is a  
6 problem. That the money that you took last year  
7 from the senior citizens' EPIC program, and you  
8 are trying to reinstate this year \$30 million,  
9 that \$30 million that you reinstated this year  
10 will come into effect on January 1, 2013.

11                   So to all you 3 million senior  
12 citizens out there, don't get sick until January  
13 2013. Because you get sick before January 2013,  
14 you got a big problem, senior citizens. So don't  
15 get sick. To all those senior citizens, don't  
16 get sick. Because the greatest legislators in  
17 the State of New York are putting back  
18 \$30 million for EPIC. But again -- and I want to  
19 repeat myself again so you can understand my  
20 broken English good -- you got to wait till  
21 January 2013 for the senior citizens to be able  
22 to pay only \$20 as a copayment.

23                   That is a shame. That is a  
24 disgrace, ladies and gentlemen. That is a  
25 disgrace, ladies and gentlemen. You are abusing

1 our seniors. You did it last year, and you are  
2 doing it this year. And we are going to come  
3 here now to say, Wonderful, we're balancing the  
4 budget, the Governor, the Emperor Cuomo,  
5 Emperor Cuomo is saying to New York State, We  
6 have a balanced budget before April 1st. Ooh  
7 (clapping). It is a shame.

8                   And to celebrate the victory of the  
9 emperor, the emperor is calling all of you  
10 tomorrow to come to his house to eat his food and  
11 to partake with him the wine and beer and rice  
12 and beans for the great achievement that you are  
13 about to do.

14                   It is my purpose -- I have never  
15 attended any one of those things because I cannot  
16 be that -- I cannot be that hypocrite. But,  
17 Mr. President, you can count my negative vote in  
18 all these pieces of legislation, all of these  
19 pieces of vote, because I'm not planning -- as I  
20 did last year, I am not planning to be part of  
21 this farce, scheme, and game played on the backs  
22 of the poor of the City of New York.

23                   Thank you very much.

24                   ACTING PRESIDENT GRIFFO:    Thank  
25 you, Senator Diaz.

1                   Senator Peralta.

2                   SENATOR PERALTA:    Thank you,  
3 Mr. President.

4                   Here we go again.  Déjà vu.  
5 Politics as usual in Albany.  Another year where  
6 we sacrifice saving lives to the microstamping  
7 technology for politics.

8                   In all the time that I've spent  
9 fighting for microstamping, one part of the  
10 opposition stands out to me as the most difficult  
11 to explain.  How can a party that considers  
12 itself the champion of law and order continue to  
13 place its own judgment above the expert opinion  
14 of law enforcement?  More than 80 police  
15 departments and law enforcement organizations  
16 across the state have said:  We need  
17 microstamping, it will help us solve gun  
18 murders.  Yet the voices of those who best  
19 understand gun-crime investigations are  
20 consistently dismissed or ignored.

21                   Instead, opponents of this bill  
22 dancing around the issue, arguing that  
23 microstamping costs too much, that it will drive  
24 manufacturers out of the state, or that it  
25 doesn't work.  None of these arguments are



1 supported by reality.

2           Microstamping will not place an  
3 undue cost on manufacturers or purchasers.  
4 Microstamping is little different than the  
5 universal practice of imprinting serial numbers  
6 on all guns sold in the United States.

7           The required machinery is not  
8 highly specialized, so additional overhead is  
9 minimal. Each imprint can be imprinted in less  
10 than a second, so production will not be  
11 delayed. If a manufacturer doesn't want to deal  
12 with this minor hassle, it can easily farm out  
13 its microstamping requirements to a company that  
14 specializes in laser etching.

15           Finally, as I have emphasized many  
16 times, if microstamping cannot be performed for  
17 \$12 or less, the law will never go into effect.  
18 Any argument about overwhelming costs is simply  
19 an attack on a straw man.

20           There's also no legitimate reason  
21 to believe that microstamping will drive  
22 manufacturers out of the state. The only  
23 manufacturer to leave California after it passed  
24 microstamping was a small competition-pistol  
25 maker with a handful of employees.

1                   In Massachusetts, the nation's  
2 oldest and largest firearm manufacturer, Smith &  
3 Wesson, remains headquartered in Springfield more  
4 than a decade after the state began requiring  
5 tamper-resistant serial numbers on guns,  
6 something very similar to microstamping. In  
7 fact, after Smith & Wesson became the first  
8 manufacturer to comply with these regulations,  
9 not a single other gun maker abandoned the  
10 state.

11                   If history isn't proof enough, you  
12 only need to look at the basic economics. This  
13 legislation applies not just to handguns  
14 manufactured in New York but all semiautomatic  
15 pistols sold in the state, wherever they are  
16 made. So a costly relocation process just does  
17 not make any financial sense, even if Remington  
18 submits a letter saying that they would do so.  
19 Smart businesses don't take on massive  
20 unnecessary costs out of spite, and there's no  
21 reason to believe that New York's gun  
22 manufacturers would be an exception.

23                   Cops want microstamping because  
24 it's a tool that works. A peer-reviewed study by  
25 the microstamping inventor -- a lifelong member

1 of the NRA, by the way, and an avid hunter --  
2 showed that microstamp markings successfully  
3 transferred more than 95 percent of the time.

4           Even the relatively critical study  
5 by the Suffolk County firearms examiner, which is  
6 so often cited by opponents of this bill,  
7 demonstrated a 54 percent rate of perfect  
8 transfers. That study was also conducted in  
9 2005, before significant improvements were made  
10 to technology.

11           SENATOR LIBOUS:   Mr. President.

12           ACTING PRESIDENT GRIFFO:   Senator  
13 Libous, why do you rise?

14           SENATOR LIBOUS:   Point of order.

15           SENATOR PERALTA:   Moreover --

16           ACTING PRESIDENT GRIFFO:   Senator  
17 Peralta.

18           Senator Libous, what is your point  
19 of order?

20           SENATOR LIBOUS:   I'm quite  
21 confused. There's a bill before the house and  
22 Senator Peralta is debating an entirely different  
23 issue that is not in the bill.

24           ACTING PRESIDENT GRIFFO:   Senator  
25 Libous, your point is well-taken.

1           Senator Peralta, would you please  
2 remain germane to the bill at hand.

3           SENATOR PERALTA:   This is  
4 germane. Since CoBIS was taken out of the  
5 current bill, Public Protection bill, I want to  
6 talk a little bit about --

7           ACTING PRESIDENT GRIFFO:   Speaking  
8 on the specific items in this bill, though,  
9 Senator Peralta. You must --

10          SENATOR PERALTA:   Unlike CoBIS, I  
11 am -- and that's what I'm going to get to.  
12 Unlike CoBIS, which is not only ineffective but  
13 costly, microstamping costs --

14          ACTING PRESIDENT GRIFFO:   Senator  
15 Breslin, why do you rise?

16          SENATOR BRESLIN:   Just a point of  
17 order, Mr. President.

18                 It is the Public Protection bill.  
19 And I think that Senator Peralta should be able  
20 to explain things that not only are directly in  
21 here but things that have been eliminated in the  
22 process. Because we're trying to protect the  
23 people of the State of New York, and this is  
24 public protection.

25          ACTING PRESIDENT GRIFFO:   Thank

1 you, Senator Breslin.

2 Senator Peralta.

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

5 Unlike CoBIS, which is not only  
6 ineffective but costly, microstamping will cost  
7 the state absolutely nothing and could actually  
8 save New York money. Microstamping can  
9 streamline and simplify a significant number of  
10 gun-crime investigations, allowing critical  
11 resources to be devoted to other tasks.

12 For instance, a microstamp  
13 shell casing could be read using the standard  
14 microscopes found even in the smallest crime  
15 labs. In many cases it would be possible to read  
16 the markings at a crime scene using a magnifying  
17 glass, saving additional time and money.

18 Moreover, no expensive new database would be  
19 required. Law enforcement would simply submit a  
20 trace request to ATF, as they have for decades.

21 Microstamping can help police solve  
22 crimes faster, getting criminals off the street  
23 and benefiting the state's bottom line, which is  
24 what we're all trying to do here.

25 The brave men and women of law

1 enforcement have been ignored long enough. We  
2 owe it to them to put microstamping in this  
3 budget and finally give them the effective,  
4 low-cost tool they need in the fight against  
5 crime. Unfortunately, it's Groundhog Day again  
6 in Albany, with another year of passing on  
7 microstamping because it's politics as usual.

8 Thank you.

9 ACTING PRESIDENT GRIFFO: Senator  
10 Nozzolio.

11 SENATOR NOZZOLIO: Thank you,  
12 Mr. President. On the bill.

13 Mr. President and my colleagues,  
14 aptly named, this measure before us is focusing  
15 on public protection and protecting those that  
16 protect us in keeping us safe.

17 There are two or three areas that I  
18 would like to draw special focus to that are in  
19 this measure that I believe each of us that  
20 supports it will be very proud of.

21 First, I'm extremely pleased  
22 Governor Cuomo has reinstated the training  
23 instruction academies for our New York State  
24 Police, our correction officers, and our parole  
25 supervisors.

1                   That the parole officers,  
2 correction officers and State Police officers and  
3 other public protection officers have had no  
4 relief over these past few years. The public  
5 protection aspect of our state, because of the  
6 lack of focus and dire economy, have not had the  
7 renewal and the additional forces trained and  
8 brought into the employment sector.

9                   New muscle for the State Police,  
10 new hires for our state correctional officers, as  
11 well additional new trained personnel for our  
12 parole officers are all part of this budget, are  
13 all extremely necessary, and I'm pleased that  
14 public protection aspects of the budget focus on  
15 these important issues.

16                  I'd also like to say that the  
17 measure is understanding of those facility parole  
18 officers, those who are working in our  
19 correctional facilities in the capacity of parole  
20 officers. And many in this room signed letters,  
21 focused attention on their issues, particularly  
22 in the sense that many in the facilities want to  
23 get out into the field.

24                  Now, because of the new influx of  
25 trained personnel, they'll be able to. And this

1 budget provision provides language so that the  
2 facility parole officers will be given priority  
3 as those new parole officers are entering into  
4 the system and that they certainly will be  
5 utilized. With their experience in the  
6 facilities and their desire to be in the field,  
7 facility parole officers are recognized as  
8 important components of this budget.

9               Those who are in the correctional  
10 facilities walk the toughest law enforcement beat  
11 in America. We, as stewards of the correctional  
12 system in our state, need to have the appropriate  
13 information about those correctional facilities.  
14 That we have enacted legislation in the past to  
15 achieve that objective; that legislation has been  
16 vetoed in the past.

17               But this bill before us, in the  
18 appropriate language, has the type of direction  
19 that we have been seeking. And I'm very pleased  
20 again that this house, along with the Assembly,  
21 has obtained agreement from Governor Cuomo to  
22 provide that information, the information that is  
23 an important first step in understanding the  
24 appropriate deployment in our correctional  
25 facilities.



1           I compliment the Governor for his  
2 willingness to listen on this important subject.

3 I am appreciative that there will be now  
4 information provided so that important decisions  
5 can be made in the future about that deployment.

6           And lastly, I'd like to commend,  
7 first, the Governor's position on eliminating  
8 what has been an extremely wasteful program over  
9 the past decade or so. In his original budget,  
10 and I'm very pleased that it is part of the  
11 budget that we are voting on today, is the repeal  
12 of the so-called CoBIS system.

13           That system, as I put it before  
14 constituents 18 months ago in a practice we  
15 established called "You Cut," where citizens had  
16 the opportunity to look at items of state  
17 expenditure and demand that they be eliminated,  
18 over 40,000 constituents and citizens across this  
19 state joined in our Internet interactive town  
20 meeting, if you will, where citizens saw the  
21 CoBIS system as a total waste of money and one  
22 that should be eliminated.

23           Governor Cuomo certainly, in  
24 putting it in his budget, understands that this  
25 was a great place to save funds. It has not

1 resulted in any convictions. And that, in  
2 effect, it is something that we certainly could  
3 eliminate and remove not just a costly process,  
4 but a mandated one that was a total waste of  
5 taxpayer dollars.

6 I'm very pleased that CoBIS is  
7 eliminated in this budget, and that I believe the  
8 title of this budget, "provision of public  
9 protection," lives up to its name in the  
10 components that are listed within it. We are  
11 establishing additional public protections here  
12 as a result of the actions taken today.

13 Thank you, Mr. President.

14 ACTING PRESIDENT GRIFFO: Thank  
15 you, Senator Nozzolio.

16 Is there any other Senator wishing  
17 to be heard?

18 Senator DeFrancisco to close.

19 SENATOR DeFRANCISCO: Yes, just  
20 very briefly.

21 In place of CoBIS is this NIBIN,  
22 National Integrated Ballistic Information  
23 Network, that's in existence right now and is  
24 under the control of the Bureau of Alcohol,  
25 Tobacco, Firearms and Explosives. And some of

1 money from savings from CoBIS are going to go  
2 towards this new program to buy equipment to have  
3 regional offices.

4               Right now it's in effect in  
5 New York City, and it's been extremely successful  
6 because it's getting crime-scene evidence and  
7 comparing it to crime-scene evidence, ballistics  
8 at other crime scenes to see if there's any  
9 matches. New York City Police to date has had  
10 over 2100 hits. Illinois State Police, Chicago,  
11 1500 hits matching it with other crime scenes.  
12 Allegheny County, Pennsylvania, 1500 hits.

13               The Santa Ana, California, Police  
14 Department, a thousand hits, while they're  
15 waiting to implement a bill that hasn't been  
16 implemented for a different system, the  
17 microstamping system. So they're using this  
18 right now, and it's being effective right now.  
19 So that's a good alternative, and I think it's a  
20 prudent one.

21               Secondly, with respect to the EPIC  
22 program that Senator Diaz mentioned, there has  
23 been substantial restorations in this budget to  
24 the EPIC program, including the fact that  
25 copays are now going to be \$3 to \$20. And that

1 was one of the biggest problems when the Governor  
2 cut it last year. The Legislature put some money  
3 back but not enough back. More money is put in  
4 to make the EPIC program work a lot better.

5 So I think nothing is perfect, but  
6 this is an excellent bill and I'd urge the  
7 adoption and the positive vote of everyone in the  
8 chambers.

