

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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13
14 REGULAR SESSION

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18 SENATOR JOSEPH A. GRIFFO, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

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

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

9 ACTING PRESIDENT GRIFFO: 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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