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REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

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

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

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

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

ACTING PRESIDENT GRIFFO: The reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Carlucci.

SENATOR CARLUCCI: Thank you.

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

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR CARLUCCI: Thank you.

ACTING PRESIDENT GRIFFO: Senator Libous.

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

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

In the interim, the Senate will stand at ease.

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

The Senate stands at ease.

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

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

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: Reports of standing committees.

The Secretary will read the report of the Finance Committee.

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

Senate Print 6255D, Senate Budget Bill, an act to amend the Executive Law;

Senate 6258D, Senate Budget Bill, an act to authorize funding; and

Senate 6260C, Senate Budget Bill, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT GRIFFO: So ordered. All bills reported to third reading.

Senator Libous.

SENATOR LIBOUS: Mr. President, may we have the reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 471, Senate Budget Bill, Senate Print 6255D, an act --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

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

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

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

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

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

SENATOR BRESLIN: Explanation.

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

Senator Skelos.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Skelos.

Senator DeFrancisco.

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

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

Number two is we have to be

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

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

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

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

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

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

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

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

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

Many outdated state procurement

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

Senator Krueger.

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

ACTING PRESIDENT GRIFFO: Good morning.

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco will yield.

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

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

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

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

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

SENATOR DeFRANCISCO: I'm sorry,

what?

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

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

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR KRUEGER: Thank you.

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

that a correct analysis?

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

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

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

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

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

Thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Thank

you, Senator Krueger.

Senator Diaz.

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

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

SENATOR DIAZ: On the bill.

ACTING PRESIDENT GRIFFO: Senator Diaz on the bill.

SENATOR DIAZ: On the bill.

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

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

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

week.

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

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

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

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

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

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

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

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

So they had to come an agreement.

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

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

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

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

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

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

Thank you very much.

ACTING PRESIDENT GRIFFO: Thank you, Senator Diaz.

Senator Peralta.

SENATOR PERALTA: Thank you, Mr. President.

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

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

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

supported by reality.

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

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

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

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

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

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

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

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

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

SENATOR LIBOUS: Mr. President.

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

SENATOR LIBOUS: Point of order.

SENATOR PERALTA: Moreover --

ACTING PRESIDENT GRIFFO: Senator Peralta.

Senator Libous, what is your point of order?

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Thank

you, Senator Breslin.

Senator Peralta.

SENATOR PERALTA: Thank you, Mr. President.

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

For instance, a microstamp shell casing could be read using the standard microscopes found even in the smallest crime labs. In many cases it would be possible to read the markings at a crime scene using a magnifying glass, saving additional time and money. Moreover, no expensive new database would be required. Law enforcement would simply submit a trace request to ATF, as they have for decades.

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

The brave men and women of law

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

Thank you.

ACTING PRESIDENT GRIFFO: Senator Nozzolio.

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

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

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

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

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

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

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

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

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

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

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

I compliment the Governor for his willingness to listen on this important subject. I am appreciative that there will be now information provided so that important decisions can be made in the future about that deployment.

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Nozzolio.

Is there any other Senator wishing to be heard?

Senator DeFrancisco to close.

SENATOR DeFRANCISCO: Yes, just very briefly.

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Squadron to explain his vote.

SENATOR SQUADRON: Thank you, Mr. President.

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

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

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

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

I vote yes, Mr. President.

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

SENATOR SQUADRON: Yes.

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

Senator Peralta to explain his vote.

SENATOR PERALTA: Yes, thank you,

Mr. President.

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

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

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

So thank you, Mr. President.

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

Senator Diaz to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

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

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

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

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

Thank you.

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

Senator Perkins to explain his vote.

SENATOR PERKINS: Thank you very much.

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

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

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

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

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

Senator Ruth Hassell-Thompson.

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

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

Thank you, Mr. President.

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

Senator Parker to explain his vote.

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

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

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

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

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

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

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

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

Announce the results.

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

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

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

ACTING PRESIDENT GRIFFO: Senator Breslin.

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

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

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

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

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

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

SENATOR AVELLA: Thank you, Mr. President.

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

germane for the following reasons.

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

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

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

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

Had the bill been originally

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

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

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

ACTING PRESIDENT GRIFFO: Thank you, Senator Avella.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: All those opposed say nay.

SENATOR BRESLIN: Mr. President. Mr. President.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Show of hands, Mr. President.

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

(Senators raised their hands.)