9 Thank you, Mr. President.

10 ACTING PRESIDENT GRIFFO: Thank  
11 you, Senator DeFrancisco.

12 Debate is closed, and the Secretary  
13 will ring the bell.

14 Read the last section.

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

17 ACTING PRESIDENT GRIFFO: Call the  
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT GRIFFO: Senator  
21 Squadron to explain his vote.

22 SENATOR SQUADRON: Thank you,  
23 Mr. President.

24 I appreciate the debate and  
25 conversation we've had today. I think there's a

1 lot that's good in this bill, in fact, as I read  
2 the title, "an act to amend the Executive Law in  
3 relation to DNA testing of certain offenders,"  
4 et cetera.

5                   Unfortunately, this bill leaves out  
6 DNA for guns, which would solve crimes, would  
7 protect citizens across this state. It's a real  
8 shame that, for whatever reason, special  
9 interests are standing in the way of public  
10 protection.

11                   It's still a good bill. It should  
12 have microstamping in it. I'll vote yes and I  
13 hope that my colleagues on the other side of the  
14 aisle will allow a full debate and vote on  
15 microstamping to protect citizens and law  
16 enforcement before the year is out.

17                   I vote yes, Mr. President.

18                   ACTING PRESIDENT GRIFFO:    Senator  
19 Squadron, do you vote in the affirmative?

20                   SENATOR SQUADRON:    Yes.

21                   ACTING PRESIDENT GRIFFO:    Senator  
22 Squadron will be recorded in the affirmative.

23                   Senator Peralta to explain his  
24 vote.

25                   SENATOR PERALTA:    Yes, thank you,

1 Mr. President.

2 I just want to clarify that there  
3 are some good points in this Public Protection  
4 bill, but I wanted to clarify that for NIBIN to  
5 work as an investigative tool, three conditions  
6 must be met. First, a gun must have been  
7 recovered, used in a previous crime or test-fired  
8 by police or the manufacturer, and had an image  
9 of its tool marks entered into the system more  
10 than once. The probability of meeting these  
11 requirements has limited NIBIN users to a hit  
12 rate of 1.8 percent, based on most recent  
13 available data.

14 So when you're using NIBIN as a  
15 replacement for CoBIS, you have a 1.8 percent  
16 rate of success. So I don't understand when the  
17 Senator stands up and talks about how effective  
18 it is in other counties when it really isn't.

19 Although this Public Protection  
20 bill has many good qualities, has many good items  
21 in it, and I'll be voting in the affirmative for  
22 it, we need to send a loud message on  
23 microstamping. Microstamping was not included,  
24 it should have been included, and I'm very  
25 disappointed that it wasn't.

1                   So thank you, Mr. President.

2                   ACTING PRESIDENT GRIFFO:    Senator  
3 Peralta to be recorded in the affirmative.

4                   Senator Diaz to explain his vote.

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

7                   I hear Senator Peralta saying that  
8 there is many good things in this budget, in this  
9 bill. Well, there is good things for the  
10 millionaires. They don't have to pay taxes, they  
11 have a break on that. There are good things for  
12 those people that won't be affected by the cuts.

13                  But how could I go to my district,  
14 how could I go throughout the state and tell  
15 senior citizens, the 3-point-plus-million senior  
16 citizens in the state that we have not only cut  
17 \$40 million last year from EPIC, but now we are  
18 putting back \$30 million but they have to wait  
19 until January 2013 so they could have help in  
20 paying for their prescription drugs.

21                  So how -- this is a good thing for  
22 whom? We are abusing, we are laughing, we are, I  
23 mean, making a mockery of our senior citizens,  
24 ladies and gentlemen. It's a good thing for  
25 whom?

1                   So I'm asking my colleagues,  
2 especially the black and Hispanic legislators,  
3 stand up, fight for our communities. Send a  
4 message. Vote no as I'm voting.

5                   Thank you.

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

8                   Senator Perkins to explain his  
9 vote.

10                  SENATOR PERKINS:    Thank you very  
11 much.

12                  I just wanted to share my  
13 association with the microstamping bill and the  
14 need for that to have been a part of this very,  
15 very important piece of legislation. I'm going  
16 to support the bill.

17                  I also wish, in memory of the  
18 Central Park Five, that there was a videotaping  
19 of confessions aspect to this bill as well so  
20 that those who are found guilty prematurely and  
21 where evidence is later found out not to be as  
22 accurate as it was intended to be would have also  
23 been included in this bill.

24                  But otherwise, I would have  
25 preferred to, again, have videotaping of



1 confessions, microstamping, but in the meantime  
2 I'll vote for the bill.

3                   ACTING PRESIDENT GRIFFO:    Senator  
4 Perkins to be recorded in the affirmative.

5                   Senator Ruth Hassell-Thompson.

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

8                   I rise to support this legislation,  
9 with the caveat, of course -- as my colleagues  
10 have stated, the two pieces that are missing for  
11 me are microstamping as well as other aspects of  
12 the DNA bill, which I have very clearly continued  
13 to articulate and will continue to hope that we  
14 will amend the DNA bill as we become more  
15 enlightened about justice in this house.

16                   Thank you, Mr. President.

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

20                   Senator Parker to explain his vote.

21                   SENATOR PARKER:    Thank you,  
22 Mr. President.   To explain my vote.

23                   One, let me just congratulate those  
24 who have worked diligently on this budget to make  
25 sure that we have it on time and try to address

1 some of the things that are important to the  
2 State of New York as it relates to public  
3 protection.

4 I want to join my colleagues in  
5 saying that the inclusion of the DNA expansion in  
6 the budget was, one, unnecessary. It didn't have  
7 to be done here. It really should have been done  
8 as a separate bill and we should have had a  
9 separate conversation about it. And, frankly,  
10 more public hearings certainly would have been  
11 helpful. There's a lot of things that are not  
12 quite right with the DNA expansion bill, and I  
13 have a real objection to that.

14 We also didn't include the CoBIS,  
15 the Combined Ballistic Identification System.  
16 And, you know, this should have been in the  
17 budget and certainly would have helped in terms  
18 of helping match shell casings.

19 And not to do the Combined  
20 Ballistic Identification System and then not to  
21 do microstamping is insult to injury. And we  
22 certainly need to do better if we're going to  
23 protect the people of the State of New York and  
24 certainly members of law enforcement who many  
25 times are the victims of shootings.

1 I'm voting yes, but I want to be on  
2 the record of indicating that we're not quite  
3 doing as much as we can be doing in this budget  
4 around public protection to protect our  
5 communities.

6 ACTING PRESIDENT GRIFFO: Senator  
7 Parker to be recorded in the affirmative.

8 Announce the results.

9 THE SECRETARY: In relation to  
10 Calendar 471: Ayes, 58. Nays, 2. Senators Diaz  
11 and Duane recorded in the negative.

12 ACTING PRESIDENT GRIFFO: The bill  
13 is passed.

14 The Secretary will read.

15 THE SECRETARY: Calendar Number  
16 472, Senate Print 6258D, Senate Budget Bill, an  
17 act to authorize.

18 ACTING PRESIDENT GRIFFO: Senator  
19 Breslin.

20 SENATOR BRESLIN: Mr. President, I  
21 believe there's an amendment at the desk. I  
22 request that the reading be waived and that  
23 Senator Avella be heard on the amendment.

24 ACTING PRESIDENT GRIFFO: Senator  
25 Breslin, I have reviewed the amendment that is

1 before the desk, and in accordance with Rule 4,  
2 Section 4B, I find the amendment to be  
3 nongermane.

4           The subject of the amendment was  
5 not part of the Executive Budget before the house  
6 and properly aged, and there is an appropriation  
7 in the amendment bill that is proposed before us  
8 at this point in time, and that is in order with  
9 an Article 7 bill.

10           SENATOR BRESLIN: Mr. President, I  
11 disagree with that, but to save time I will  
12 appeal the decision of the chair and ask Senator  
13 Avella to be heard on the appeal.

14           ACTING PRESIDENT GRIFFO: Okay.  
15 Senator Breslin has asked for an appeal of the  
16 ruling of the chair. Senator Avella may be heard  
17 on the appeal.

18           SENATOR AVELLA: Thank you,  
19 Mr. President.

20           My amendment to this budget bill,  
21 which would direct the Department of  
22 Environmental Conservation to commission studies  
23 to fully analyze both the potential seismic and  
24 public health impacts of hydraulic fracturing and  
25 appropriate \$300,000 to fund these studies, is

1     germane for the following reasons.

2                     The amendment deals with the same  
3     subject matter as the underlying bill in the  
4     following respects. Both the budget bill and the  
5     provisions of my amendment propose changes to the  
6     Environmental Conservation Law with respect the  
7     Department of Environmental Conservation's  
8     responsibilities and operations.

9                     Two, certainly faced with a budget  
10    bill of this type, this relatively modest  
11    proposed addition neither unreasonably expands  
12    the object or subject of the underlying bill, nor  
13    does it change the purpose, scope, or object of  
14    the original bill.

15                    The purpose and scope of the bill,  
16    if amended as I propose, would remain, among  
17    other things, to ensure that the Department of  
18    Environmental Conservation has the proper tools  
19    to protect the state's environment.

20                    Three, I would also note that when  
21    the Assembly introduced its budget bills earlier  
22    this month, their proposal would have authorized  
23    funding for a health impact assessment in the  
24    same Article 7 bill.

25                    Had the bill been originally

1 introduced as I propose it now to be amended, it  
2 would still have required consideration by the  
3 same standing committee that reported the  
4 underlying bill.

5 For the foregoing reasons, the  
6 amendment I've offering today is germane to the  
7 bill currently under consideration.

8 And no matter which side of the  
9 aisle you are on, whether you're for  
10 hydrofracking or against hydrofracking, the very  
11 fact that we could do this process without  
12 analyzing the seismic or health impacts of  
13 hydrofracking in my opinion is an absolute  
14 disgrace.

15 ACTING PRESIDENT GRIFFO: Thank  
16 you, Senator Avella.

17 All those in favor of overruling  
18 the ruling of the chair please say aye.

19 (Response of "Aye.")

20 ACTING PRESIDENT GRIFFO: All  
21 those opposed say nay.

22 SENATOR BRESLIN: Mr. President.  
23 Mr. President.

24 ACTING PRESIDENT GRIFFO: Senator  
25 Breslin.

1                   SENATOR BRESLIN:    Show of hands,  
2 Mr. President.

3                   ACTING PRESIDENT GRIFFO:    A show  
4 of hands is requested and so ordered.

5                   (Senators raised their hands.)

6                   ACTING PRESIDENT GRIFFO:    Senator  
7 Squadron, to repeat, all those in favor of  
8 overruling the chair would signify by saying  
9 aye.   Those opposed, nay.

10                  Senator Breslin requested a show of  
11 hands for those who are in favor of overruling  
12 the chair.

13                  The Secretary will announce the  
14 results.

15                  THE SECRETARY:    Ayes, 23.

16                  ACTING PRESIDENT GRIFFO:    The  
17 ruling of the chair stands.

18                  The bill is before the house.

19                  Read the last section.

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

22                  ACTING PRESIDENT GRIFFO:    Debate  
23 is closed.  The Secretary will ring the bell.

24                  Senator Krueger, why do you rise?

25                  SENATOR KRUEGER:    I'm sorry, I did

1 have some questions on this bill.

2 I wanted to double-check. We had  
3 moved past the hostile and we're back on the  
4 bill?

5 ACTING PRESIDENT GRIFFO: Without  
6 objection, Senator LaValle, we will reopen  
7 debate.

8 SENATOR KRUEGER: Thank you.

9 ACTING PRESIDENT GRIFFO: Without  
10 objection, debate is reopened and, Senator  
11 Krueger, you have the floor.

12 SENATOR LaVALLE: With unanimous  
13 consent, we'll reopen debate.

14 ACTING PRESIDENT GRIFFO: Thank  
15 you, Senator LaValle.

16 SENATOR KRUEGER: Thank you. We  
17 were moving a little too quickly past the  
18 hostile.

19 So we're out now on the TED bill,  
20 what we call the TED bill, and --

21 ACTING PRESIDENT GRIFFO: Excuse  
22 me, Senator Krueger.

23 May I have some order in the house,  
24 please.

25 We are on Calendar 472, Senator



1 Krueger.

2 SENATOR KRUEGER: Thank you so  
3 much, Mr. President.

4 Can the sponsor please help me  
5 understand Part DD, which is on page 45 of the  
6 bill, and what specifically this portion of the  
7 bill does for us? It's an amendment to the Green  
8 Jobs, Green New York program legislation that we  
9 had passed in this house for the state several  
10 years ago.

11 So I'm just trying to make sure I  
12 understand what this section does.

13 ACTING PRESIDENT GRIFFO: Senator  
14 DeFrancisco.

15 SENATOR DeFRANCISCO: The current  
16 law on the Green Jobs on-bill program requires  
17 that a mortgage be filed even though it's not a  
18 lien on the property, a mortgage-like document to  
19 be filed when this financing takes place.

20 The problem is, for some of the  
21 people that do the work, in order to file a  
22 mortgage you have to, according to some  
23 determination, you'd have to have a mortgage  
24 broker's license.

25 Well, all that was done here, it's

1 a technical amendment to change the name of it to  
2 a declaration rather than calling it a mortgage.  
3 The declaration similarly is not a lien on the  
4 property, but it avoids the necessity that some  
5 have claimed; namely, that they'd have to have a  
6 mortgage broker license to file some of these  
7 mortgages. And as a result, this is a -- it's an  
8 amendment that's a lot to do about nothing.

9 SENATOR KRUEGER: Thank you.

10 ACTING PRESIDENT GRIFFO: Senator  
11 Krueger.

12 SENATOR KRUEGER: I appreciate the  
13 explanation, a lot to do about nothing. Thank  
14 you, Mr. -- a Rumsfeldian response, says the  
15 Finance chair.

16 If the sponsor would yield for an  
17 additional question or two, Mr. President.

18 ACTING PRESIDENT GRIFFO: The  
19 Senator yields.

20 SENATOR DeFRANCISCO: Yes.

21 SENATOR KRUEGER: Thank you.

22 In the section of the TED bill  
23 dealing with economic development, in the  
24 one-house budget resolution that passed this  
25 floor the Senate Republicans were proposing some

1 specific oversight language vis-a-vis the  
2 Economic Regional Development Councils. And when  
3 I checked, the Assembly was also requesting some  
4 very -- even more specific language to handle  
5 ensuring that the Legislature continues to have  
6 oversight over these funds as we move forward.

7 Is any of that language here in  
8 this bill?

9 SENATOR DeFRANCISCO: It is not.

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

13 SENATOR DeFRANCISCO: Yes.

14 ACTING PRESIDENT GRIFFO: The  
15 sponsor yields.

16 SENATOR KRUEGER: Thank you.

17 So I believe, as I read the  
18 one-house proposals in both houses, that we were  
19 all in agreement that there should be some kind  
20 of language that would require the Economic  
21 Development Councils to be subject to open  
22 meeting laws, to be required to submit updates on  
23 their consolidated funding applications, a  
24 biannual public report on the pending and  
25 approved grants through the CFAs, some tracking

1 of proposed and actual new jobs created or  
2 retained, the actual value of matching capital  
3 investments, the data on the participation with  
4 MWBE awards, and the total economic impact of the  
5 project compared to the investments made.

6           Even though the sponsor has said  
7 that the answer is no, none of this is in the  
8 budget bill today, would he agree that would have  
9 been a preferable outcome?

10           SENATOR DeFRANCISCO: Sure, it  
11 would have been preferable. That's exactly why  
12 we put it in our one-house budget, because that  
13 was our position.

14           But the fact of the matter is a  
15 budget is a negotiated document. And when it  
16 comes to the end of the day, you get certain  
17 things you want and you don't get other things  
18 you want, and then you make a decision do you  
19 continue with further negotiation or do you close  
20 the budget down based upon a reasonable  
21 compromise on all of the issues. And that's what  
22 happened in this case.

23           And as far as the only oversight we  
24 really have is that we have the authority to  
25 appropriate funds. And if this process is not

1 done in a way that's satisfactory to the  
2 Legislature this coming year, then there's  
3 another budget year, and that other budget year  
4 can determine the additional funding, if any, for  
5 this particular program.

6                   SENATOR KRUEGER: Through you,  
7 Mr. President, I appreciate the sponsor's  
8 answers.

9                   ACTING PRESIDENT GRIFFO: Are you  
10 on the bill or do you want to ask questions?

11                   SENATOR KRUEGER: Point of  
12 clarification, if I might, just to make sure I  
13 follow protocol. May I make a statement on the  
14 bill and then immediately go back to questions?

15                   ACTING PRESIDENT GRIFFO:  
16 Absolutely. Absolutely.

17                   SENATOR KRUEGER: Thank you. I  
18 just want to make sure I get this right.

19                   So on the bill, I wish that we had  
20 the improved transparency and the correct system  
21 in place to make sure that the economic  
22 development funds that we are awarding through  
23 appropriation through this bill to the Regional  
24 Economic Development Councils, we had the  
25 transparency, we had the recordkeeping, we had

1 the tracking.

2 I am disappointed it's not in this  
3 budget bill. I'm glad to hear from my colleague  
4 and friend Senator DeFrancisco that I think he  
5 agrees with me that we would prefer to have it in  
6 the budget bill. And he's right, a budget is a  
7 negotiation.

8 So just for the record, on the  
9 bill, I carry a separate piece of legislation,  
10 S2854, which enacts the unified economic  
11 development budget requirements for the state  
12 which I believe we could proudly pass in this  
13 house and potentially pass in the Assembly soon  
14 after, perhaps after break, and it would allow us  
15 to make sure we had this kind of accountability  
16 and transparency and the information available to  
17 us and the public.

18 Not through the budget bill,  
19 because it's not here in the budget, but we could  
20 accomplish this within a matter of weeks  
21 afterwards. So I'm hoping that that is something  
22 we could take up soon after the break.

23 I would now, Mr. President, like to  
24 go back to asking questions of the sponsor.

25 ACTING PRESIDENT GRIFFO: Senator

1 DeFrancisco yields.

2 SENATOR DeFRANCISCO: Yes, I do.

3 SENATOR KRUEGER: Thank you very  
4 much.

5 I want to jump to some  
6 environmental questions. Obviously the TED bill  
7 covers many different pieces of the budget within  
8 one bill.

9 There is a proposal that was made  
10 to move the, quote, unquote, nickels collected  
11 through the Bottle Bill from the General Fund to  
12 the Environmental Protection Fund. Did that make  
13 it into this bill?

14 SENATOR DeFRANCISCO: Yes, it is  
15 not in this bill.

16 SENATOR KRUEGER: Yes, it is not  
17 in this bill.

18 Thank you, Mr. President. Through  
19 you, if the sponsor could continue to yield.

20 ACTING PRESIDENT GRIFFO: The  
21 sponsor yields.

22 SENATOR DeFRANCISCO: Yes.

23 SENATOR KRUEGER: Thank you.

24 There were also proposals to  
25 provide funding to coal-fired power plants in the

1 form of long-term contracts between the Power  
2 Authority and the plants in Niagara and  
3 Chautauqua counties. Did that end up in this  
4 budget bill?

5 SENATOR DeFRANCISCO: It did not.

6 SENATOR KRUEGER: Thank you.

7 There was also a proposal to  
8 permanently extend tax incentives associated with  
9 the broken Brownfields Cleanup Program. Did  
10 those incentives end up in this budget bill?

11 SENATOR DeFRANCISCO: Negative.

12 SENATOR KRUEGER: Mr. President,  
13 on the bill.

14 ACTING PRESIDENT GRIFFO: Senator  
15 Krueger on the bill.

16 SENATOR KRUEGER: Thank you.

17 I am very pleased that the  
18 coal-fired power plant proposal did not make it  
19 into the budget bill. I am disappointed that --  
20 excuse me, I'm pleased that the brownfield  
21 language didn't make it into the budget bill, and  
22 I am disappointed that the funding moving to the  
23 EPF rather than the General Fund from the Bottle  
24 Bill did not make it in. So I have some pluses  
25 and some minuses on my scorecard already.



1                   To follow through with some  
2 additional questions for the sponsor.

3                   SENATOR DeFRANCISCO:    Yes, you  
4 may.

5                   ACTING PRESIDENT GRIFFO:    The  
6 sponsor yields.

7                   SENATOR KRUEGER:    Thank you very  
8 much.

9                   There was some debate about how  
10 much money would be available for smoking  
11 cessation programs in the state budget. Can the  
12 sponsor clarify for me what happened with those  
13 funds?

14                   SENATOR DeFRANCISCO:    I've been  
15 informed that there was a restoration of  
16 \$5 million for smoking cessation programs. It's  
17 not in this bill, however. It's in the Health  
18 bill.

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

22                   SENATOR DeFRANCISCO:    Yes. Yes.

23                   ACTING PRESIDENT GRIFFO:    The  
24 sponsor yields.

25                   SENATOR KRUEGER:    Thank you.

1                   Shifting from environment to  
2 transportation, there's a New York Works Task  
3 Force that was proposed by the Governor and  
4 actually talked about in his State of the State  
5 address. It's my understanding there were quite  
6 a few changes made in the creation of a task  
7 force with certain responsibilities.

8                   Could the sponsor help me  
9 understand the role of this task force and what  
10 say the Legislature will have over determining  
11 how the funding is allocated? Because my  
12 understanding is this could be close to  
13 \$16 billion for capital funds, and it's not being  
14 line-itemed-out in the budget or in a separate  
15 document we have now. So I'd like his help in  
16 understanding how the Legislature will have a say  
17 over the funding being spent in the future  
18 through this task force.

19                   SENATOR DeFRANCISCO: First of  
20 all, the task force will consist of 15 members,  
21 nine appointed by the Governor, two by the  
22 majority party of each house, and one member from  
23 the minority party of each house.

24                   And the purpose behind it is to  
25 review all of the projects that are capital

1 projects that are being considered by all the  
2 agencies in an effort to try to coordinate all  
3 the construction-type work that other agencies  
4 are doing. Right now, sometimes the left hand  
5 doesn't know what the right hand is doing. There  
6 may be a duplication of efforts, whether it's  
7 studies or engineering work or the like.

8                   And the concept is for this group  
9 to review all the projects from different  
10 agencies and different departments to try to come  
11 up with a coordinated effort.

12                   Now, the input the Legislature has  
13 is through their members that have been  
14 appointed. And this task force, however, is  
15 purely advisory. They don't make the decisions,  
16 they advise the agencies. And ultimately the  
17 administration will make these decisions as to  
18 what projects are done and by which agency or  
19 department they're done.

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

23                   SENATOR DeFRANCISCO: Yes.

24                   SENATOR KRUEGER: Thank you.

25                   Appreciate the answer. I think

1 this is a new concept for all of us, to create a  
2 task force with advisory votes on the expenditure  
3 of capital money.

4 Am I correct, is there a specific  
5 dollar figure for an appropriation in this budget  
6 that will be then put under the authority of the  
7 task force to decide who, what, where spends with  
8 an advisory vote on those specific proposals, as  
9 just explained by the sponsor?

10 SENATOR DeFRANCISCO: This will be  
11 in the appropriations bill, there will be a  
12 million dollars for this organization to perform  
13 their operating functions.

14 As far as the -- you asked about  
15 the language for how this organization will  
16 operate?

17 SENATOR KRUEGER: May I clarify,  
18 Mr. President, my question?

19 ACTING PRESIDENT GRIFFO: You may.

20 SENATOR KRUEGER: Thank you.

21 I think what I was trying to get at  
22 was in the appropriations bill we are giving X  
23 amount of money for activities that will be  
24 overseen by the New York Works Task Force.

25 SENATOR DeFRANCISCO: For the

1 operation, \$1 million for the operating costs of  
2 this task force.

3 SENATOR KRUEGER: Mr. President,  
4 through you, I am trying to get at this is a task  
5 force to determine how capital money is spent, I  
6 believe approximately \$16 billion.

7 Will we as the Legislature have any  
8 say over the specifics of the programs, these  
9 capital monies, the \$16 billion or pick some  
10 other number in another year -- will we have any  
11 say or even see what these projects that are  
12 being approved by the task force are? Do we have  
13 any future vote? What is our role in the  
14 continuing decision-making around capital  
15 projects going through this task force?

16 SENATOR DeFRANCISCO: Well, first  
17 of all, this task force is not going to decide  
18 what happens, they're going to advise as to what  
19 programs and in what order they should be done.  
20 That's point one.

21 Secondly, again, the members that  
22 are appointed by the Legislature will be part of  
23 that task force.

24 And, thirdly, the Legislature  
25 always has appropriation authority to appropriate

1 for capital projects. And indirectly, once  
2 again, if the capital projects are not decided in  
3 a way that this Legislature wants, each year we  
4 have the ability to affect those appropriations.

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

8 SENATOR DeFRANCISCO: Yes.

9 SENATOR KRUEGER: Thank you.  
10 This task force will advise whom?

11 SENATOR DeFRANCISCO: Well,  
12 ultimately the administration. They would advise  
13 each of the agencies and the authorities that  
14 were part of what they're reviewing as to what  
15 should be done first.

16 But ultimately the Governor and the  
17 administration will make those final decisions.

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

21 SENATOR DeFRANCISCO: Subject to  
22 the appropriation for the funding.

23 ACTING PRESIDENT GRIFFO: The  
24 sponsor yields.

25 SENATOR KRUEGER: Thank you.

1                   So again, as I understood it, so  
2     there will be this task force, it will have  
3     15 members, the majority will be the Governor's  
4     appointees, I believe, nine out of 15. The  
5     Assembly will have three, the Senate will have  
6     three, two will be majority, one will be  
7     minority. The minority member won't have a vote.

8                   But the in fact recommendations of  
9     this task force are simply advisory back to the  
10    Governor, who has the majority of the votes on  
11    the task force. But it will be advising the  
12    Governor on what capital monies shall be spent on  
13    specific projects after we have actually  
14    appropriated the money in the budget.

15                  So technically I want to agree with  
16    the sponsor, we are appropriating money in a  
17    budget, but we are not actually appropriating  
18    money for specific projects going through this  
19    task force. Rather, the task force will make  
20    recommendations on specific projects and advise  
21    the Governor after the fact, after we've done the  
22    budget? I just want to understand if I'm getting  
23    that right.

24                  SENATOR DeFRANCISCO:   Not quite.  
25    Because this year there is a memorandum of

1 understanding that has been signed for all  
2 transportation projects by the Governor and the  
3 leader of each house. Those projects are in  
4 place. So there was input by the leadership as  
5 to what that list would include.

6           Next year when we reach this time  
7 or shortly before this time, the advisory group  
8 will have already met, made their  
9 recommendations, and the Governor will make his  
10 decisions as to what he thinks would be the best  
11 projects and in what order. And then, once  
12 again, at least as to the transportation  
13 projects, there will be a requirement for a  
14 memorandum of understanding to identify those  
15 projects, so we would have input there.

16           As far as the authorities, we don't  
17 have any input on that now. The authorities are  
18 independent bodies, and they -- so we're not  
19 giving anything up with respect to the  
20 authorities. They would make their own  
21 decisions.

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

25           SENATOR DeFRANCISCO: Yes.



1                   SENATOR KRUEGER:    There is an MOU  
2   that has been signed by the leaders for the  
3   transportation funds for this year.  Is that on  
4   the desks of the Legislature?

5                   SENATOR DeFRANCISCO:    I don't  
6   think so.  But it's on the Internet.  And it's  
7   also -- each leader has a copy, and hopefully  
8   your leader has a copy as well, because it's been  
9   publicly -- Senator Dilan was given a copy.  He's  
10  got it, he's acknowledging that he's got it  
11  today.  Is that what that means?  He got it  
12  today.

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

16                  SENATOR DeFRANCISCO:    Yes.

17                  SENATOR KRUEGER:    Is it the  
18  sponsor's understanding that even though there is  
19  now a -- and by the way, I appreciate very much  
20  the sponsor answering.  Of course he is right,  
21  many of the decisions that are made through  
22  authorities don't come through this house for  
23  legislative approval one way or the other.  And  
24  so this task force is in fact merging in some way  
25  some functions that were already being done by

1 government outside of the legislative process.

2 I raised the concern earlier that  
3 we did not add to the budget language that would  
4 assure transparency and accountability in  
5 tracking of what was done by the Economic  
6 Regional Development Councils. So now, turning  
7 to this section of TED with the creation of this  
8 task force, is our understanding that this task  
9 force has any obligation to -- they advise the  
10 Governor.