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

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 23.

ACTING PRESIDENT GRIFFO: The ruling of the chair stands.

The bill is before the house.

Read the last section.

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

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

Senator Krueger, why do you rise?

SENATOR KRUEGER: I'm sorry, I did

have some questions on this bill.

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

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

SENATOR KRUEGER: Thank you.

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

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

ACTING PRESIDENT GRIFFO: Thank you, Senator LaValle.

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

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

ACTING PRESIDENT GRIFFO: Excuse me, Senator Krueger.

May I have some order in the house, please.

We are on Calendar 472, Senator

Krueger.

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

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

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

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

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

Well, all that was done here, it's

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

SENATOR KRUEGER: Thank you.

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

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

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

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

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

Is any of that language here in this bill?

SENATOR DeFRANCISCO: It is not.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Absolutely. Absolutely.

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

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

the tracking.

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator

DeFrancisco yields.

SENATOR DeFRANCISCO: Yes, I do.

SENATOR KRUEGER: Thank you very much.

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

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

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

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

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

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

SENATOR DeFRANCISCO: It did not.

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Negative.

SENATOR KRUEGER: Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

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

To follow through with some additional questions for the sponsor.

SENATOR DeFRANCISCO: Yes, you may.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you very much.

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

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

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Yes. Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

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

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

Appreciate the answer. I think

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

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

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

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

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

ACTING PRESIDENT GRIFFO: You may.

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: For the

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

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

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

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

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

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

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

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

This task force will advise whom?

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

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

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

SENATOR DeFRANCISCO: Subject to the appropriation for the funding.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

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

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

SENATOR DeFRANCISCO: Yes.

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

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

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: Yes.

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

government outside of the legislative process.

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

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

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

And once again, we do have members

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

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

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR DeFRANCISCO: Yes, I would.

SENATOR KRUEGER: Thank you.

There was a -- yes?

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

(Laughter.)

SENATOR KRUEGER: Mr. President,

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

(Laughter.)

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

ACTING PRESIDENT GRIFFO: The sponsor yields, Senator Krueger.

SENATOR DeFRANCISCO: Yes. Yes.

SENATOR KRUEGER: Thank you.

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

SENATOR DeFRANCISCO: No, it's not.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

Can I have some order in the chamber, please.

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

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

SENATOR KRUEGER: Thank you.

Through you, Mr. President.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

ACTING PRESIDENT GRIFFO: Thank you.

SENATOR KRUEGER: I appreciate his time --

SENATOR DeFRANCISCO: Damn.

(Laughter.)

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

So briefly on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger briefly on the bill.

SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Senator Adams.

SENATOR ADAMS: Thank you, Mr. President.

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

discussion.

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

Would the sponsor yield for a few questions?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

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

SENATOR ADAMS: Through you, Mr. President --

SENATOR DeFRANCISCO: And by the

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

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

SENATOR DeFRANCISCO: Okay.

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

SENATOR DeFRANCISCO: Thank you.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR ADAMS: In this bill is

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

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

SENATOR ADAMS: Would the sponsor continue to yield?

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

SENATOR ADAMS: Would the sponsor continue to yield?

ACTING PRESIDENT GRIFFO: The

sponsor yields.

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

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

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

SENATOR DeFRANCISCO: Excuse me --

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

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

can't without this authorization.

SENATOR ADAMS: Thank you.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

SENATOR DeFRANCISCO: That is correct.

SENATOR ADAMS: Thank you.

If the sponsor will continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

doors?

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

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

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

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

SENATOR ADAMS: Yes, I will.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

SENATOR DeFRANCISCO: I would suspect so, yes.

SENATOR ADAMS: Thank you.

Would the sponsor continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

SENATOR DeFRANCISCO: They would do that as well.

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR ADAMS: If Suffolk OTB

closes its doors, would retirees lose their health benefits?

SENATOR DeFRANCISCO: I would think so, yes.

SENATOR ADAMS: Would the sponsor continue to yield?

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

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

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

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

SENATOR ADAMS: Thank you, Senator DeFrancisco.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Adams on the bill.

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Thank you, Senator Adams.

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

Senator DeFrancisco to close.

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

SENATOR ADAMS: Mr. President, point --

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Adams -- Senator -- Senator Adams, debate is closed --

SENATOR ADAMS: My name was mentioned on the floor.