11 Do they have any obligation to  
12 follow Open Meeting Law requirements, provide  
13 reports on the projects being approved and  
14 funded, report back to the Legislature and/or the  
15 public, ensure that the state's MWBE  
16 requirements are being met? Does that task force  
17 have any responsibility to ensure all these other  
18 things are done as well?

19 SENATOR DeFRANCISCO: This  
20 advisory group is created by statute, unlike the  
21 Economic Development Councils. So as a result,  
22 since it's an organization that's being created  
23 by statute, they would be subject to the Open  
24 Meetings Law.

25 And once again, we do have members

1 of the minority and the majority who are members  
2 of this organization. And obviously they could  
3 provide whatever information they chose to  
4 provide to the public, as could any other  
5 member. So there will be transparency.

6 And as far as the MOU that I  
7 mentioned earlier, there is clear language in the  
8 MOU requiring transparency of the programs that  
9 are listed in that MOU.

10 SENATOR KRUEGER: Thank you. I  
11 appreciate the Senator's responses to all of my  
12 questions.

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

15 ACTING PRESIDENT GRIFFO: The  
16 sponsor yields.

17 SENATOR DeFRANCISCO: Yes, I  
18 would.

19 SENATOR KRUEGER: Thank you.

20 There was a -- yes?

21 SENATOR DeFRANCISCO: Excuse me.  
22 You've spoken so long that your flowers are  
23 wilting.

24 (Laughter.)

25 SENATOR KRUEGER: Mr. President,

1 through you. It is only 1 o'clock in the  
2 afternoon on the first day of what will no doubt  
3 be multiple days of budget and no doubt be  
4 multiple dialogues between myself and my dear  
5 friend John DeFrancisco. If he likes, if he  
6 brings me fresh flowers tomorrow, I'll put them  
7 on my desk.

8 (Laughter.)

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

12 ACTING PRESIDENT GRIFFO: The  
13 sponsor yields, Senator Krueger.

14 SENATOR DeFRANCISCO: Yes. Yes.

15 SENATOR KRUEGER: Thank you.

16 There was a proposal, I believe, in  
17 the Governor's original budget to provide for  
18 credits for solar industry development. Is that  
19 in this Article 7 bill?

20 SENATOR DeFRANCISCO: No, it's  
21 not.

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

25 SENATOR DeFRANCISCO: Yes.

1           ACTING PRESIDENT GRIFFO:    The  
2 sponsor yields.

3           Can I have some order in the  
4 chamber, please.

5           SENATOR KRUEGER:    Is there any  
6 section of this bill that deals with expansion of  
7 sustainable or solar or wind or other forms of  
8 cleaner energy creation?

9           SENATOR DeFRANCISCO:   There is  
10 not.  But certainly we have several months left  
11 in session.  Those issues can be debated and  
12 discussed during the balance of the session.

13          SENATOR KRUEGER:    Thank you.  
14 Through you, Mr. President.

15          ACTING PRESIDENT GRIFFO:   The  
16 sponsor yields.

17          SENATOR KRUEGER:    Thank you.

18          (Pause.)  I've actually run out of  
19 the questions for the sponsor.

20          ACTING PRESIDENT GRIFFO:   Thank  
21 you.

22          SENATOR KRUEGER:    I appreciate his  
23 time --

24          SENATOR DeFRANCISCO:   Damn.  
25          (Laughter.)

1                   SENATOR KRUEGER:    There will be  
2 more later.  There will be plenty more to go on  
3 so many bills.

4                   So briefly on the bill.

5                   ACTING PRESIDENT GRIFFO:    Senator  
6 Krueger briefly on the bill.

7                   SENATOR KRUEGER:    Thank you.

8                   One of the purposes of my asking  
9 questions, of course, is to make sure that we do  
10 understand what is in this bill and what is not  
11 in this bill.

12                   I agree it's not a perfect bill.  I  
13 would have rather seen any number of additional  
14 things in this bill, as I referenced to you  
15 before.  And I'm disappointed that some of the  
16 issues that I don't believe should be in this  
17 budget bill have been included in the bill.

18                   But I guess I would like to  
19 highlight how important I think the role of the  
20 Legislature is in making sure there is  
21 transparency, there is tracking of what  
22 decisions are made after a budget bill is passed,  
23 there is accountability not only applied to  
24 ourselves but to the Governor and his agencies  
25 when we are approving new programs, approving

1 through the appropriations bills large amounts of  
2 the taxpayers' money to accomplish certain goals,  
3 that if there's not the proper oversight, if  
4 there's not the proper tracking, if there's not  
5 the ability of the public to watch what's going  
6 on and find out information about these programs  
7 we create -- sometimes they're moved into task  
8 forces, sometimes they are moved off-budget and  
9 through authorities.

10 I think that the critical message  
11 here for me, when saying I will vote for the TED  
12 bill, is that we again are flunking the test of  
13 making sure that we are able to do our own job of  
14 oversight of how the people's money is being  
15 spent.

16 And in fact, next year and the year  
17 after and the year after, when we are again asked  
18 to make these hard decisions about what we're  
19 spending money on, what we're not spending money  
20 on, what kind of programs we're continuing, what  
21 kinds of programs we're ending, we won't have the  
22 right facts to actually help us know whether  
23 something was successful, whether something was a  
24 failure, whether something that made sense in  
25 1975 doesn't make sense in the year 2012-2013.

1                   So my overall objection to this  
2 legislation which impacts so many different  
3 areas -- transportation, economic development,  
4 the environment -- is that we're not improving  
5 our ability and the public's ability to see what  
6 really happens beyond this document we call a  
7 budget bill. Because the real work is the work  
8 done outside of this chamber once the money is  
9 appropriated and the programs are created.

10                   So I'm hoping that this house will  
11 be serious about wanting to pass statutes that  
12 require the oversight, the accountability, and  
13 the transparency of government monies once we are  
14 approving them being spent in these budget  
15 bills.

16                   Thank you, Mr. President. I will  
17 be a yes vote.

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

20                   Senator Adams.

21                   SENATOR ADAMS: Thank you,  
22 Mr. President.

23                   And I want to thank my colleague  
24 Senator Krueger because I think she raised a good  
25 point on how important it is that we have a



1 discussion.

2           Everyone sometimes gets consumed  
3 with a frictionless process. But we are making  
4 decisions that impact lives and impact how we're  
5 going to make sure that all New Yorkers benefit  
6 from the budget that we pass for the next year.  
7 And so a frictionless process is not always the  
8 best process.

9           Would the sponsor yield for a few  
10 questions?

11           SENATOR DeFRANCISCO: Yes.

12           ACTING PRESIDENT GRIFFO: The  
13 sponsor yields.

14           SENATOR ADAMS: Through you,  
15 Mr. President. And I thank the sponsor for his  
16 patience in yielding.

17           Senator DeFrancisco, are there any  
18 OTBs in the state that are currently in  
19 bankruptcy based on the bankruptcy provisions?

20           SENATOR DeFRANCISCO: New York  
21 City is bankrupt, and Suffolk is attempting to go  
22 into bankruptcy at this point.

23           SENATOR ADAMS: Through you,  
24 Mr. President --

25           SENATOR DeFRANCISCO: And by the

1 way, I don't view the exchange between Senator  
2 Krueger and myself as friction. I was -- it was  
3 an attempt at humor. It was not in any way, in  
4 some way trying to be uncivil. So I'm not quite  
5 sure what you meant by that. But I want to make  
6 that clear.

7 SENATOR ADAMS: No, I didn't  
8 think -- through you, Mr. President, I didn't  
9 think that you -- I wasn't speaking of you, I was  
10 speaking of the public display that, you know,  
11 everyone is stating how fast we're moving through  
12 the process.

13 SENATOR DeFRANCISCO: Okay.

14 SENATOR ADAMS: That's what I was  
15 talking about. And this fast movement is not  
16 always healthy. We need to sit down and have a  
17 conversation. So it wasn't directed to you.

18 SENATOR DeFRANCISCO: Thank you.

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

22 SENATOR DeFRANCISCO: Yes.

23 ACTING PRESIDENT GRIFFO: The  
24 Senator yields.

25 SENATOR ADAMS: In this bill is

1   there a current provision that would expressly  
2   provide state authorization for Suffolk OTB to  
3   move forward with this bankruptcy?

4               SENATOR DeFRANCISCO:   Not only  
5   Suffolk, but it provides language that would  
6   authorize any OTB to go into bankruptcy.

7               SENATOR ADAMS:    Would the sponsor  
8   continue to yield?

9               ACTING PRESIDENT GRIFFO:    The  
10   sponsor yields.

11              SENATOR ADAMS:    Through you,  
12   Mr. President.  That's a good point that you just  
13   raised.  Are there any other OTBs in the state  
14   that are currently in bankruptcy outside of  
15   Suffolk?

16              SENATOR DeFRANCISCO:    There are  
17   not any.  Nor is Suffolk currently in  
18   bankruptcy.  This authorizes Suffolk to go into  
19   bankruptcy.  But it also applies to other OTBs if  
20   they choose to at some point, but we don't know  
21   of any that are choosing to.  But we're giving  
22   the authorization to each one in this bill.

23              SENATOR ADAMS:    Would the sponsor  
24   continue to yield?

25              ACTING PRESIDENT GRIFFO:    The

1 sponsor yields.

2                   SENATOR ADAMS: Through you,  
3 Mr. President. Was Suffolk County in bankruptcy  
4 and the court procedures were dismissed? Were  
5 they in bankruptcy at one time?

6                   SENATOR DeFRANCISCO: I'm being  
7 advised -- I don't know much about Suffolk County  
8 OTB, but I'm being advised that it has not been  
9 in bankruptcy, it needed this authorization to do  
10 so.

11                   SENATOR ADAMS: You know,  
12 sometimes our advisors give us incorrect  
13 information. Suffolk County was in fact in  
14 bankruptcy; it was dismissed. They need this  
15 bill for it to pass. So I'm hoping his advisors  
16 won't have him in a courtroom making bad  
17 decisions like this as well.

18                   SENATOR DeFRANCISCO: Excuse me --

19                   ACTING PRESIDENT GRIFFO: Senator  
20 Adams, let Senator DeFrancisco respond.

21                   SENATOR DeFRANCISCO: The reason  
22 the attempted bankruptcy was dismissed is because  
23 they needed authorization to go into bankruptcy.  
24 That's the purpose of this bill. So they never  
25 were allowed to go into bankruptcy, and they

1 can't without this authorization.

2 SENATOR ADAMS: Thank you.

3 Through you, Mr. President, if the  
4 sponsor will continue to yield.

5 SENATOR DeFRANCISCO: Yes.

6 ACTING PRESIDENT GRIFFO: The  
7 sponsor yields.

8 SENATOR ADAMS: So if I understand  
9 you correctly, the provision we're about to pass  
10 is going to allow Suffolk County to move forward  
11 with their bankruptcy that they would not have  
12 been able to do if we didn't pass this provision.

13 SENATOR DeFRANCISCO: That is  
14 correct.

15 SENATOR ADAMS: Thank you.

16 If the sponsor will continue to  
17 yield.

18 SENATOR DeFRANCISCO: Yes.

19 ACTING PRESIDENT GRIFFO: The  
20 sponsor yields.

21 SENATOR ADAMS: Through you,  
22 Mr. President. If the bankruptcy provision is  
23 not passed, could Suffolk County OTB -- would  
24 they have to close their doors? Is there a  
25 possibility they would have to close their

1 doors?

2                   SENATOR DeFRANCISCO:   Well, it's  
3 possible they'd close their doors, but they  
4 wouldn't be able to take advantage of the  
5 bankruptcy provisions without this statute  
6 passing.

7                   SENATOR ADAMS:   Through you,  
8 Mr. President, if the sponsor will continue to  
9 yield.

10                  ACTING PRESIDENT GRIFFO:   The  
11 sponsor yields.

12                  SENATOR DeFRANCISCO:   And just to  
13 be clear -- I probably should have mentioned this  
14 at the outset -- there's different types of  
15 bankruptcy. There's bankruptcy that simply you  
16 go bankrupt, you're done, kaput, it's over.

17                  What Suffolk County is trying to  
18 do, which -- it's my understanding they want to  
19 reorganize in bankruptcy and try to continue  
20 their operations, but taking on the protection of  
21 bankruptcy court to make it financially feasible  
22 to continue.

23                  So there's a beneficial part of  
24 bankruptcy if this works. It's happened with  
25 major corporations that have been ready to file

1 bankruptcy or filed bankruptcy and reorganized  
2 and then continued to exist in a different form.

3           ACTING PRESIDENT GRIFFO:    Senator  
4 Adams, you may pose your question.  The sponsor  
5 yields.

6           SENATOR ADAMS:    Through you,  
7 Mr. President, would the sponsor continue to  
8 yield?

9           Senator DeFrancisco, thank you for  
10 the information on types of bankruptcies.  Is the  
11 type of bankruptcy that Suffolk County is  
12 attempting to do, was that the same type of  
13 bankruptcy that New York City OTB attempted to  
14 do?

15           SENATOR DeFRANCISCO:    They want to  
16 reorganize and continue to exist and use the  
17 bankruptcy protections that allow them to do  
18 that.

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

22           ACTING PRESIDENT GRIFFO:    The  
23 sponsor yields.

24           SENATOR ADAMS:    I know they want  
25 to reorganize.  My question to you -- because you

1 gave a good lesson on bankruptcy, I want to  
2 further that lesson -- is the type of bankruptcy  
3 that Suffolk County is attempting to do the same  
4 type of bankruptcy that New York City OTB  
5 attempted to do?

6 SENATOR DeFRANCISCO: I can't  
7 answer that question. I really don't know. I'm  
8 being advised that it was similar, but I guess in  
9 New York City it didn't work.

10 SENATOR ADAMS: Thank you. Those  
11 advisors of yours are something else. They both  
12 tried to do Chapter 9. That's the same type of  
13 bankruptcy.

14 ACTING PRESIDENT GRIFFO: Senator  
15 Adams, let's observe civility and decorum,  
16 please.

17 SENATOR ADAMS: Yes, I will.  
18 Through you, Mr. President, if the  
19 sponsor will continue to yield.

20 SENATOR DeFRANCISCO: Yes.

21 ACTING PRESIDENT GRIFFO: The  
22 sponsor yields.

23 SENATOR ADAMS: If Suffolk OTB  
24 closes its doors, would the employees lose their  
25 jobs?



1                   SENATOR DeFRANCISCO:    I would  
2   suspect so, yes.

3                   SENATOR ADAMS:    Thank you.  
4                   Would the sponsor continue to  
5   yield?

6                   SENATOR DeFRANCISCO:    Yes.

7                   ACTING PRESIDENT GRIFFO:    The  
8   sponsor yields.

9                   SENATOR ADAMS:    Through you,  
10   Mr. President, if Suffolk OTB closes its doors,  
11   would the employees lose their health insurance?

12                   SENATOR DeFRANCISCO:    They would  
13   do that as well.

14                   And the reason we are putting this  
15   provision in is so that Suffolk County could try  
16   to reorganize and be in a position not to close  
17   their doors, reorganize in a different form so  
18   they don't have to close their doors. So this is  
19   to help the employees and to help OTB attempt to  
20   survive.

21                   SENATOR ADAMS:    Would the sponsor  
22   continue to yield? Through you, Mr. President.

23                   ACTING PRESIDENT GRIFFO:    The  
24   sponsor yields.

25                   SENATOR ADAMS:    If Suffolk OTB

1 closes its doors, would retirees lose their  
2 health benefits?

3 SENATOR DeFRANCISCO: I would  
4 think so, yes.

5 SENATOR ADAMS: Would the sponsor  
6 continue to yield?

7 ACTING PRESIDENT GRIFFO: The  
8 sponsor yields.

9 SENATOR ADAMS: Senator  
10 DeFrancisco, in December two thousand and -- I  
11 think it was 2010 there was an attempt to allow  
12 New York City OTB to file for Chapter 9  
13 bankruptcy, the same type of bankruptcy. Did you  
14 vote on that bill?

15 SENATOR DeFRANCISCO: I'm sure I  
16 did. That was in 2010? I'm sure I did.

17 SENATOR ADAMS: Did you vote --  
18 would the sponsor continue to yield? Through  
19 you, Mr. President.

20 ACTING PRESIDENT GRIFFO: Senator  
21 Adams, is your question directly effective to  
22 this bill or the past? Because you're starting  
23 to move towards past history, and I'd ask you to  
24 keep your questions germane to the particular  
25 proposal before us.

1                   SENATOR ADAMS:    Yes, it's all  
2 connected, Mr. President.  If the sponsor will  
3 continue to yield.

4                   ACTING PRESIDENT GRIFFO:    The  
5 sponsor yields.

6                   SENATOR ADAMS:    Are you aware that  
7 just as in this current bill that the New York  
8 City OTB employees lost their jobs and health  
9 insurance, just as what could happen with Suffolk  
10 County if this bill isn't passed?

11                  SENATOR DeFRANCISCO:    That could  
12 happen with Suffolk County if this bill wasn't  
13 passed.

14                  But there's one important  
15 distinction with New York City.  There was an  
16 additional request from the New York City OTB was  
17 to forgive about \$20 million of back taxes.  And  
18 Suffolk County isn't looking for that, nor does  
19 this bill authorize the forgiveness of any  
20 taxes.  So I think that was one of the main  
21 reasons that this is somewhat different than the  
22 New York City OTB situation.

23                  SENATOR ADAMS:    Thank you, Senator  
24 DeFrancisco.

25                  On the bill.

1                   ACTING PRESIDENT GRIFFO:     Senator  
2 Adams on the bill.

3                   SENATOR ADAMS:     You know, we --  
4 the point I am attempting to get at is that  
5 there's a level of ironic behavior -- and I guess  
6 that's why the term "irony" is in the  
7 dictionary -- that we have to define when there  
8 seems to be conflicting responses to people.

9                   Two years ago, when this was  
10 New York City OTB, the Senate Republicans said to  
11 New York City and hundreds of DC-37 employees  
12 basically that their livelihood was not  
13 important, that they didn't care that these  
14 people would lose their jobs, health insurance,  
15 retirements.

16                   And now, because the OTB is in  
17 Suffolk County, which happens to be represented  
18 by all Republicans, now there's a level of  
19 urgency of making sure that we can keep the doors  
20 open.

21                   I want to read from my text:   "This  
22 is not an upstate and downstate issue. This is  
23 about one state. And I think that sometimes you  
24 have to go beyond the politics of an issue. And  
25 when we look at the faces of the men and women in

1 those green jackets that represent middle-class  
2 New Yorkers who held this state together, a no  
3 vote on this bill would light the wick to a stick  
4 of dynamite that will blow up our racing  
5 industry. And if you believe it would only  
6 impact New York State, you are wrong.

7 "I traveled from Buffalo to Long  
8 Island, visited horse farms, visited those who  
9 made horse feed, visited those who are attached  
10 to this industry. If we don't pass this bill, we  
11 have started the erosion of racing in the State  
12 of New York. Today it is New York City OTB,  
13 tomorrow it is Nassau, it is Monticello and other  
14 regions." And now in Suffolk.

15 And so oftentimes when men who are  
16 elected to office, they do State of the States  
17 and other presentations and they have real human  
18 beings to profile, because they put a face to the  
19 legislative process and what we do in  
20 government -- I want to put a human face to what  
21 we are doing now that we were not willing to do  
22 in New York City.

23 His name is Lenny Allen. After  
24 years and years of being an OTB employee, he was  
25 diagnosed -- on the eve of the failure to pass

1 the New York City OTB bill, he was diagnosed with  
2 cancer. Two procedures into his cancer diagnosis  
3 he was told his healthcare was cut off and he was  
4 not allowed to go for continuing treatment,  
5 life-saving treatment.

6                   So I'm going to vote for this bill,  
7 because I believe the employees of Suffolk County  
8 have a right to have their doors open. But it's  
9 troubling to me that that same level of simple  
10 compassion was not displayed for New York City  
11 OTB.

12                   We can't continue merely to  
13 resonate this attitude that we're not in one  
14 state. That we are in one state. Just as the  
15 employees in Suffolk County was deserving of a  
16 right and is deserving of a right to continue to  
17 be employed, so too do those men and women of  
18 New York City. They too sit down at the kitchen  
19 table wondering how they're going to provide for  
20 their families and continue to pay their mortgage  
21 and healthcare.

22                   Men and women of this state don't  
23 cry any different or have any less compassion for  
24 their family based on the geographical location  
25 of their home or employment. We were wrong what

1 we did to New York City OTB, and I'm not going to  
2 duplicate that wrong. I will vote in favor of  
3 this bill.

4                   ACTING PRESIDENT GRIFFO:    Thank  
5 you, Senator Adams.

6                   Is there any other Senator wishing  
7 to be heard? Seeing none, hearing none, debate  
8 is closed.

9                   Senator DeFrancisco to close.

10                  SENATOR DeFRANCISCO:    I just  
11 wanted to mention, in response to what Senator  
12 Adams mentioned, first of all, it's neither  
13 ironic nor inconsistent what we're doing here.

14                  The problem arose when there was a  
15 different group leading the Senate and there was  
16 no bill for any relief during that period of  
17 time, there wasn't enough votes for any relief.

18                  Last year we passed a bill in this  
19 house to protect the health insurance benefits of  
20 the New York City OTB employees. The Governor  
21 vetoed the bill. This year the Republicans in  
22 the Senate had it in our one-house budget bill  
23 that I think maybe some of you voted for, I can't  
24 remember -- no, you probably didn't. We had it  
25 in our one-house budget bill to provide the same

1 relief, the health benefits for these OTB  
2 employees in New York City. The Assembly did not  
3 and the Governor did not push for it, so it did  
4 not become part of this budget.

5 And as far as the Republicans, the  
6 county legislature in Suffolk County is  
7 controlled by not the Republican Party. I'll --  
8 you can figure out who controls it.

9 So from our standpoint, we did last  
10 year what you claim we should be doing and was  
11 not done when you were in control. The Governor  
12 vetoed it. This year we tried to negotiate it in  
13 this budget. We couldn't get it because the  
14 Democratic-controlled Senate and the Governor  
15 were not in favor of it.

16 So I think we're totally  
17 consistent. And this bill, by the way -- this  
18 bill, by the way, treats all OTBs alike. It's  
19 not looking for special treatment for one city by  
20 forgiving \$20 million worth of taxes, it treats  
21 all OTBs throughout the state the same way.

22 So with that said, thank you,  
23 Mr. President.

24 ACTING PRESIDENT GRIFFO: The  
25 Secretary will ring the bell.



1                   SENATOR ADAMS:    Mr. President,  
2 point --

3                   ACTING PRESIDENT GRIFFO:    Senator  
4 Adams, the debate is closed --

5                   SENATOR ADAMS:    Point of personal  
6 privilege, Mr. President. Point of -- point  
7 of --

8                   ACTING PRESIDENT GRIFFO:    Senator  
9 Adams, debate is closed. You may explain your  
10 vote.

11                   SENATOR ADAMS:    I'm not -- I'm  
12 not --

13                   ACTING PRESIDENT GRIFFO:    You may  
14 explain your vote, Senator Adams. Please.

15                   SENATOR ADAMS:    I'm not going to  
16 debate. I'm asking a point of personal  
17 privilege.

18                   ACTING PRESIDENT GRIFFO:    Senator  
19 Adams -- Senator -- Senator Adams, debate is  
20 closed --

21                   SENATOR ADAMS:    My name was  
22 mentioned on the floor.

23                   ACTING PRESIDENT GRIFFO:    Senator  
24 Adams -- Senator Libous, why do you rise?

25                   SENATOR ADAMS:    My --

1                   SENATOR BRESLIN:    Mr. President --

2                   ACTING PRESIDENT GRIFFO:    Senator

3 Breslin --

4                   SENATOR LIBOUS:    Mr. President, if

5 I could ask all members to just take a deep

6 breath.

7                   Debate is closed.   And Senator

8 DeFrancisco just closed debate.   We will now take

9 this to a vote.

10                  ACTING PRESIDENT GRIFFO:    Yes.

11 Senator Adams, you will have the opportunity to

12 explain your vote --

13                  SENATOR ADAMS:    I'm not looking

14 for an opportunity to explain my vote --

15                  ACTING PRESIDENT GRIFFO:    We will

16 give you that opportunity.

17                  SENATOR ADAMS:    My name was

18 mentioned on the floor.   I want a point of

19 personal privilege.

20                  ACTING PRESIDENT GRIFFO:    Senator

21 Adams, you're out of order.   Please.

22                  Senator Breslin.

23                  SENATOR ADAMS:    I'm not out of

24 order.

25                  ACTING PRESIDENT GRIFFO:    You are,

1 Senator Adams.

2 SENATOR BRESLIN: Point of order.

3 ACTING PRESIDENT GRIFFO: Point of  
4 order for Mr. Breslin. What is your point of  
5 order?

6 SENATOR BRESLIN: Senator Adams'  
7 name was specifically mentioned. And as a  
8 courtesy, Senator Adams should have an  
9 opportunity to respond.

10 ACTING PRESIDENT GRIFFO: Senator  
11 Breslin, I called for any other member to be  
12 heard.

13 Senator Libous, I called for all  
14 members to be heard. No one raised their hand,  
15 nobody expressed their point of view. I then  
16 asked that Senator DeFrancisco close debate. He  
17 closed debate. We cannot go back in procedures  
18 now without unanimous consent.

19 So as a result to that, there  
20 appears not to be unanimous consent. We will  
21 allow Senator Adams to explain his vote and he  
22 will be allowed to speak whatever he wishes to  
23 speak during that explanation.

24 SENATOR BRESLIN: Mr. President --

25 ACTING PRESIDENT GRIFFO: The

1 Secretary has rung the bell. Senator Breslin,  
2 your point is not well-taken.

3 SENATOR BRESLIN: Mr. President,  
4 the point of personal --

5 ACTING PRESIDENT GRIFFO: Senator  
6 Libous.

7 SENATOR LIBOUS: I didn't hear it,  
8 but did Senator Adams ask for a point of personal  
9 privilege?

10 SENATOR ADAMS: Yes, I did. Yes.

11 SENATOR LIBOUS: I believe if he  
12 did ask for a point of personal privilege, he  
13 would be allowed to respond. I did not hear that  
14 initially. He can state his point.

15 ACTING PRESIDENT GRIFFO: Senator  
16 Adams, I did not hear you. Did you rise to a  
17 point of personal privilege?

18 SENATOR ADAMS: Yes, I did. I  
19 said point of personal privilege.

20 ACTING PRESIDENT GRIFFO: I  
21 apologize, I did not hear that.

22 But if you rise to a point of  
23 personal privilege, Senator Adams, it must be  
24 specific to your point, not to again to readdress  
25 all of these issues.

1                   SENATOR ADAMS:    And I understand  
2   that.   And I am going to respond to my name being  
3   mentioned on the floor by Senator DeFrancisco.

4                   And I didn't believe you heard me,  
5   because you're definitely a gentleman, and  
6   normally when you hear me, you respond  
7   accordingly.

8                   ACTING PRESIDENT GRIFFO:   Thank  
9   you.

10                  SENATOR ADAMS:    But I would like  
11   to respond to my name being mentioned on the  
12   floor.

13                  ACTING PRESIDENT GRIFFO:   If we  
14   could just keep this all in perspective today, as  
15   we've talked about today, I would appreciate, you  
16   know, speaking to the point and we would all  
17   engage in calm and deliberative discussions.

18                  SENATOR ADAMS:    Well, everyone  
19   knows that I'm a very calm person, you know, so I  
20   understand that.

21                  (Laughter.)

22                  SENATOR ADAMS:    I just want to  
23   make it clear based on what Senator DeFrancisco  
24   stated, that a different party was in charge or  
25   not in charge.

1           The reality is that we have a  
2       countless number of New Yorkers, hundreds of  
3       them, that do not have their healthcare, that do  
4       not have their insurance, that can't provide for  
5       their family, based on the action or inaction we  
6       took while we were here as a whole. And this  
7       entire body is responsible for that.

8           I thank you for allowing my point  
9       of personal privilege, Mr. President.

10           ACTING PRESIDENT GRIFFO:    Thank  
11       you, Senator Adams.

12           Debate is now closed. The  
13       Secretary is ringing the bell.

14           Read the last section.

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

17           ACTING PRESIDENT GRIFFO:    Call the  
18       roll.

19           (The Secretary called the roll.)