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

SENATOR ADAMS: My --

SENATOR BRESLIN: Mr. President --
ACTING PRESIDENT GRIFFO: Senator Breslin --
SENATOR LIBOUS: Mr. President, if I could ask all members to just take a deep breath.
Debate is closed. And Senator DeFrancisco just closed debate. We will now take this to a vote.
ACTING PRESIDENT GRIFFO: Yes. Senator Adams, you will have the opportunity to explain your vote --
SENATOR ADAMS: I'm not looking for an opportunity to explain my vote --
ACTING PRESIDENT GRIFFO: We will give you that opportunity.
SENATOR ADAMS: My name was mentioned on the floor. I want a point of personal privilege.
ACTING PRESIDENT GRIFFO: Senator Adams, you're out of order. Please.
Senator Breslin.
SENATOR ADAMS: I'm not out of order.
ACTING PRESIDENT GRIFFO: You are,

Senator Adams.

SENATOR BRESLIN: Point of order.

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

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

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

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

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

SENATOR BRESLIN: Mr. President --

ACTING PRESIDENT GRIFFO: The

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

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

ACTING PRESIDENT GRIFFO: Senator Libous.

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

SENATOR ADAMS: Yes, I did. Yes.

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Thank you.

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

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

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

(Laughter.)

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

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

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

ACTING PRESIDENT GRIFFO: Thank you, Senator Adams.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Marcellino to explain his vote.

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

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

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

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

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

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

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

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

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

Senator Kennedy to explain his vote.

SENATOR KENNEDY: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

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

Senator Maziarz to explain his vote.

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

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

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

particularly in Niagara County, where the project is located.

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

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

Senator Stavisky to explain her vote.

SENATOR STAVISKY: Thank you.

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

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

Thank you, Mr. President. I vote aye.

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

Senator Little to explain her vote.

SENATOR LITTLE: Thank you, Mr. President.

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

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

So I vote aye on this budget bill.

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

Senator Squadron to explain his vote.

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

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

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

health effects.

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

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

Senator Grisanti to explain his vote.

SENATOR GRISANTI: Thank you, Mr. President.

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

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

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

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

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

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

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

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

Senator Fuschillo to explain his vote.

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

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

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

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

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

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

Thank you very much, Mr. President.

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

Senator Larkin to explain his vote.

SENATOR LARKIN: Thank you, Mr. President.

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

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

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

perfect -- till he met me.

(Laughter.)

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

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

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

Senator Parker to explain his vote.

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

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

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

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

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

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

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

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

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

Announce the results.

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

Ayes, 58. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

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

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

ACTING PRESIDENT GRIFFO: Substitution is so ordered.

The Secretary will read.

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

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, will you yield?

SENATOR DeFRANCISCO: Yes, I will.

ACTING PRESIDENT GRIFFO: The Senator will yield.

SENATOR KRUEGER: Thank you.

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

extensive list.

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

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

SENATOR KRUEGER: Thank you.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

So most of this bill involves the mergers of the Racing and Wagering Board with the Lottery, and I guess the creation of a new commission, with the possibility that it might soon be dealing with other types of gambling but certainly with the VLTs, the lottery, and the racetracks.

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

responsibilities?

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

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

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

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR DeFRANCISCO: Yes.

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

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

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

any reason. He can only remove the chair.

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

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

(Laughter.)

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

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

(Laughter.)

SENATOR KRUEGER: But I'll just

raise that point.

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

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

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

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

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

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

And I apologize for not being complete with that answer.

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

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

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

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

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

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

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

up on the results of those investigations.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

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

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

SENATOR KRUEGER: Thank you.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

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

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

SENATOR DeFRANCISCO: I don't know

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

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

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

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

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

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

If the sponsor would please yield to an additional question.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

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

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

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

But as to your last questions

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

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

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

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

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

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

So these are hard questions for a

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

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

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

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

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

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

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

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

Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President.

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

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

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

food, Pampers and other basic necessities.

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson.

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

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

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

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

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

Thank you, Mr. President.

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

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

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

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Bonacic.

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

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

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

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

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

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

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

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

And keep in mind this body has to

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

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

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

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

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

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

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

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

Thank you, Mr. President.

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

Seeing none, hearing none, the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

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

Ayes, 56. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: Thank you, Mr. President.

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

ACTING PRESIDENT GRIFFO: There is none.

SENATOR LIBOUS: Thank you, Mr. President.

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

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

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

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

Senate adjourned.

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