20           ACTING PRESIDENT GRIFFO:    Senator  
21       Marcellino to explain his vote.

22           SENATOR MARCELLINO:    Yes,  
23       Mr. President, thank you, to explain my vote.

24           I want to thank our leadership for  
25       bringing this to the table in the broad daylight

1 so for the second year in a row we will have, if  
2 not an early, an on-time budget. It's a good  
3 thing for the people and it's a good thing for  
4 the people in my district and for the people of  
5 the State of New York.

6           The bills we are debating are not  
7 perfect by any means. They are the result of a  
8 three-way compromise. Which means somebody's got  
9 to give, and somebody's got to get. Some people  
10 get everything they want, some people get less  
11 than they want, some people get nothing of what  
12 they want. It happens when you negotiate, when  
13 you try to do a bill and it requires compromise  
14 on all sides.

15           This bill is certainly not a  
16 perfect bill. I've been in this chamber for a  
17 number of years; I've yet to see one that has  
18 come across our desks as perfect. Well, I don't  
19 know who said the quote, but I'll repeat it: The  
20 perfect should never be the enemy of the good.  
21 And this is a good bill and hopefully will lead  
22 us to a good budget that we can move forward  
23 with.

24           Any errors, any incompletions, any  
25 things left out can be addressed at a later

1 time. We have time left in the session. I would  
2 have liked to have seen more money in the EPF in  
3 this bill, the Environmental Protection Fund. I  
4 would like to have seen a number of things in  
5 addition in this budget bill, but they're not  
6 there. I look forward to the remainder of the  
7 session; perhaps we can get them with independent  
8 bills moving forward.

9                   Again, this is a good bill. I  
10 thank all those who sat at the table and  
11 participated in the process to make it come to  
12 fruition and to bring us here again in daylight,  
13 in daylight, discussing this bill openly in full  
14 view of the public. It's an important issue.  
15 Mr. President, I will be voting aye.

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

18                   Senator Kennedy to explain his  
19 vote.

20                   SENATOR KENNEDY:    Thank you,  
21 Mr. President.

22                   First of all, I want to thank the  
23 Governor for driving this budget process forward  
24 in the best interests of the people of  
25 Western New York and New York State.



1                   This budget bill helps drive the  
2 trajectory of New York's economic future. We've  
3 long said that for our state's economy to be  
4 strong, we need to dedicate ourselves to growing  
5 the economies of every region of this state,  
6 especially Western New York, which has suffered  
7 from years of neglect from Albany.

8                   I'm pleased to see this year's  
9 budget puts a specific focus on sparking economic  
10 growth in Western New York. Obviously the  
11 brightest highlight is the state's \$1 billion  
12 commitment to Buffalo. But this budget bill also  
13 contains language to establish the Western  
14 New York Power Proceeds Allocation Board.

15                  When New York harnessed the power  
16 of Niagara Falls many years ago, we put ourselves  
17 on the map for low-cost clean energy  
18 development. We've taken steps to ensure this  
19 low-cost power helps us create jobs.

20                  The allocation board will ensure  
21 that Western New York sees the full benefit of  
22 the expansion of replacement power from the  
23 Niagara Power Project. Revenue raised by selling  
24 excess power will be channeled into an economic  
25 development fund. The allocation board will

1 recommend where funds are distributed to ensure  
2 investments made become jobs created.

3           The Niagara Power Project is one of  
4 the unique economic assets we enjoy in  
5 Western New York. The Power Proceeds Allocation  
6 Board will ensure that low-cost energy helps  
7 create good-paying jobs for hardworking  
8 Western New Yorkers.

9           The New York Works program is a  
10 another important initiative in this budget.  
11 With our roads and bridges aging, we're making a  
12 significant commitment to New York's  
13 infrastructure. The future economic viability of  
14 our state and the safety of our roads and bridges  
15 depends upon it. Funding infrastructure projects  
16 creates jobs and results in substantial economic  
17 spinoff benefits.

18           This budget bill establishes the  
19 New York Works Task Force, which will coordinate  
20 investments in capital projects and help create  
21 thousands of jobs. These streamlined and  
22 coordinated investments in our economy and  
23 transportation infrastructure will lead to a  
24 stronger, more prosperous Western New York and  
25 New York State.

1                   Again, I want to thank  
2 Governor Cuomo for putting such a strong focus on  
3 such an important need in Western New York and  
4 across the state. Mr. President, I  
5 enthusiastically vote aye.

6                   ACTING PRESIDENT GRIFFO:     Senator  
7 Kennedy to be recorded in the affirmative.

8                   Senator Maziarz to explain his  
9 vote.

10                  SENATOR MAZIARZ:     Thank you very  
11 much, Mr. President. I just want to express my  
12 support for this particular piece of legislation,  
13 this budget bill.

14                  In 2010, this Legislature took the  
15 action that's necessary for Western New York to  
16 benefit from the power that's produced at  
17 Niagara. And contained within this budget bill  
18 is the establishment of a mechanism to utilize  
19 that money for economic development and job  
20 creation within Western New York.

21                  I look forward to finally, after so  
22 many years, seeing that great asset that we have  
23 at the Niagara Power Project, the revenues from  
24 that great asset to be used to create sorely  
25 needed jobs in all of Western New York and

1 particularly in Niagara County, where the project  
2 is located.

3 Thank you very much,  
4 Mr. President. I will vote in the affirmative.

5 ACTING PRESIDENT GRIFFO: Senator  
6 Maziarz to be recorded in the affirmative.

7 Senator Stavisky to explain her  
8 vote.

9 SENATOR STAVISKY: Thank you.

10 Let me focus on one particular  
11 aspect that Senator Adams referred to earlier  
12 during the debate, and that is the plight of the  
13 OTB workers. A number of them live in my  
14 district.

15 And when we go home tonight, we'll  
16 have our pensions, we'll have our health  
17 coverage. They will not. They are faced with  
18 the lack of health coverage, they're out of work,  
19 and unfortunately they have been neglected. And  
20 I certainly hope in the future that we do  
21 something, we remember the people who have put  
22 all of their lives into working and they should  
23 not be penalized.

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

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

3                   Senator Little to explain her vote.

4                   SENATOR LITTLE:    Thank you,  
5   Mr. President.

6                   I rise in support of this piece of  
7   legislation and the budget. Under the leadership  
8   of the Governor and with my colleagues in both  
9   houses of the Legislature, I believe we put forth  
10   a budget bill that has a recurring theme of  
11   retaining and creating jobs, making sure that  
12   New York State is in fact open for business.

13                  I'm especially pleased and pleased  
14   for my North Country region, with the approval of  
15   the MTA capital plan going forward, in that just  
16   this morning the MTA committee awarded a bid of  
17   \$600 million to Bombardier Company, in my  
18   district, which will make 300 subway cars for  
19   New York City, a combination of downstate and  
20   upstate that certainly -- for those of you  
21   downstate, you are getting subway cars made by  
22   quality workers at a very quality plant. And  
23   certainly this is going to help in economic  
24   development in the Plattsburgh and the entire  
25   North Country area.

1                   So I vote aye on this budget bill.

2                   ACTING PRESIDENT GRIFFO:    Senator  
3 Little to be recorded in the affirmative.

4                   Senator Squadron to explain his  
5 vote.

6                   SENATOR SQUADRON:    Thank you,  
7 Mr. President, to explain my vote.

8                   I thank Senator Krueger for raising  
9 issues of transparency and bipartisanship, and I  
10 was pleased to hear the chair of Finance on the  
11 other side say there would be transparency and  
12 bipartisanship as some of these capital funds are  
13 further defined and expanded. I look forward to  
14 that process on some of the issues that Senator  
15 Adams raised as well.

16                   There is a lot good in this bill.  
17 It's disappointing that again, wherever folks are  
18 on the issue of hydrofracking, it was chosen not  
19 to get more information on the public health  
20 effects, the basic safety effects of  
21 hydrofracking. It was unfortunate that my  
22 colleagues voted to exclude that from this bill.  
23 It is a shame, and it's disappointing. It would  
24 be good for the people of the State of New York,  
25 wherever you are on that issue, to just know the

1 health effects.

2 In any case, there's enough good in  
3 this bill to certainly vote yes. I vote in the  
4 affirmative, Mr. President.

5 ACTING PRESIDENT GRIFFO: Senator  
6 Squadron to be recorded in the affirmative.

7 Senator Grisanti to explain his  
8 vote.

9 SENATOR GRISANTI: Thank you,  
10 Mr. President.

11 I vote yes on this particular piece  
12 of legislation, this bill. Although I too would  
13 have liked to have seen additional funding for  
14 the EPF, unfortunately the mechanism was not  
15 there with regards to this year, but it's  
16 something that we will not give up on to make  
17 sure that the funding is there.

18 I am pleased that the Governor,  
19 through the Senate and Assembly, kept the amount  
20 at \$134 million, because every county in this  
21 state benefits from the EPF and it's an important  
22 source of revenue, and we must keep that in  
23 place.

24 I will also add that in other  
25 states where high-volume hydrofracking is

1 occurring, there are health impact studies that I  
2 believe the DOH, through the advisory council, is  
3 going to be taking a look at. It's very  
4 difficult to do a health study on high-volume  
5 hydrofracking in New York State when it's not  
6 occurring yet.

7                   Now, this bill as it stands right  
8 now just drives the appropriations that are going  
9 to be taking place in the next couple of days.  
10 This bill drives the economic issues that are  
11 particular to Western New York such as the  
12 Power Proceeds bill, NFTA funding, the Regional  
13 Council, and the start of the billion dollars for  
14 Buffalo.

15                   There are many other benefits for  
16 Western New York that are going to be coming out  
17 today and within the next couple of days. That  
18 we're fortunate, for the Western New York  
19 delegation, that Western New York is no longer  
20 going to be forgotten in Albany and -- at least  
21 while I'm here, it's not going to be forgotten.

22                   So I vote yes, Mr. President, and I  
23 thank you for the time.

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



1                   Senator Fuschillo to explain his  
2 vote.

3                   SENATOR FUSCHILLO:    Thank you very  
4 much, Mr. President.

5                   When we opened the legislative  
6 session this year, our Majority Leader Dean  
7 Skelos said let's keep the focus on creating  
8 jobs, not raising taxes, and cutting spending.  
9 While we were negotiating the Transportation  
10 budget, we achieved that goal.

11                  And what's critically important  
12 about this Transportation budget is it sets that  
13 path that Senator Skelos had set, our Majority  
14 Leader, back in January, of creating jobs. The  
15 MTA capital budget, it's estimated to create over  
16 350,000 jobs and pump more than \$44 billion back  
17 into this economy. That's just the MTA budget.

18                  The Department of Transportation  
19 budget will set this state back on the right  
20 course of economic recovery because it will  
21 create tens of thousands of jobs.

22                  And if we're going to stabilize our  
23 economy and renew our economy, we have to have a  
24 strong infrastructure. This budget creates  
25 that.

1 I want to thank my leader and the  
2 partnership he formed with Governor Cuomo. I  
3 urge everybody to vote yes on this.

4 Thank you very much, Mr. President.

5 ACTING PRESIDENT GRIFFO: Senator  
6 Fuschillo to be recorded in the affirmative.

7 Senator Larkin to explain his vote.

8 SENATOR LARKIN: Thank you,  
9 Mr. President.

10 You know, there's been a lot of  
11 talk around here in the last couple of weeks  
12 about the budget and what it would do and what it  
13 wouldn't do. The budget that we have in front of  
14 us today, with this highway, an architect of the  
15 hard work was our colleague Chuck Fuschillo.

16 But dealing with this, Chuck, the  
17 leadership, Senator Skelos, our Finance people,  
18 and all of those associated with it made sure of  
19 one thing: This was about driving money to  
20 create jobs. And as the chairman of the  
21 Transportation Committee just said, this is  
22 exactly what we're doing.

23 You know, people can find fault  
24 with this bill, that it's not there. Senator  
25 Marcellino just said he never met anything

1 perfect -- till he met me.

2 (Laughter.)

3 SENATOR LARKIN: So just think  
4 about it. We're dealing with a budget that  
5 people can see. People who say they don't  
6 understand it, they didn't have time, well, maybe  
7 you should have stayed in your office a little  
8 more, looked at the bill and made sure you  
9 understood what was happening.

10 This is a good bill. It's going to  
11 provide jobs. If you look at the transportation  
12 issue of it, you'll find out how much is being  
13 done in your respective communities. Remember,  
14 you had an opportunity, we all did. This bill is  
15 something that's going to be important to  
16 every one of our municipalities. And I thank  
17 everybody for their input.

18 ACTING PRESIDENT GRIFFO: Senator  
19 Larkin to be recorded in the affirmative.

20 Senator Parker to explain his vote.

21 SENATOR PARKER: Thank you,  
22 Mr. President, to explain my vote.

23 You know, once again, my  
24 compliments to the staff and my colleagues who  
25 have been working hard on this budget. And

1 particularly as it relates to transportation and  
2 economic development, there's just a lot of  
3 things that are going on.

4           There's a couple of things that I  
5 think that we could have done a little bit better  
6 in this budget. Certainly delays in retrofitting  
7 the state vehicles to ultra low-sulfur diesel and  
8 best available technology until December 2015 I  
9 think is not the right way to go. I think that  
10 we are delaying things that are really important  
11 for this state, for the health and the welfare of  
12 the people of this state.

13           Reduction of sulfur content in  
14 heating fuel will greatly reduce the emissions  
15 into the atmosphere of sulfur dioxide, which  
16 shows up as particulate matter in the air,  
17 causing regional haze and contributing to the  
18 formation of acid rain.

19           And particularly African-American  
20 and Latino communities are disproportionately  
21 impacted by this. New York City is also known  
22 oftentimes as Asthma City, particularly in the  
23 African-American and Latino communities, which  
24 are three or four times more likely to require  
25 hospitalization for asthma than whites.

1                   And the second thing was a  
2 hydrofracking study. And we really should have  
3 included a hydrofracking study in this year's  
4 budget. SUNY could have done the study. There  
5 was no reason not to do it. I don't know why.  
6 As we rush into a policy of hydrofracking in this  
7 state, we certainly could have included a study  
8 in the budget. What are we afraid of? More  
9 information is better than less information and  
10 it's certainly a failure, I think, of this bill.

11                   But despite its shortcomings, I am  
12 going to vote aye on this bill.

13                   ACTING PRESIDENT GRIFFO:    Senator  
14 Parker to be recorded in the affirmative.

15                   Announce the results.

16                   THE SECRETARY:    In relation to  
17 Calendar Number 472, those recorded in the  
18 negative are Senators Diaz and Duane.

19                   Ayes, 58.   Nays, 2.

20                   ACTING PRESIDENT GRIFFO:    The bill  
21 is passed.

22                   The Secretary will read.

23                   THE SECRETARY:    In relation to  
24 Calendar Number 473, Senator DeFrancisco moves to  
25 discharge, from the Committee on Finance,

1 Assembly Bill Number 9060C and substitute it for  
2 the identical Senate Bill Number 6260C, Third  
3 Reading Calendar 473.

4 ACTING PRESIDENT GRIFFO:  
5 Substitution is so ordered.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number  
8 473, Assembly Budget Bill, Assembly Print Number  
9 9060C, an act to amend the Racing, Pari-Mutuel  
10 Wagering and Breeding Law.

11 ACTING PRESIDENT GRIFFO: Senator  
12 Krueger.

13 SENATOR KRUEGER: Thank you. I  
14 have a few questions for the sponsor.

15 ACTING PRESIDENT GRIFFO: Senator  
16 DeFrancisco, will you yield?

17 SENATOR DeFRANCISCO: Yes, I will.

18 ACTING PRESIDENT GRIFFO: The  
19 Senator will yield.

20 SENATOR KRUEGER: Thank you.

21 So I agree that most of this bill  
22 involves racing, wagering, pari-mutuel,  
23 et cetera. But there's a section of this bill  
24 which eliminates and consolidates boards,  
25 commissions, and task forces with a fairly

1 extensive list.

2                   What's the estimated cost saving  
3 from these consolidations and eliminations?

4                   SENATOR DeFRANCISCO:   Not much.  
5 The purpose is to put like organizations together  
6 with like organizations so that the government  
7 will operate more efficiently. And all of the  
8 savings combined of each of these changes is  
9 approximately only about a million dollars.

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

13                  ACTING PRESIDENT GRIFFO:   The  
14 sponsor yields.

15                  SENATOR KRUEGER:   Thank you.  
16                  So most of this bill involves the  
17 mergers of the Racing and Wagering Board with the  
18 Lottery, and I guess the creation of a new  
19 commission, with the possibility that it might  
20 soon be dealing with other types of gambling but  
21 certainly with the VLTs, the lottery, and the  
22 racetracks.

23                  So we're creating a new commission  
24 with seven members. How did we pick seven  
25 members for this commission with a lot of

1 responsibilities?

2                   SENATOR DeFRANCISCO:    I'm not sure  
3 exactly why seven was the number. Obviously,  
4 it's better to have an odd number so you don't  
5 have gridlock in certain instances. So I think  
6 that's the odd number.

7                   But the numbers are as follows.  
8 The Governor will appoint five, the Senate one,  
9 the Assembly one. But the executive director  
10 that they select -- that is picked by the  
11 Governor, actually, it's got to be confirmed by  
12 the Senate.

13                   But the number, I'm not sure why it  
14 happened to be seven. It was a matter of  
15 negotiation.

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

19                   SENATOR DeFRANCISCO:    Yes.

20                   ACTING PRESIDENT GRIFFO:    The  
21 sponsor yields.

22                   SENATOR KRUEGER:    So I'm correct  
23 in understanding there is no minority  
24 representation on this commission from either  
25 house of the Legislature?



1                   SENATOR DeFRANCISCO:    You are  
2 correct.  There's only one majority member from  
3 each house, and five from the Governor.

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

7                   ACTING PRESIDENT GRIFFO:    The  
8 sponsor yields.

9                   SENATOR DeFRANCISCO:    Yes.

10                  SENATOR KRUEGER:    And the sponsor  
11 actually almost read my mind in answering a  
12 previous question where he pointed out that the  
13 Governor has five of the seven members and that  
14 he determines who the director of the commission  
15 is.  And he also, as I read the bill, has the  
16 right to remove a member at any time for any  
17 reason.

18                  Is there any reason for this house  
19 to be concerned that there's not really enough  
20 independence in this commission, with the  
21 Executive having five of seven appointments, the  
22 head appointment, and the ability to remove any  
23 member at any time for any reason?

24                  SENATOR DeFRANCISCO:    First of  
25 all, he cannot remove any member at any time for

1 any reason. He can only remove the chair.

2               Secondly, the seven-member board is  
3 appointed by those individuals -- those -- in  
4 that breakdown, five, Governor; Senate, one;  
5 Assembly, one. But these members are also  
6 subject to the advice and the consent of the  
7 Senate. So the Senate will have some role in at  
8 least overseeing who all of the picks are, and  
9 they would have to agree to them by the same  
10 process as we approve heads of departments.

11               So is there any concern? I would  
12 have loved to have five members appointed by the  
13 Republican majority, one by the Governor and a  
14 half of one by Sheldon Silver.

15               (Laughter.)

16               SENATOR DeFRANCISCO: But  
17 unfortunately, we just don't have that luxury  
18 when you're in negotiations, and this is the way  
19 it turned out.

20               SENATOR KRUEGER: Through you,  
21 Mr. President, I'm not sure we should do a point  
22 of personal privilege on behalf of Sheldon  
23 Silver, since he's not a member of this house.

24               (Laughter.)

25               SENATOR KRUEGER: But I'll just

1 raise that point.

2 I actually do believe,  
3 Mr. President, on the bill, that the bill says  
4 the Governor can remove any member, but does lay  
5 out -- on page 6, line 29, Section 7. I agree  
6 with my colleague that there actually needs to be  
7 a reason. But I believe he can remove any  
8 member, just for the record.

9 Following up with an additional  
10 question, through you, Mr. President.

11 SENATOR DeFRANCISCO: Yes.

12 ACTING PRESIDENT GRIFFO: The  
13 sponsor yields.

14 SENATOR KRUEGER: Thank you.

15 I have tried to look at a number of  
16 other gaming commissions and how they're  
17 structured around the country, and I find myself  
18 concerned that the fifth subdivision of what was  
19 the original proposal for this commission had  
20 been removed in the final proposal, and that was  
21 the responsibilities of enforcement.

22 So I am confused how -- or I am  
23 confused, and I hope there is an explanation  
24 somewhere else in this bill on how we anticipate  
25 policing our casinos, our tracks, and our lottery

1 when we do away with certain functioning  
2 agencies, we create a commission to replace their  
3 functions, but we have no enforcement structure  
4 within the commission.

5                   So am I misreading some other  
6 section of the bill where we get to that?

7                   ACTING PRESIDENT GRIFFO:    Senator  
8 DeFrancisco.

9                   SENATOR DeFRANCISCO:    I don't  
10 think you need members of a commission to be part  
11 of law enforcement as long as the commission  
12 members are in a position to be able to have the  
13 authority to investigate and appoint people -- it  
14 could be the State Police, it could be another  
15 investigative agency -- to do the  
16 investigations.

17                   So there's many boards that don't  
18 have their own investigative arm that's the  
19 State Police or some other agency, but they  
20 certainly can appoint them or retain them,  
21 depending upon the situation.

22                   And let me apologize as far as one  
23 of the answers I gave you earlier. The Governor  
24 can remove, without any reason whatsoever, the  
25 chairman. He can in fact, and you're correct,

1 remove other members, but there's a standard:  
2 for inefficiency, neglect of duty, or misconduct  
3 in office. And there's due process provisions in  
4 the bill as well.

5                   And I apologize for not being  
6 complete with that answer.

7                   SENATOR KRUEGER:    Thank you,  
8 Mr. President. I appreciate that both my  
9 colleague and I were misreading a section of the  
10 same section of this bill in one way or the  
11 other.

12                   Going back to my concern about not  
13 having an enforcement function within this  
14 commission, again, it's not the question of  
15 expecting any of the seven members to go out and  
16 do investigations, but currently under state law  
17 with Racing and Wagering we actually have a  
18 commission that does follow-up and investigations  
19 and has a police-like function.

20                   And certainly I'm aware that  
21 unfortunately sometimes gambling and criminal  
22 activity go hand in hand. And so I'm very  
23 concerned if we were actually creating a new  
24 model for overseeing what potentially will be a  
25 larger and larger universe of gambling activities

1 in the State of New York but we have not  
2 established in law any specific enforcement  
3 authority by any entity over these types of  
4 gambling.

5                   So again, if the sponsor can help  
6 me, is there something in another portion of the  
7 budget bills that actually establishes we are  
8 transferring current policing and the enforcement  
9 authority to someone -- to the State Police, to  
10 the Attorney General, to whom? Because my  
11 concern is this makes it look like we won't have  
12 anybody with that responsibility.

13                   SENATOR DeFRANCISCO: No, there's  
14 nothing specifically listed in the bill calling  
15 for a referral to any specific agency.

16                   But under the powers clause of the  
17 provision it indicates that it has the power --  
18 this is Section 6 of the powers of the  
19 commission -- to conduct investigations and  
20 hearings pertaining to violations of this  
21 chapter, et cetera, et cetera. And the concept  
22 is that I would assume, like in any other  
23 organization, if an investigation discloses some  
24 wrongful activities, that there are law  
25 enforcement agencies that are available to follow

1 up on the results of those investigations.

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

5                   ACTING PRESIDENT GRIFFO: The  
6 sponsor yields.

7                   SENATOR KRUEGER: Thank you.

8                   I agree we have found that section  
9 that he is referencing in the law. For the  
10 record, I think we make a misstep in the State of  
11 New York if we don't have not only explicit  
12 enforcement investigation and policing functions  
13 within the entity we are giving authority to  
14 regulate and have oversight over all types of  
15 gambling in the State of New York -- I think that  
16 we will be sorry that this did not make it into  
17 the language creating the commission, and I think  
18 we will find ourselves needing to amend this  
19 quickly.

20                   When you look at the functions of  
21 commissions in other states with larger gambling  
22 activities in their states, you actually find  
23 that there's a very important role for both  
24 enforcement and for penalties. And that leads me  
25 to an additional question.

1                   Currently there's a \$50,000 maximum  
2 administrative fine for violations of our  
3 gambling laws within Lottery and within Racing  
4 and Wagering. Is there a change in the fine  
5 maximum to be applied to any activities under  
6 this commission we're creating? And one -- I  
7 guess two questions at once. One, is there a  
8 new -- excuse me, Mr. President.

9                   Do we continue to have fining  
10 authority within the commission? And do we raise  
11 the maximum beyond the \$50,000 level?

12                  SENATOR DeFRANCISCO: There is  
13 fining authority, and the amount was not raised  
14 from the \$50,000.

15                  And as to the prior question, in  
16 paragraph 12 of the powers clause there's  
17 specific language that refers to the power of the  
18 agency, of this group, to refer to law  
19 enforcement agencies of competent jurisdiction.  
20 So they do have that authority as well.

21                  But under Section 16 of the bill it  
22 says "Any entity or person who violates this  
23 chapter or the provisions of the license shall be  
24 liable to a civil penalty of not more than  
25 \$25,000 for each violation and an additional



1 civil penalty of not more than \$25,000 for each  
2 day during which this violation continues. Any  
3 civil penalty may be assessed by the commission  
4 following a hearing, with opportunity to be  
5 heard."

6 SENATOR KRUEGER: Thank you.

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

9 ACTING PRESIDENT GRIFFO: The  
10 sponsor yields.

11 SENATOR DeFRANCISCO: Yes.

12 SENATOR KRUEGER: Thank you.

13 Yes, I also saw the section in the  
14 law that allows referral to other police  
15 entities.

16 Now, have there been any issues  
17 with the VLTs, I suppose our newest form of  
18 gambling here in New York State, as far as have  
19 there been any documented problems with VLT  
20 vendors as far as security is concerned, perhaps  
21 not being calibrated correctly, not giving the  
22 correct amount of payout, being able to be, for  
23 lack of better terminology, hacked, since they  
24 are computer-type machines?

25 SENATOR DeFRANCISCO: I don't know

1 of any. And I don't know if there's any current  
2 investigations going on.

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

6 ACTING PRESIDENT GRIFFO: The  
7 sponsor yields.

8 SENATOR KRUEGER: And in fairness,  
9 I wasn't sure. I thought that the sponsor could  
10 answer that.

11 My concern is some of this is  
12 very -- if you were going to breach a VLT  
13 computer-driven machine, if you were going to try  
14 to cheat on the payout or the formula or even the  
15 payments owed to the state from taxes from the  
16 VLT players, it seems to me you would need very  
17 specific and even technical knowledge of what  
18 what's going on, how these systems work or are  
19 supposed to work. That your typical county DA or  
20 even a local police force wouldn't have any  
21 reason to be prepared to handle it if this type  
22 of case was referred to them.

23 So I simply go back in making my  
24 point that I think we are missing a really very  
25 important part of what should be included in a

1 commission overseeing various kinds of gambling  
2 in the State of New York.

3 If the sponsor would please yield  
4 to an additional question.

5 SENATOR DeFRANCISCO: Yes.

6 ACTING PRESIDENT GRIFFO: The  
7 sponsor yields.

8 SENATOR KRUEGER: Thank you.

9 I don't know a lot about gambling.  
10 I don't know a lot about racing. But I have been  
11 reading that New York State has a  
12 disproportionately high rate of our racehorses  
13 dying on the tracks or while under the confines  
14 of the -- under the Racing & Wagering Board.

15 Is there anything in this bill that  
16 will help to ensure that under the newly created  
17 entity we are doing a better job of investigating  
18 and preventing racehorses from dying at a  
19 statistically much higher rate than, my  
20 understanding is, any other state in the country  
21 that has racetracks?

22 SENATOR DeFRANCISCO: Nothing has  
23 changed in the law, based upon this bill, from  
24 current law.

25 But as to your last questions

1 concerning VLTs, the people that are in control  
2 of the video lottery terminals is the State  
3 Lottery, Division of State Lottery. The owners  
4 have the -- or the locations are locations where  
5 these machines are operated, but the State  
6 Lottery Division is the one who actually takes  
7 care of the machines and makes sure that the  
8 machines have the payout that's been authorized.

9                   And so it's not -- I don't think  
10 there's been any indication that any locations  
11 have somehow tried to change the odds on any  
12 machines. But it's the Lottery Division's  
13 authority and responsibility to maintain those  
14 machines.

15                   SENATOR KRUEGER: Through you,  
16 Mr. President, I think I'll speak on the bill.

17                   ACTING PRESIDENT GRIFFO: Senator  
18 Krueger on the bill.

19                   SENATOR KRUEGER: Thank you.

20                   So my key concern with this  
21 legislation is that we are taking multiple  
22 entities and creating a new entity. We are, in  
23 my opinion, not having enough independence as far  
24 as the appointments to the commission and the  
25 ability of the commission to function

1 independently, in fact, of the Executive if they  
2 find themselves in disagreement, and that we take  
3 away the enforcement authority that we should, in  
4 my opinion, be expanding, not doing away with.

5               Senator DeFrancisco's final answer  
6 to a question reinforces this to me. Currently  
7 the Division of the Lottery oversees the VLTs.  
8 With the passage of this bill, they don't exist.  
9 Rather, their functioning and responsibilities  
10 flow through this new commission.

11              They currently have police and  
12 investigative authority. Through this bill, with  
13 the creation of this commission, there would be  
14 no investigative or enforcement authority within  
15 the staffs appointed there, so we would actually  
16 be losing a protection we've had.

17              So the Senator may be correct when  
18 he says the Lottery Division has been overseeing,  
19 and he doesn't know of any problems. And in fact  
20 I don't know of any problems. I guess my real  
21 concern is if we create this commission and we  
22 don't give it the authority to investigate and  
23 enforce and have some specific police powers,  
24 then in fact things can go wrong and that we  
25 won't know about them because we're simply saying

1 some other division of police or district  
2 attorney or whomever could pick up on those  
3 functions, when they're not experts in the  
4 various types of gambling and the problems that  
5 can take place in gambling, and move forward.

6 I believe that the desire to merge  
7 certain functions into a centralized commission  
8 grow out of the desire by some in this government  
9 to significantly expand gambling options in the  
10 State of New York. There was recently a vote on  
11 creation of a constitutional -- excuse me,  
12 passage of a constitutional amendment, step one,  
13 and the passage of a constitutional amendment  
14 that would require detailed statutory proposals  
15 accepted or denied by these two houses but have  
16 yet to be put into writing.

17 I have to assume that this new  
18 commission would have a great deal of  
19 responsibility for oversight of these new forms  
20 of gambling that could be created if the  
21 constitutional amendment was passed and might, in  
22 fact, function to develop the recommendations for  
23 the statute that would allow various types of  
24 expanded casino and other gambling.

25 So these are hard questions for a

1 lot of us. These are complicated questions  
2 regarding the business models of different types  
3 of gambling -- who would be allowed to run these  
4 entities, where they would be located. Even  
5 something that might seem simple to people --  
6 what's the definition of a casino, and therefore  
7 what you could do there -- we haven't dealt with  
8 any of that.

9                   And I think that perhaps at the end  
10 of the process having a specific entity in the  
11 State of New York -- as opposed to multiple  
12 entities -- to deal with those issues might be  
13 the right answer, but I believe that passing a  
14 merger and a change in the structure of the  
15 Lottery and Racing and Wagering Board today at  
16 this point in time, with all those other  
17 unanswered questions before us and the people of  
18 New York, would be to put the cart before the  
19 horse.

20                   And so I don't think that this  
21 government ought to change the operation and  
22 structure we have now. We should be dealing with  
23 a much broader set of statutory changes --  
24 perhaps within multiple bills, perhaps within one  
25 bill -- that really get at what we envision

1 gaming, racing, lottery, VLT, online gambling,  
2 sports gambling, the whole arena of what the  
3 state thinks it ought to be allowing and the  
4 mechanism by which this state would authorize and  
5 approve and oversee and, yes, very heavily  
6 enforce and regulate if we were to go forward.

7           And this bill basically leaves me  
8 with far more questions than answers. And so in  
9 fact I don't think it's a good move for the State  
10 of New York to do this merger in a vacuum. I  
11 don't think it's a good idea to simply say seven  
12 people on a commission potentially will be the  
13 decision-makers on all these other questions.  
14 And I think we need to have a broader public  
15 dialogue about moving forward, in what ways, how  
16 and when, in various types of gambling.

17           And so some of my concerns are not  
18 what's in this bill, they're in fact what's not  
19 in this bill and what we have yet to have decided  
20 to do or not do in this state.

21           So I'll be voting no,  
22 Mr. President. Thank you.

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

25           Senator Espaillat.



1                   SENATOR ESPAILLAT:    Thank you,  
2   Mr. President.

3                   While this bill proposes to bring  
4   some savings in the state budget by the merger or  
5   consolidation of several defunct or dysfunctional  
6   state agencies or authorities or other entities,  
7   it also includes a very troubling practice. And  
8   while I don't profess to be an ideologue, an  
9   all-for-nothing member of this Senate, I do  
10   believe very strongly that we as a state will not  
11   be able to gamble ourselves out of this economic  
12   crisis.

13                  That in fact it is fundamentally  
14   difficult and a problem to address our economic  
15   problems by trying to impose an array of gambling  
16   measures that amounts to nothing short but a  
17   regressive tax on working-class people.

18                  All studies have shown that  
19   gambling disproportionately hurts working-class  
20   people, that gambling has a definite  
21   disproportional hurt on senior citizens, for  
22   example, who often gamble their rent money away  
23   or their prescription drug money away. Or single  
24   moms, who may be living check to check or on a  
25   fixed income, they will gamble their monies for

1 food, Pampers and other basic necessities.

2           This is truly a regressive tax that  
3 sort of intends to suck in those folks that want  
4 to be rich but want to become rich by gambling  
5 the few dollars that they have in their pockets.

6           So I believe fundamentally that  
7 this state, which proposed a no-tax budget this  
8 year, a so-called no-tax budget -- but in fact we  
9 all know that last December we passed a very  
10 progressive tax reform, including the extension  
11 of the millionaire's tax. So in essence we are  
12 taking with -- I'm proud to say that we are  
13 bringing over this year the revenues that we will  
14 be capturing from what we did last year on a  
15 special session.

16           But this gambling effort will  
17 certainly not get us out of this jam. Gambling  
18 is an addiction, very much so in the same fashion  
19 that alcohol, tobacco, and drugs is an  
20 addiction. And to try to balance the budget and  
21 to try to do the budget early again and inject in  
22 the budget a series of gambling measures I think  
23 is not only a definite negative for the state,  
24 but I think it leads us to a road of bad results  
25 in the long-term.

1                   So, Mr. President, I am deeply  
2 troubled that we are heralding this budget to be  
3 a very sane and sound budget, that it is a budget  
4 with no taxes where we so-called limit expenses,  
5 but that in it we have a very troubling, very  
6 troubling initiative, which is to engage a good  
7 number of New Yorkers, particularly those that  
8 need the most, into an addictive practice of  
9 gambling that will erode their pockets and lead  
10 them into further poverty and further despair.

11                   I will be voting in the negative on  
12 this bill, Mr. President.

13                   ACTING PRESIDENT GRIFFO:     Senator  
14 Hassell-Thompson.

15                   SENATOR HASSELL-THOMPSON:    Thank  
16 you, Mr. President. Just on the bill.

17                   ACTING PRESIDENT GRIFFO:     Senator  
18 Hassell-Thompson on the bill.

19                   SENATOR HASSELL-THOMPSON:    I would  
20 like to be assured, Mr. President, that as we go  
21 forward and develop the language for the site  
22 under which these casinos will be built, and all  
23 the specifications, that we do not forget that  
24 there is in this state an MWBE bill that should  
25 in fact be severely addressed as we look not only

1 at the construction but also at the procurement  
2 and labor relationships.

3 I know that people are going to  
4 stand on the floor and be very careful that they  
5 defend the Wicks Law and everything else that  
6 they want to put in, but I need to continue to  
7 hope that we will be assured that the MWBE bills  
8 that we have passed in this Senate will be abided  
9 by and will be very much a part of the front end  
10 of any decisions that we made about casino  
11 development in the State of New York.

12 Thank you, Mr. President.

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

15 Senator Diaz.

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

18 I just want to congratulate my  
19 Congre -- my colleague, almost Congressman, but  
20 now almost Reverend Espaillat for his wonderful  
21 explanation of the disastrous bill that you are  
22 about to approve.

23 Espaillat, me as a Reverend, I  
24 cannot do it better than you. You said it right,  
25 you said it correctly.

1                   And I would like to repeat some  
2 words that Senator Marcellino said before.  
3 Somebody has to give and somebody has to take.  
4 That's what -- those were words expressed by  
5 Senator Marcellino before. Somebody has to give,  
6 somebody has to take.

7                   And throughout the week, again,  
8 we're going to hear praise for the Governor.  
9 Some people have said "I support the bill  
10 enthusiastically, and I'm praising the Governor."

11                   But, ladies and gentlemen, again I  
12 have to say that what we are doing senior  
13 citizens, for you to go back to your districts  
14 and explain to our senior citizens that last year  
15 you cut \$48 million out of EPIC and that this  
16 year you are forcing them to wait until  
17 January 2013 so they could get some help when  
18 purchasing their prescription drugs, it's  
19 abusive, it's uncalled for, it's a mockery, and  
20 it's disrespectful to senior citizens.

21                   And now, bringing gambling so they  
22 could even, as Senator Espaillat said, they could  
23 even -- or people could even gamble some of their  
24 rent and the little money that they have, this is  
25 the wrong way to go. But this is New York. And

1 New York is the capital of the world and is  
2 becoming the capital of the corruption.

3                   So I'm voting no. And again,  
4 Senator Espaillat, you have some qualities to  
5 become Reverend.

6                   Thank you, Mr. President.

7                   ACTING PRESIDENT GRIFFO: Senator  
8 Bonacic.

9                   SENATOR BONACIC: Thank you,  
10 Mr. President. Just a couple of points that I'd  
11 like to make.

12                   First of all, the Article 7 bill  
13 before us is not addressing the merits of  
14 gaming. That was done on a resolution of first  
15 passage for a constitutional amendment, where I  
16 do believe many of my colleagues on the other  
17 side of the aisle walked out of the chambers and  
18 decided not to debate the merits of gaming.

19                   So most of those discussions and  
20 concerns I think are relevant and will be  
21 deferred to next year when we need second  
22 passage. So that's point number one.

23                   Point number two -- and I'd like to  
24 address some of the remarks of Senator Krueger.  
25 She asked many questions about this seven-person

1 commission. I look at it as a work in progress.

2           The Governor wanted to make sure  
3 there was an entity, if gaming were to go  
4 forward -- and I for one always believe in  
5 initiative and referendum. It's really let the  
6 people decide, after they hear all the pros and  
7 cons, whether it's good for our state or bad for  
8 our state. And I think we should give them that  
9 opportunity, but that's a discussion next year  
10 for a November 2013 vote.

11           As to the commission, the Governor  
12 wants to make sure that there are seven qualified  
13 people with expertise in law, in accounting, in  
14 administration that become basically experts that  
15 can watch irregularity or illegality in the event  
16 casino gaming goes forward.

17           And I will say that I think some of  
18 Senator Krueger's remarks were insightful. It's  
19 something that should be looked at, can be  
20 refined when it comes next year as to whether we  
21 should expand, spell out better the duties of  
22 this commission, talk more about its enforcement  
23 powers. But I think you may see that in the  
24 enacting legislation which we must approve.

25           And keep in mind this body has to

1 approve the seven places where you would like to  
2 see a casino go.

3 But in terms of this bill, I think  
4 merging entities is efficient, consolidation is  
5 always good, it's in the taxpayers' best  
6 interest. But we can't answer all of those  
7 questions about gaming until, one, in fact it's  
8 in place; number two, there is a gaming  
9 commission. And all we can expect is that we've  
10 put the seven best people qualified. Not  
11 minorities. If there's seven women it works for  
12 me, if they're the best experts. If there's  
13 seven Afro-Americans it works for me, if they're  
14 experts. Same with the Hispanic community.

15 So it's not about, you know, what  
16 is the color of the face, it's more important  
17 their expertise -- and it must be a minimum of  
18 five years, by the way -- in the areas of  
19 accounting, administration, law.

20 So the Governor is trying to set  
21 parameters. And maybe we'll look at it more  
22 closely and we'll tweak it more, asking for input  
23 from all the members here how we can make it  
24 better. But not all the answers are here today  
25 as to that seven-board commission, other than



1 that the Governor will pick five, we have to  
2 confirm, Senate picks one, Assembly picks one.

3 But I thank the Governor for moving  
4 this forward. I do think you need a gaming  
5 commission that has the power to watch closely  
6 gaming in the event that the people approve it.  
7 Because with big money, with gaming as we've seen  
8 in other states, there's opportunities for  
9 corruption, there's opportunities for  
10 illegalities.

11 But as to, you know, the negative  
12 side of gaming, whether it's the addictions,  
13 whether it's that poor man spending his money in  
14 the casino and not buying food for his family,  
15 they are all legitimate concerns that are  
16 addressed whether we go forward next year in the  
17 second passage of the constitutional amendment.

18 So I thank my colleagues for their  
19 input. I vote aye.

20 Thank you, Mr. President.

21 ACTING PRESIDENT GRIFFO: Is there  
22 any other Senator who wishes to be heard?

23 Seeing none, hearing none, the  
24 debate is closed.

25 The Secretary will ring the bell.

1 Read the last section.

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

4 ACTING PRESIDENT GRIFFO: Call the  
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT GRIFFO: Announce  
8 the results.

9 THE SECRETARY: In relation to  
10 Calendar Number 473, those recorded in the  
11 negative are Senators Diaz, Duane, Espaillat, and  
12 Krueger.

13 Ayes, 56. Nays, 4.

14 ACTING PRESIDENT GRIFFO: The bill  
15 is passed.

16 Senator Libous, that completes the  
17 controversial reading of the calendar.

18 SENATOR LIBOUS: Thank you,  
19 Mr. President.

20 And I would like to ask if there's  
21 any further business at the desk at this time.

22 ACTING PRESIDENT GRIFFO: There is  
23 none.

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

1                   ACTING PRESIDENT GRIFFO:    Can I  
2 have some order in the chamber, please.

3                   SENATOR LIBOUS:    It's very  
4 important what I'm about to say, Mr. President.

5                   There being no further business  
6 before the Senate, I move that we adjourn until  
7 Thursday, March 29th, at 3:00 p.m.

8                   ACTING PRESIDENT GRIFFO:    On  
9 motion, the Senate stands adjourned until  
10 Thursday, March 29th, at 3:00 p.m.

11                   Senate adjourned.

12                   (Whereupon, at 2:24 p.m., the Senate  
13 adjourned.)

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